

A DEALERSHIP'S REOPENING GUIDE TO THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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When the Families First Coronavirus Response Act took effect on April 1 to address the COVID-19 pandemic, your dealership may very well have had to change the way it does business. This new federal law includes many provisions which may apply to your dealership, such as paid sick leave for employees impacted by COVID-19 and those serving as caregivers for individuals with COVID-19. Two of the most significant provisions remain in effect as you begin the process of planning your reopening strategy.

The FFCRA mandates that you provide paid leave to employees forced to miss work because of the COVID-19 outbreak: a new federal paid sick leave law, and an emergency expansion of the Family Medical Leave Act (FMLA). This article provides a summary overview of these two provisions that you may want to keep handy as you navigate through the process of reopening and prepare to deal with possible leave situations.

EMERGENCY PAID SICK LEAVE ACT

WHO IS COVERED UNDER THE PAID SICK LEAVE ACT?

All employers with *fewer than* 500 employees are covered under the law. Dealer groups with more than 500 employees in the aggregate – but fewer than 500 employees at any individual store – should consult with legal counsel to determine coverage.

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WHO IS ELIGIBLE FOR PAID SICK LEAVE?

Any employee regardless of how long the employee worked for the dealership before the need to take leave.

WHAT ARE THE PERMISSIBLE REASONS FOR TAKING PAID SICK LEAVE?

Eligible employees may take leave for the following reasons:

1. If they are subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. If they are advised by a health care provider to self-quarantine due to COVID-19;
3. If they are experiencing COVID-19 symptoms and seeking a medical diagnosis;
4. If they are caring for any individual (not just a family member) subject to a federal, state, or local quarantine or isolation order or advised by a health care provider to self-quarantine due to COVID-19;
5. If they are unable to work or telework due to care for the employee's minor child if the child's school or place of care is closed due to a public health emergency; and
6. If they are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

HOW MUCH PAID SICK LEAVE MAY EMPLOYEES TAKE?

Employees may take up to 80 hours of paid sick leave. Part-time employees are entitled to leave up to their average number of hours worked in a two-week period.

HOW MUCH MUST EMPLOYEES BE PAID WHILE ON PAID SICK LEAVE?

If an employee is out for reasons (1) – (3) above, your dealership must pay the employee's full regular rate for the number of hours the employee otherwise would have been scheduled to work, subject to a cap of \$511 per day and \$5,110 total. If an employee is out for reasons (4) – (6), your dealership must pay two-thirds the employee's regular rate for the number of hours the employee would otherwise be

normally scheduled to work, subject to a cap of \$200 per day and \$10,000 total.

WILL OUR DEALERSHIP BE REFUNDED THE MONEY WE PAY IN PAID SICK LEAVE?

Yes, dealerships will be given tax credits against the employer portion of Social Security taxes owed and will be reimbursed for amounts that exceed the Social Security taxes they owe.

WHEN ARE THESE REQUIREMENTS IN EFFECT?

The Act went into effect on April 1, 2020, and ends on December 31, 2020.

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

WHO IS COVERED UNDER THE EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT?

All employers with *fewer than* 500 employees are covered under the law. As with Emergency Paid Sick Leave, dealer groups with more than 500 employees in the aggregate – but fewer than 500 employees at any individual store – should consult with legal counsel to determine coverage. Dealers with fewer than 50 employees may be exempted if they determine that providing leave will jeopardize the viability of their business.

WHO IS ELIGIBLE FOR FAMILY AND MEDICAL LEAVE?

Any employee who has worked for the dealership for at least 30 days is eligible for family and medical leave.

WHAT ARE THE PERMISSIBLE REASONS FOR TAKING FAMILY AND MEDICAL LEAVE?

Eligible employees may take leave if they are unable to work or telework due to care for the employee's minor child if the child's school or place of care is closed due to a public health emergency.

HOW MUCH FAMILY AND MEDICAL LEAVE MAY EMPLOYEES TAKE?

Eligible employees may take up to 12 weeks of job-protected leave.

HOW MUCH MUST EMPLOYEES BE PAID WHILE ON QUALIFIED FAMILY AND MEDICAL LEAVE?

The first 10 days of family and medical leave may be unpaid. After that, your dealership must pay two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled to work. However, the total amount of paid family and medical leave an employee may receive is capped at \$200 per day and \$10,000 in the aggregate.

WILL OUR DEALERSHIP BE REFUNDED FOR THE MONEY WE PAY IN PAID LEAVE?

Yes, dealerships will be given tax credits against the employer portion of Social Security taxes owed and will be reimbursed for amounts that exceed the Social Security taxes they owe.

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For more information, contact [the author](#).