



March 24, 2020

Greetings from VADA,

Without question, we're operating in a time of change, as we continue to understand the impact of COVID-19 on our industry. However, the one thing that should be constant is to use common sense, which is critical to protecting your customers, your employees and your dealerships.

As you know, Governor Ralph Northam is permitting service *and* sales departments to remain open at Virginia's franchised new car and truck dealerships. Yes, there are differences in what this Order means for your sales and service departments, and we outline that below. We don't have all the answers to all your questions, but we will continue to share the latest information as we receive it.

I can't stress enough that the best thing to do is to follow common sense in your daily operations right now. That means thoroughly cleaning dealership areas after customers have visited and ensure you adhere to the 10-person restrictions.

Like everything in life, this coronavirus outbreak will have a beginning, a middle and an end. We don't know exactly where we are in that cycle, but working in tandem and complying with this Executive Order is essential to ensuring you don't lose your ability to keep selling vehicles – or, indeed, losing your license completely.

Considering the Order, you should:

- **Be concerned about enforcement penalties for noncompliance.** As stated yesterday, and according to the Order, failure to abide by the 10-patron rule for sales and/or F&I—or failure “to adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities,” *anywhere* in your store—could result in store closure or a Class-1 misdemeanor punishable by up to 12 months in jail.
- **Be aware of scam calls and the potential for negative publicity.** Some dealers have experienced scam calls from individuals asking unusually detailed questions about store policy for ensuring compliance with Executive Order 53. While a call may be from a customer concerned about the dealership's practices, it could also be from a reporter or an opponent of the actions to allow businesses to continue. Any negative news that dealers are not complying with the Order or are otherwise putting customers and/or employees at risk could lead to further governmental shutdown directives and a cessation of dealer sales activity. Consider sharing materials available to you, or a written policy or memo you create, with your staff, outlining business practices in light of Executive Order 53, so your staff can be knowledgeable and trained in dealing with information calls and visitors. Your policy can include having notices posted on all doors, setting up an appointment system, training all sales and F&I staff to request that customers call ahead before entering the building to make sure there is room inside, designating specific managers responsible for ensuring compliance with the 10-patron rule, designating employees to clean and sanitize the dealership according to CDC guidelines, and any other procedures to ensure your dealership is in compliance.
- **Use common sense.** Implementing business practices compliant with Executive Order 53 and otherwise operating amidst the spread of COVID-19 is not a situation that can be “lawyered.” In other words, now is not the time to see how close to the edge we can get. This is an unprecedented situation with no legal guidance on which we can rely. Absent guidance from the Order or our memoranda, use your common sense to adhere to the Order and act accordingly. This is not the time to push the envelope on compliance.

Frequently Asked Questions

The following are a few of the questions we have received. Again, we are dealing with an unprecedented situation, so there are no regulations or precedents upon which we can rely. We are providing guidance based on our interactions with government officials and common sense.

Q: If my customer lounge is in my showroom, and it is used by patrons of the service *and* sales/F&I departments, how many customers can be in there at one time?

A: Consider each patron's purpose. If patrons are in the customer lounge for service, the only limits to the number of patrons that can be present are based on social distancing concerns. They should not count toward the 10-patron count for sales/F&I purposes. For example, if there are nine individuals present for sales/F&I and two for service, your business probably does not exceed the 10-patron limit for the "non-essential" activities of sales/F&I.

That said, there are practical limitations to having that many people in such a lounge, since, in any event, it is imperative your business must ensure customer and employee social distancing and sanitizing in accordance with Executive Order 53 and other governmental directives.

Q: Okay, so I can have 10 or fewer customers for sales/F&I. Do a customer's family or friends count toward the "10?"

A. Yes. For example, if a family of six visits sales/F&I, those individuals are six of the allowable 10 that can be present.

Q: What if my dealer group has different buildings on a campus or auto park for different franchises?

A. While there is no guidance under the Order or legal precedent to rely upon, it would appear the 10-patron rule would independently apply to individual buildings. In other words, it seems you could have as many as 10 patrons for sales/F&I at each dealership location.

Q: How do we keep social distancing in the service department?

A. You should consider methods for minimizing the obligations or opportunities for service customers to wait for vehicle repairs. Most of you have loaner vehicle policies, and those policies can help. Consider increasing offers to pick up vehicles for customers, and deliver them upon service completion, so customers do not have to wait at the dealership. You should consider physically rearranging furniture in your waiting room to ensure proper compliance with distancing recommendations. Extra care in cleaning and sanitizing the area on an increased schedule will also help.

Lastly, please know we are fortunate to be able to continue service and sales operations. If you look around the country, many other states and localities have severely limited all retail sales. Stay healthy. Stay safe. Take necessary actions, and let's not waste this tremendous opportunity.

Sincerely,



Donald L. Hall
President and CEO

The content in this message is not intended as legal advice. If you require legal advice, please contact your attorney. The content in this message reflects information at the time the message was created and, given the changing circumstances surrounding COVID-19, is subject to change at any time.