

Dealer Advisory

March 23, 2020



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Gov. Whitmer Issues Statewide “Stay Home, Stay Safe” Order

To help centralize important information of interest to Michigan dealerships, we have created a "**Coronavirus Toolkit**" within the MADA website compiled of information that MADA/DADA has previously provided; State of Michigan and federal links; plus health, safety and legal guidance. From the [home page](#), go to the *FAQ* tab and select *Coronavirus Toolkit* or [click here](#).

After quickly reviewing Governor Whitmer's executive order, it appears that dealerships' automotive repair and maintenance facilities can remain open. **As of this initial reading, it does not appear that the sales portion of the business is listed in the executive order as an essential business.** We are following up with the governor's team and asking to clarify the question of dealerships' affiliated sales departments. Many factors need to be considered, from end-of-lease issues and irreparable collisions requiring a replacement vehicle, to new vehicle purchases that may be needed for the health and safety workforce or increased demand for delivery services and delivery vehicles.

Following is information as we currently understand it, related to the "stay home, stay safe" order, plus other recent information of importance to dealerships. MADA and DADA will continue to communicate with the governor's office and update members as soon as we get new information.

Governor Whitmer Issues Statewide “Stay Home, Stay Safe” Order

Effective at 12:01 am on March 24, 2020, for at least the next three weeks

Governor Whitmer has announced a “Stay Home, Stay Safe” [Executive Order \(EO 2020-21\)](#) for Michigan. The order directs all Michigan businesses and operations to temporarily suspend in-person operations that are not necessary to sustain or protect life. The order also directs Michiganders to stay in their homes unless they’re a part of that **critical infrastructure workforce** [*emphasis added, see "What is a critical infrastructure workforce" below*], engaged in an outdoor activity, or performing tasks necessary to the health and safety of themselves or their family, like going to the hospital or grocery store.

Effective at 12:01 am on March 24, 2020, for at least the next three weeks, individuals may only leave their home or place of residence under very limited circumstances, and they must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention when they do so, including remaining at least six feet from people from outside the individual’s household to the extent feasible under the circumstances.

Executive Order 2020-21 prohibits all businesses and operations from requiring workers to leave their homes, unless those workers are necessary to sustain or protect life or to conduct minimum basic operations. Businesses and operations are to designate the workers that meet those criteria, and must adopt social distancing practices and other mitigation measures to protect workers and patrons in the performance of that necessary in-person work.

[Keep reading here.](#)

What Dealers Need to Know

Branch office work. Dealers are highly encouraged to drop off any in-process dealer paperwork at their branch office today, before close of business.

Reducing the workforce. We remind dealers of the information made available from the Michigan Department of Labor and Economic Opportunity. [Guidance to Employers Contemplating Potential Layoffs](#): Information on Work Share and Temporary Leave vs. Termination.

What is a critical infrastructure workforce? The U.S. Dept of Homeland Security has prepared guidance intended to support state, local, and industry partners in identifying the critical infrastructure sectors and essential workers. See: [Guidance on the Essential Critical Infrastructure Workforce](#). Page 8 lists automotive repair and maintenance facilities as part of the essential critical infrastructure workforce.

Sections of Importance from the Governor's Executive Order

Section 8(f): Governor Whitmer references the federal guidance in her executive order and she lists "8(f) Transportation and logistics" as part of the state's critical infrastructure workers, which, under the federal guidance, includes automotive repair and maintenance facilities.

Section 7(a)(6), Exemptions, states: Individuals may leave their home or place of residence, and travel as necessary...To obtain necessary services or supplies for themselves, their family or household members, and their vehicles.

Section 4(b). For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Section 5(a). Businesses and operations that employ critical infrastructure workers may continue in-person operations, subject to the following conditions:

- Consistent with sections 8 [*transportation and logistics*] and 9, businesses and operations must determine which of their workers are critical infrastructure workers and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm.
- **Important note!** Dealers must formally designate which employees are essential to the critical infrastructure workforce.

Section 5(c). Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons. Those practices and measures include, but are not limited to:

- (1) Restricting the number of workers present on premises to no more than is strictly necessary to perform the business's or operation's critical infrastructure functions.
 - (2) Promoting remote work to the fullest extent possible.
 - (3) Keeping workers and patrons who are on premises at least six feet from one another to the maximum extent possible, including for customers who are standing in line.
 - (4) Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
 - (5) Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person who is known or suspected to have COVID-19.
 - (6) Any other social distancing practices and mitigation measures recommended by the Centers for Disease Control.
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Stay Tuned: Federal Government Announces COVID-19 Relief For Small And Midsize Businesses

In an apparent effort to ease some of the anxieties surrounding the impact of the [Families First Coronavirus Response Act](#) on employers, the Department of Treasury, IRS, and Department of Labor issued a [press release](#) on Friday, March 20, announcing plans to provide some relief for small and midsize employers. These employers, in particular, have understandable concerns regarding their cash flow and ability to afford the expansive paid leave entitlements under the new law in light of the growing number of state and local orders shuttering non-essential businesses. Many businesses are being forced to make tough decisions on whether to furlough or layoff non-essential employees due to the financial pressures caused by this unprecedented pandemic. The hope is that the planned actions – which have not yet been finalized or implemented – will lessen the burdens of the new legislation and provide a path for businesses to succeed in these uncertain times.

[Keep reading here.](#)

Please also visit the [Fisher Phillips home page](#) for additional information for employers, including the regularly updated [FAQs For Employers On The COVID-19 Coronavirus](#).



From NADA, March 21, 2020

Treasury Department Clarifies the Cash-flowing of Temporary Paid Sick and FMLA Leave

The Department of Treasury issued an [important announcement](#) regarding how it plans to implement the recently enacted federal legislation relating to paid sick and FMLA leave. This announcement should address concerns that some dealers and dealer advisors have expressed about certain provisions under the new law. Specifically, people are concerned that the tax credit provisions of the legislation are insufficient to ensure the orderly funding of the payment obligations imposed, despite the fact that all of the direct costs a dealer would bear would ultimately be repaid via a refundable tax credit.

As can be seen in the announcement, Treasury’s implementing guidance should address the concerns that dealers will not have sufficient cashflow to fund the new entitlements.

Here are the particulars: Regarding the source of funding available to dealers providing the mandated sick and FMLA leave, the Treasury announcement states as follows:

“When employers pay their employees, they are required to withhold from their employees’ paychecks federal income taxes and the employees’ share of Social Security and Medicare taxes. The employers then are required to deposit these federal taxes, along with their share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns (Form 941 series) with the IRS.

Under guidance that will be released next week, eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS.

The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees.” (Emphasis added.)

[Keep reading here.](#)

NADA Webinar Available On-demand

[Running a Dealership During a Pandemic: Legal Issues and Federal Mandates](#)

NADA members may now view this webinar, recorded last week. Your NADA user name and

password will be required to access the webinar.

Other Resources Dealers May Find Helpful

March 25 Webinar from Plante Moran

[COVID-19: Responding to the Families First Coronavirus Response Act](#)

Wednesday, March 25, 2020; 2-2:45 p.m. EDT

On March 18, the president signed the Families First Coronavirus Response Act. What does this mean for you and your organization? During this webinar, our tax and employee benefits consulting experts will discuss how this law will affect you.

Information from Fenner, Melstrom & Dooling, PLC

SBA Disaster Declaration Makes Loans Available

The U.S. Small Business Administration is offering small businesses and non-profit organizations located in Michigan and other designated states and territories Economic Injury Disaster Loans (EIDL). These loans are low interest federal disaster loans for working capital that come directly from the U.S. Treasury – not through a sponsoring bank. [Keep reading here.](#)

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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