

Dealer Advisory

April 10, 2020



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Additional Information on Governor Whitmer's Executive Order 2020-42

“The Michigan Automobile Dealers Association and Detroit Auto Dealers Association have supported the Governor’s Stay Home, Stay Safe order from the start. That order acknowledged that motor vehicle service and repair operations are essential, and many dealers have continued to safely provide necessary service and repair to customers during the past three weeks. The Governor’s executive order 2020-42, announced April 9th, acknowledges that vehicle sales/leasing are also essential activities and can be conducted safely through remote and electronic sales or leases in accordance with CDC guidelines. Dealers look forward to continuing to serve their customers safely and efficiently, and in new and innovative ways in these challenging times.”

--MADA and DADA

Executive Order 2020-42 replaces and extends Governor Whitmer's original “stay home, stay safe” order through April 30, 2020. The new order classifies critical infrastructure workers to include: workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.

- [Governor's press release](#)
- [Executive Order 2020-42](#)

Executive Order 2020-42, a temporary requirement to suspend activities that are not necessary to sustain or protect life, was put into place on April 9, 2020 at 11:59 pm.

The first provision in the order is very clear:

- *This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.*

Every other section in the executive order is based on this first statement -- sustain and protect life.

The most important concept to fully understand about this executive order is that it is an order directed at people, the residents of Michigan. It is not directed at your dealership business or any other specific business or activity. It is an order directing all citizens of Michigan to “stay at home or at their place of residence.” Simply put -- don’t leave your home unless it is absolutely necessary. This is an order directed at people and their behavior, not any business or activity.

However, there are very narrow exemptions granted for certain categories of persons to leave their residences or home. Such as shopping for groceries or obtaining medicine and medical care.

For dealers, the important exemptions are those for workers necessary to sustain or protect life or conduct minimum basic operations - the employees in our state who are deemed “critical or essential.”

Section 4 of EO 2020-42 states:

- *No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are*

Automobile dealerships have two categories of employees deemed “critical or essential.” First, automotive repair and maintenance is still allowed to remain open. The new EO still refers to the critical infrastructure workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID -19 response ([available here](#)). Section 8(f) of the executive order refers to critical workers in the transportation and logistics infrastructure, which includes automotive repair and maintenance facilities.

The second category of employees allowed to work in your dealership are in the sector of “Critical Infrastructure Workers” who work in the sales and lease part of your dealer business. These employees are deemed critical infrastructure workers under section 9(i) of Executive Order 2020-42. They are allowed to work under the health and safety protocols contained in the order. This status was granted on April 9, 2020 at 11:59 pm.

Section 9(i) of EO 2020-42 states:

- *9) For purposes of this order, critical infrastructure workers also include:*
- *(i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.*

While section 9(i) of EO 2020-42 does allow your employees to work in the area of sales and leases, the allowance is tailored and limited. For example, it does not allow the showroom of an automobile dealership to remain open. It also clearly defines what an employee may engage in, for example, workers may facilitate the sale and lease of vehicles and the delivery of a vehicle. It is not very specific, nor are the exceptions for any other employees in other industries under the order.

Since EO 2020-42 was released we have received many questions. Please keep in mind that very few, less than very few, industries have been granted any exemptions or been classified as “essential.” We are fortunate our ability to sell and repair motor vehicles has been properly recognized as an activity that sustains or protects lives in Michigan. We need to use common sense. We need to err on the side of caution. We need to keep the safety and welfare of our customers and employees our top priority. Things dealers have all done our entire dealer careers. Dealers are certainly encouraged to talk to their own legal counsel regarding any decisions.

We ask you to remember that EO 2020-42 is a document restricting and targeting the behavior of persons and residents of Michigan. The overarching goal is to keep people from leaving their house for ANY reason. If a person needs to leave their residence or home for personal reasons OR to go to work, this order seeks to see that those reasons are critical or essential to protect life.

Let us as dealers be part of the solution and not the problem.

We remind dealers that law enforcement have been authorized and encouraged to **investigate potential violations** of the "stay home, stay safe" orders. ([Press release from the state](#))

News from NADA - Loan Help and Workers' Rights

Fed, Treasury Launch Loan Help for Businesses

The Federal Reserve and the Treasury Department initiated the Main Street New Loan Facility to provide additional liquidity for businesses, especially mid-sized businesses. [See NADA's summary of the new program.](#)

OSHA Reminds Employers of Workers' Rights During COVID-19

The Occupational Safety and Health Administration (OSHA) is reminding employers that it is illegal to retaliate against workers because they report unsafe and unhealthful working conditions during the coronavirus pandemic. OSHA's [Whistleblower Protection Program](#) webpage provides valuable resources on worker rights, including [fact sheets on whistleblower protections](#) for

employees in various industries and [frequently asked questions](#).

Fisher Phillips Legal Alert - Return to Work Standards

The Centers for Disease Controls and Prevention (CDC) significantly relaxed its previous guidance on returning critical infrastructure workers to work after being potentially exposed to COVID-19. The relaxed guidelines, issued late yesterday, now allow critical infrastructure workers potentially exposed to COVID-19 to continue to work following exposure provided they remain symptom-free and employers implement additional precautions to protect the employee and the community. What are the key issues employers need to know about?

NEW! Apr. 9 -- [CDC Significantly Relaxes Essential Worker Return-To-Work Standards After COVID-19 Exposure](#)

UPDATED! Apr. 9 -- [Comprehensive And Updated FAQs For Employers On The COVID-19 Coronavirus](#) (Updated FAQs relate to employees testing positive or coming in contact with a person who tested positive.)

Please feel free to contact DADA at (248) 643-0250 or MADA at (800) 292-1923 if you have any questions.

*This advisory has been prepared in conjunction with
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