



May 27, 2020

In today's message, read about Governor Ralph Northam's new Executive Order 63, which mandates face coverings for all Virginians in public indoor settings, with limited exceptions. Today, Governor Northam announced all Virginia localities will be in Phase One of his reopening plan, "Forward Virginia," this Friday (May 29). Also, learn about a new tool designed to help individuals self-screen for COVID-19. See two Interim Final Rules from the U.S. Small Business Administration (SBA) about Paycheck Protection Program (PPP) loan forgiveness. Read NADA's updated FAQs on the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Check out a webinar Bloomberg is holding tomorrow (May 28) on "The Auto Industry Road to Recovery," featuring Kevin Tynan. And review material we've shared before about what to do if an employee at your dealership tests positive for COVID-19.

Starting this week, we will provide our regular COVID-19 updates every Wednesday rather than every Tuesday and Thursday. Of course, no matter which day it is, we will keep you apprised of any major news.

### **Governor Northam issues statewide mask requirement.**

Starting Friday (May 29), "All patrons in the Commonwealth aged ten and over shall when entering, exiting, traveling through, and spending time inside the settings listed [in [Executive Order 63](#), Paragraph A] cover their mouth and nose with a face covering, as described and recommended by the [[U.S. Centers for Disease Control and Prevention](#)]." That's a new requirement, stipulated in Executive Order 63, which the Governor issued yesterday (May 26). The Order also clarifies what's required for employees of essential retail businesses, like dealership service departments.

Why? In a [news release](#), Governor Northam remarked, "Science shows that face coverings are an effective way to prevent transmission of the virus, but wearing them is also a sign of respect." The release further stipulates a face covering can be anything that covers the nose and mouth, like a mask, scarf, or bandana, allowing people to reserve medical-grade masks and personal protective equipment for health care professionals.

See [this sign](#) you can post at your store(s) to alert employees and customers of the new mandate. The poster is sized 11x17 and ready for print. Please [contact us](#) if you require a different size.

### *How does this impact Virginia's franchised auto dealerships?*

Specific details from Executive Order 63 are below, but here's the bottom line: Starting Friday (May 29), **all customers aged ten and over must wear face masks at your dealership, no matter the department. Employers must provide face coverings to employees, and ALL employees must wear them when facing customers and when social distancing cannot be strictly maintained. Failure to comply may result in store closure or other penalties. It remains our recommendation to have all your employees wear face coverings, even when interacting with other employees. Use common sense.**

### *How does this impact dealership customers?*

All patrons (meaning customers) aged ten and over must wear face masks when entering, existing, traveling through, and spending time in the dealership. This patron requirement applies to both essential and non-essential brick and mortar retail, meaning **it applies to customers in both the service and sales/finance departments**. Some customers may refuse to comply. Nothing prevents a business from refusing service to someone not wearing a mask.

### *What about employees in the service department?*

The Order stipulates, "All employees of essential retail businesses as listed in Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020), section C, paragraph 1 shall wear a face covering whenever working in customer facing areas. Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020) is so further amended."

Because “automotive parts, accessories, and tire retailers as well as automotive repair facilities” are considered essential retail businesses under [Executive Order 61](#), section C, paragraph 1, **all service department employees must wear face coverings when working in customer-facing areas** starting Friday (May 29).

*What about employees in the sales department?*

Executive Order 63 does not directly address requirements for non-essential brick and mortar retail employees, like those in the service/finance department. Therefore, it is our understanding the requirements on those employees in Executive Order 61 still apply. This means **sales and finance employees must wear face coverings when facing customers and where physical distancing cannot be strictly maintained.**

*What are the exceptions to wearing a mask?*

Individuals do *not* need to wear a mask while eating or drinking, while exercising, if they have trouble breathing or are unable to remove a mask without help, or if their health conditions prohibit wearing a face covering.

*What happens if you don't comply?*

For those unwilling to abide by Executive Order 63, the Governor said enforcement will be through the Virginia Department of Health rather than state or local police. The restrictions aren't about putting people in jail, he noted; rather, it's about the health of everyone in the Commonwealth.

**But that does not remove the threat to you and your business. Failure to comply could result in store closure.** Disgruntled employees or individuals outside your organization may be eager to catch businesses pushing the envelope and/or breaking the rules, making your adherence to Executive Order 63 and other government requirements paramount. Governor Northam also stated he would discuss enforcement ideas — such as a civil fine — with the General Assembly, which could meet in a special session this summer.

Executive Order 63 also directs the Virginia Department of Labor and Industry to “promulgate emergency regulations and standards to control, prevent, and mitigate the spread of COVID-19 in the workplace.” We will closely monitor what happens with that and keep you informed of related developments.

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**All of Virginia will be in Phase One of the Governor's reopening plan this Friday (May 29).**

In a Facebook post today, Governor Northam said, “All of Virginia will operate under Phase One starting Friday, including Northern Virginia, the City of Richmond, and Accomack County. As we move forward thoughtfully and deliberately, we all must stay vigilant — following the guidelines, wearing masks inside, and looking out for each other.”

For more than a week, most of Virginia has been in Phase One of the Governor's reopening plan, “Forward Virginia.” Phase One requires, among other restrictions, a 50% occupancy limitation for sales and finance departments. But officials in the localities mentioned above did not believe health data in their respective areas supported entrance into Phase One with the rest of the state on May 15, prompting them to ask the Governor for a delay. It seems the numbers have improved, and Northern Virginia, Richmond, and Accomack will experience loosened restrictions starting this Friday (May 29).

The Governor also released a new tool — [COVIDCheck](#) — to help Virginians self-screen for COVID-19. In a [news release](#) last Friday (May 22), he said, “If you are feeling sick or think you may have been exposed to someone with COVID-19, it is important that you take action right away.” The Governor added, “This online symptom-checking tool can help Virginians understand their personal risk for COVID-19 and get recommendations about what to do next from the safety of their homes.”

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**SBA issues Interim Final Rules on PPP loan forgiveness and review. NADA updates CARES Act FAQs and requests PPP modification.**

On Friday (May 22), SBA issued two Interim Final Rules:

- [Interim Final Rule on Loan Forgiveness](#)
- [Interim Final Rule on Loan Review Procedures and Related Borrower Responsibilities](#)

The first largely codifies the guidance in the [PPP loan forgiveness application and instructions](#), and there is little new substance. The second outlines the loan forgiveness application and review process. Most dealers will not enter that process until after June 30, 2020; however, it is a good idea to begin consideration of the loan forgiveness application and instructions and these Interim Final Rules with your controller, outside accountant, and counsel.

Relatedly, NADA has revised its [CARES Act FAQs](#) (updated May 20) to reflect recent SBA guidance. Review the document, particularly the following:

- Question 20: How will the Small Business Administration review a borrower's good-faith certification?
- Question 35: What portion of the PPP loan is forgivable?
- Question 38: What could jeopardize loan forgiveness (non-qualifying costs)?
- Question 39: Is there anything else that could jeopardize the ability to have the loan forgiven?

And perhaps some changes to the PPP are on the way. NADA was part of a large group of trade associations and other entities, who wrote Congressional leaders requesting (1) a repeal of the 75%-25% rule for payroll versus other permissible expenses, (2) an extension of the eight-week loan forgiveness period, and (3) an extension of the June 30 deadline for rehiring and restoring pay for employees. See the [letter](#) and [this article from Automotive News](#) for more.

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**Bloomberg to hold webinar on “The Auto Industry Road to Recovery,” featuring Kevin Tynan, others.**

Bloomberg Media Group and Bloomberg Intelligence are holding a webinar **tomorrow (May 28) at noon ET** to contemplate what lies ahead for the auto industry.

On the [webinar's registration page](#), Bloomberg notes Chris Rovzar, Editorial Director of Bloomberg Pursuits, will lead the discussion with Kevin Tynan, Global Director of Automotive Research with Bloomberg Intelligence, and Hannah Elliott, Cars Columnist at Bloomberg Pursuits. Tynan is a frequent speaker at the VADA Annual Convention and friend of the association.

The group will consider “the innovations, companies, and ideas that will help navigate the road ahead for the auto industry in the coming months and years.” Be sure to catch what should be an interesting and informative event. And read Elliott's story on “[How the Coronavirus Will Change the Way We Buy Cars.](#)”

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**An employee at your dealership tested positive for COVID-19. Now what?**

You may encounter a situation in which an employee at your dealership tests positive for COVID-19. And if that happens, you may wonder what to do next.

If your store experiences this, it is our view the best material is found in a NADA presentation last month titled “[So, an Employee Has Covid-19 Symptoms or Has Tested Positive...Now What?](#)” and corresponding [slide deck](#). Slides 15-19 provide details on how to proceed when there's a confirmed employee case of COVID-19.

Additionally, on May 19, the U.S. Department of Labor Occupational Health and Safety Administration (OSHA) issued [new guidance](#), stipulating “COVID-19 is a recordable illness, and thus employers are responsible for recording cases of COVID-19” in certain instances. Carefully review the guidance and [this article](#) to understand your obligations.

Lastly, please remember your team at VADA is just a phone call away. We stand ready to help you and your business. More than ever, it is a pleasure to serve the new car and truck dealers of Virginia.

Sincerely,

A handwritten signature in black ink that reads "Donald L. Hall". The signature is written in a cursive, flowing style.

Donald L. Hall  
President and CEO