

Dealer Advisory

July 10, 2020



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New EO Stipulates That Businesses Must Mandate Customer Use of Face Masks

Many dealers have been calling with questions about the use of face masks. The governor has issued two executive orders within the past 24 hours that will affect dealerships and their customers.

- [Executive Order 2020-145](#) updates employer obligations to safeguard employees
- [Executive Order 2020-147](#) outlines stricter face mask requirements for individuals

Executive Order 2020-145

This updated EO outlines safeguards to protect Michigan's workers from COVID-19. (Replaces EO 2020-114.) Requirements that relate to your dealerships are largely unchanged, but there are some minor additions to be aware of, and one important section to be reminded of.

Section 1. All businesses or operations that require their employees to leave their homes or residences for work must, at a minimum:

- **NEW** (d) Provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
- **NEW** (e) Place posters in the languages common in the employee population that encourage staying home when sick, cough and sneeze etiquette, and proper hand hygiene practices.
- **NEW LOCATION** (j) Require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways. *[This was previously in Section 7, relating specifically to office environments, now it applies to all.]*

Section 1(i) remains unchanged from the previous version of the worker safeguards EO. It states that businesses must:

- **Require face coverings to be worn when employees cannot consistently maintain six feet of separation from other individuals in the workplace**, and consider face shields when employees cannot consistently maintain three feet of separation from other individuals in the workplace.

This section should assist when discussing the use of face masks for technicians. If proper 6-foot social distancing can be maintained between employees (technicians) in a non-public space, face masks are not required. If a technician goes to other sections of the business that are considered public space, or they cannot maintain proper distance, a face mask must be worn.

Executive Order 2020-147

The governor has been commenting for days that stricter requirements for face coverings may be coming. Today, she made it official.

The new EO states: This order reiterates that individuals are required to wear a face covering whenever they are in an indoor **public** space *[emphasis added]*. It also requires the use of face coverings in crowded outdoor spaces. Most significantly, the order requires any business that is open to the public to refuse entry or service to people who refuse to wear a face covering.

Effective Monday, July 13, 2020, customers who visit your dealership must wear a face mask before being permitted to enter your facility. A willful violation of the order is a misdemeanor subject to a \$500 criminal penalty, but no term of confinement may be imposed on individuals who violate the mask requirement.

For dealerships, Section 3 of EO 2020-147 is the most significant...

To protect workers, shoppers, and the community, no business that is open to the public may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this order.

- **a.** Businesses that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside. The Michigan Department of Labor and Economic Opportunity may, in its discretion, require such businesses to post signs developed and made available by the Department, or conforming to requirements established by the Department.
- **b.** A department or agency that learns that a licensee is in violation of this section will consider whether the public health, safety or welfare requires summary, temporary suspension of the business's license to operate (including but not limited to a liquor license) under section 92 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.292(2).

Note: for those interested, the Michigan Department of Labor and Economic Opportunity has prepared multiple printable posters businesses may use. [See here](#) (and scroll down the page a bit).

Section 1 of EO 2020-147 details requirements imposed on individuals...

Any individual who leaves their home or place of residence must wear a face covering over their nose and mouth:

- **a.** When in any indoor public space;
- **b.** When outdoors and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household; and
- **c.** When waiting for or riding on public transportation, while in a taxi or ridesharing vehicle, or when using a private car service as a means of hired transportation.

There are certain **exceptions made for use of face masks**. Section 2 of the executive order defines instances when the requirement to wear a face covering does not apply. These include exceptions for individuals who:

- **b.** Cannot medically tolerate a face covering;
- **g.** Are communicating with someone who is hearing impaired or otherwise disabled and where the ability to see the mouth is essential to communication;

Please review [EO 2020-147](#) for complete exceptions to the new requirements.

Information on the Federal Level

NADA Updates CARES Act FAQs and Forgiveness Analysis

July 9 -- NADA updated its [Analysis of PPP Loans: Use of Proceeds and Forgiveness](#) to reflect:



- All [forgiveness guidance and application materials](#) published by the Small Business Administration and the Treasury Department as of July 9; and
- The Paycheck Protection Program Flexibility Act of 2020 (PPFPA), signed into law June 5.
- New [Small Business Administration revisions](#) to the Paycheck Protection Program's Interim Final Rule.

- SBA and Treasury Department's [forgiveness application documents](#) published on May 16.

NADA also recently updated its [CARES ACT FAQs](#) with new information on the PPP and the Main Street Lending Program.

Treasury Issues Guidance on Reporting Sick and Family Leave Wages

July 9 -- The Treasury Department and the Internal Revenue Service [provided guidance](#) to employers requiring them to report the amount of qualified sick and family leave wages paid to employees under the Families First Coronavirus Response Act (FFCRA).

- Employers will be required to report these amounts on form W-2 box 14, or in a statement provided with the W-2.
 - See additional IRS information about [tax relief for those affected by the COVID-19 pandemic](#).
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PPP Reopens

July 6 -- Over the weekend President Trump signed a bill to reopen the \$660 billion Paycheck Protection Program (PPP). This law will keep the PPP open to all small business applications until August 8. There is approximately \$130 billion available for potential PPP loans.

- NADA urges dealers who still want to apply for a PPP loan to review the loan application, a lender lookup, eligibility information and other important rules, available on the [Small Business Administration website](#).
- See NADA's [How Congress' Paycheck Protection Program Benefits Dealership Employees](#).

Note: The PPP, created by Congress as part of the CARES Act, has proved critical to dealership employees. Many dealers who received a PPP loan have used it to keep employees on the payroll or bring back furloughed or terminated employees, even though economic conditions would have otherwise forced those dealers to make drastic and permanent workforce reductions. Many dealers will end up devoting 100% of their PPP loans to payroll expenses.

WEBINAR: NADA hosted a webinar today covering [Paycheck Protection Program \(PPP\) loans and applying for forgiveness](#). For those who are interested, the webinar will be available on demand within 24 hours.

New Legal Alerts and FAQs from Fisher Phillips

July 6 Legal Alert -- [A Refresher On Employing Minors During COVID-19](#)

There exist important federal and state rules that govern the employment of minors with respect to work permits, wages, hours of work, and various work restrictions. Further, as businesses begin reopening in this COVID-19 era and hiring such individuals, employers should ensure they are familiar with how return-to-work and similar policies apply to minors under other laws.

July 6 Legal Alert -- [Choppy Seas: Alleged Involuntary Quarantine Of Employees Lands Employer in Wage and Hour Class Action](#)

A class action lawsuit filed in Los Angeles County alleges that a seafood company exposed seasonal employees to COVID-19 and then forced them, with the help of a hotel, to quarantine in hotel rooms against their will – and without pay. This class action is an extreme example of the new wave of COVID-19 lawsuits involving costly wage and hour claims against employers.

Back-To-Business FAQs For Employers

Fisher Phillips also released a number of updates and new questions related to COVID-19 and your workplace. Following are just a few of the questions. Please review the full update [here](#). (Helpful hint: use the *find* option in your web browser and look up new FAQs by date or keyword.)

- We are concerned employees are increasing our company’s risk of workplace exposures because they are not following CDC recommendations while off-duty, away from the work site. How can we safeguard our workplace against this risk?
- Due to the nature of air travel, which tends to make it very difficult to maintain social distancing and to avoid frequently touched surfaces, can our company enforce a 14-day quarantine of all employees who travel on commercial airlines?
- Can a child summer camp or other child summer programs be considered a “place of care” for purposes of the FFCRA?
- How do you determine whether a child would have attended a summer program but for COVID-19-related reasons?

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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