

KADA Bulletin

REOPENING ISSUES AND SOME ADDITIONAL ANSWERS

DISCLAIMER: The information in this document may change over time with new information and developments. All content and materials are for general information purposes only. It does not provide, and is not intended to constitute, legal advice. Important: As necessary, dealers should consult an attorney familiar with dealership operations, Federal, State and/or local laws at issue.

As dealers throughout THE Commonwealth continue the process of reopening in accordance with the Governor's reopening orders, there are issues that have and will occur under the current reopening orders. In our May 2020 update, we noted that Kentucky dealerships were subject to two reopening orders: (1) Minimum Requirements for All Entities; and (2) Guidelines for Vehicle and Boat Dealerships. Dealerships remain subject to the previously-circulated Minimum Requirements for All Entities, but the Commonwealth issued new guidance for Dealerships on June 11, 2020, which allowed up to 50% occupancy in showrooms where adequate social distancing can be accomplished. A copy of this updated guidance is attached here.

Updated Dealership Guidelines June 11 2020

Updated Guidance For Dealers

While the updated guidance increases permissible occupancy of showrooms, most of the initial limitations on dealerships remain. For example, dealerships are still unable to have employees interact with customers in close proximity, including during test-drives, completion of necessary paperwork, and upon vehicle delivery. Even the expanded occupancy to 50% is contingent upon having adequate space to permit social distancing of 6 feet or more. While there is no question that the Covid-19-mandated restrictions have placed a burden on dealers, the ingenuity and resourcefulness we have seen from our membership has been incredible. And as of July 10, 2020, per Executive Order 2020-586, it is now mandatory that masks be worn in all public spaces and will now be required of your customers.

When An Employee Tests Positive

Unfortunately, despite following guidance and implementing every safety measure possible, dealerships cannot eliminate all risk. Whether an employee has traveled to a Covid-19 hotspot or contracted the virus locally, it is likely that some of our members will encounter an employee who tests positive for the Coronavirus.

Under the Minimum Requirements for All Entities, dealerships should have the ability to track dates, times, and locations where their employees have been working. One item suggested initially is a log for employees to sign daily where each notes that he or she took his or her temperature within an hour of arriving at work, and his or her temperature was below 100.4°. When an employee tests positive, it is likely that the local health department will contact the dealership to assist with identifying anyone at risk of developing COVID-19. Employees who were in close contact with a positive employee should remain on self-quarantine for 14 days following the most recent exposure. They should monitor for symptoms of

COVID-19, which can occur at any time during that 14-day period. Guidance from the Commonwealth does NOT recommend that employers require negative COVID-19 tests prior to permitting previously positive employees' return to work. There are documented instances where people continue to test positive long after their symptoms have ceased; experts have determined they are not likely to still be infectious. The Kentucky department of Public Health has issued return to work guidance that is attached below:

KY Return to Work Guidance

While in certain high-risk work environments (such as congregate living facilities, prisons, and other specific situations), it may be appropriate to conduct widespread testing of employees, dealerships are not required to take such measures, even when an employee tests positive. Employers should make sure employees know where testing is available (a list of testing locations can be found on the Governor's website). In the event of a more widespread outbreak involving multiple positive tests within a dealership, your local health department or the Kentucky Department of Public Health can help determine an appropriate testing strategy.

During these difficult times, we are here to help. Nationwide data indicates that Kentucky is managing the pandemic in a more effective manner than most states. We are therefore hopeful that restrictions will ease in the near future, and we look forward to updating you when that happens.

For further information or questions, please contact any of your Stoll Keenon Ogden PLLC automotive team:

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[Updated dealership guidelines june 11 2020.pdf](#)

[KY return to work guidance.pdf](#)