

**KADA – Bulletin**  
**JULY 15, 2020**

**MANDATORY MASKING AND REVISED HEALTHY AT WORK  
REQUIREMENTS FOR DEALERSHIPS**

**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 most dealers in the Commonwealth are aware, Governor Beshear issued an executive Order Thursday July 9, 2020 requiring that individuals in the Commonwealth wear masks or other face coverings in public. Executive Order 2020-586 became effective at 5:00 p.m. on Friday July 10, 2020 and requires that people in Kentucky cover their mouths and nose with a face covering when they are in certain situations that are considered to be high risk for the transmission of Covid-19. Below are some frequently asked questions about the terms of and exceptions to the Executive Order. As a result, the Healthy at Work Requirements for Vehicle & Boat Dealerships has been amended, effective July 10, 2020 which includes a copy of the executive order.

[Healthy at Work Req for Vehicle Dealerships](#)

**Does the Executive Order Apply to My Business?**

Yes. The Order specifically requires a face covering, which can be any material that covers the nose and mouth and is secured to the head, while inside or waiting in line at any retail establishment. As such, car dealerships are required to enforce the terms of the Executive Order.

**Are there Exceptions to the Order?**

Yes. The Order enumerates several exceptions. Applicable to dealers, the order excludes compliance for individuals: (1) with disability, or a physical or mental impairment, that prevents them from safely wearing a face covering; (2) who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential to communication; (3) engaged in work that a state or federal regulator has concluded would make wearing a face covering a risk to their health or safety; and (4) who are seated and actively consuming food or beverage at a restaurant, bar, or other establishment that offers food or beverage service.

Dealers can rely on representation by customers that they meet one of the exceptions without risk of violating the mandate.

**NOTE: One of the most frequently questions we have received is whether or not mechanics must wear a face mask when performing mechanical work. Although there is no specific regulation or guidance on that issue as set out in (3) above, the Kentucky Healthy at Work bulletin sent to dealers in our earlier bulletin does contain language that may be utilized by dealers as a defense to any complaint. Paragraph 5 in part provides:**

**"A business organization or entity may not require an employee to wear a mask when masking would create a serious health or safety hazard OR when the employee is working alone in an enclosed space."**

You may recall that we suggested that workplaces be reconfigured as much as possible to allow for a six-foot distance between employees. That certainly is a case in your service department. Performing in close, mechanical work can be hazardous with a face mask. You may wish to exempt mask wearing in that situation under the authority of the Kentucky Healthy at Work Standards. **HOWEVER**, should the mechanic go beyond their workstation, i.e. obtaining parts from the parts counter, a face covering should be worn.

### **Has a Judge Overruled the Executive Order?**

While a Scott Circuit Court Judge purported to prohibit future Executive Orders regarding Covid-19-based restrictions, it is not certain whether that Order applies, or could apply to the Executive Order requiring face coverings. Attorney General Daniel Cameron has requested that the Scott Circuit Court address this issue, and a ruling is expected later this week. However, even if the Scott Circuit Court overturns the Order, we continue to advise compliance with the Order until such time as there is a final decision by the appellate courts.

### **What Language Should I Post to Advise Customers?**

At each entrance, post a sign with large enough print to attract the attention of any customer or visitor. Suggested language might be: NOTICE, NOTICE, NOTICE: Governor Andy Beshear has issued Executive Order 2020-586 requiring all visitors and customers of our dealership over the age of five to wear a face covering. We have the responsibility of enforcing that rule or we can be held in violation of the law. For your convenience and safety, please wear a face covering or we will be unable to serve you. We maintain a stock of complimentary face masks at our reception desk inside the door. We also are required to maintain social distancing of six feet between customers and visitors. Thank you for your cooperation.

Also, below is the link to a generic sign you can find on the Governor's website:

[https://chfs.ky.gov/agencies/dph/covid19/Masksarerequiredsignage%20\(4\).pdf](https://chfs.ky.gov/agencies/dph/covid19/Masksarerequiredsignage%20(4).pdf)

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

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