

Dealer Advisory

August 6, 2020



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MIOSHA Auditing Dealerships for COVID-19 Compliance

DADA and MADA have been informed that MIOSHA is completing random inspections of certain business types to check for compliance with the governor's COVID-19 executive orders. We know there have been at least five large dealerships visited this week by MIOSHA inspectors, in various parts of the state.

A [press release from MIOSHA](#) states that "MIOSHA will conduct inspections by referral or randomly at bars and restaurants, gas stations and convenience stores, grocery stores and other retail establishments to review how rules are being followed, educate and enhance compliance. While inspections will seek to help employers comply with safety standards, if the inspections determine major deficiencies in the employer's COVID-19 preparedness and response plans, citations and penalties up to \$7,000 may be issued."

MIOSHA has also established a [state emphasis program](#) (SEP). As part of this, MIOSHA has created a targeted list of retail businesses to inspect. The list will be distributed among industrial classifications approximately as follows:

- Restaurants and bars – 40%
- Gas stations and convenience stores – 20%
- Grocery stores – 20%
- Other retail – 20%

These new inspections appear to be in response to the governor's Executive Directive 2020-8, which strengthens the enforcement of COVID-19 orders. (See details on the new executive directive, below.) We thought it important to highlight some of the items under review since this is not a normal MIOSHA inspection.

Inspections at dealerships have ranged from 2 - 6 hours and come complete with a written review.

MIOSHA inspectors are looking for compliance with [Executive Order 2020-161](#) (safeguards to protect Michigan's workers), including:

- The required preparedness and response plan, and where it is posted (in building, website, etc.).
- Designated COVID-19 coordinator, on-site at each location so employees have a contact for related questions.
- Plexiglas barriers in place and distancing marks on the floor indicating 6-foot spacing, where needed. (Distancing marks were measured.) *Example: parts counter, receptionist, cashier, service writer.*
- Daily symptom checks of employees and accompanying logs.
- Employee training documentation and proof that employees have been properly trained.
- Review of all posters required at the entrances for employees and customers.
- Proper usage of masks by employees (in common areas and whenever a 6-foot spacing cannot be maintained).
- Inspection of lunch areas and common areas to ensure 6-foot social spacing is in place.
- Policy in place for customers who visit without a mask, which employees may encounter this issue and how employees are instructed to respond. What options are available for customers who cannot / will not wear a mask. Inspectors have also asked if the dealership

- has turned away any customers.
- Disinfection of vehicles in for service and those taken on test drives.

We have also heard that MIOSHA inspectors may walk around the dealership and interview random employees, asking questions about their knowledge of the preparedness plan. As a bonus, they also inspect general MIOSHA safety concerns and will ask to see the MIOSHA work related injuries Form 300.

At this time there have been NO fines imposed. A few dealers are still waiting on the final report and findings. We will continue to update you as we receive more information.

These random, unannounced inspections are taking place at various businesses required to comply with the governor's executive orders. This is a new inspection process and the comprehensive review may change or be different based on region or inspector.

We ask that if your dealership is randomly selected to undergo this review that you please call your association and make us aware of this and the process you are required to go through. This will help all of us plan ahead.

Reminders about state inspectors...

- MIOSHA is not required to schedule a time to visit the dealership. A representative may simply show up at any time during established business hours.
- Dealership staff must allow the inspector access to the store, employees and business records if requested.
- Inspectors will have proper credentials, including a badge and photo ID from the state. If a dealer questions the validity of an inspector, you are welcome to give DADA or MADA a call and we can check and confirm.

****REVISED** COVID-19 preparedness and response plan**

Colombo & Colombo, P.C. has revised its sample preparedness plan, taking into account some of the questions being asked by inspectors. This new version also incorporates graphic elements. **The sample plan can be downloaded [here](#) as a Word document.** Please remember that this is a template only and it needs to be revised for each individual dealership.

Dealers have been asking: when is it okay to NOT wear a mask?

We remind dealers that technicians do not have to wear a mask when working alone in the stall, but when working with others or walking around common areas, the parts desk, the lunch area, etc., they must wear a mask. Salespeople in their office or at a cubicle (that maintains the proper 6-foot spacing) do not have to wear a mask, but once they leave that space they need to be using their mask.

Gov. Signs Executive Directive Strengthening Enforcement of COVID-19 Orders

Governor Whitmer signed [Executive Directive 2020-08](#) on Tuesday to direct state departments and autonomous agency heads to review allocation of their resources to ensure that enforcement of COVID-19-related laws is a priority, such as limitations on capacity **and the requirement to wear a mask when entering a Michigan business.**

As licensed businesses in Michigan, dealers are considered to be in violation of their license agreements if the governor's COVID-19 executive orders are not properly followed. Following are portions of the new executive directive.

- **Section 2:** ...When interpreting a licensee’s obligation to demonstrate or maintain suitability for licensing, state department directors and autonomous agency heads must consider violations of law, including violations of relevant COVID-19 executive orders...as evidence of a lack of suitability for licensing...
- **Section 3:** State department directors and autonomous agency heads must consider noncompliance with a COVID-19 executive order or epidemic order to be presumptive evidence of a “public health hazard” or “imminent and substantial hazard to the public health.”...
- **Section 5:** If a state department or autonomous agency becomes aware of a credible complaint of a violation of law by a licensee, including a possible violation of a COVID-19 executive order or epidemic order, the director or agency head must refer the complaint to all relevant licensing authorities...

Please see the governor's [press release](#) and read the [executive directive](#) for complete details.

Other relevant information:

- [EO 2020-161 Safeguards to protect Michigan’s workers from COVID-19](#)
- [EO 2020-160 Amended Safe Start Order](#)
- [MIOSHA Press Release: MIOSHA focuses efforts on protecting employees in service industries with greater COVID-19 transmission risk](#)

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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