



Victory! Virginia Automobile Dealers Relieved from Impending Wage and Hour Obligations

Insights

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Thanks to the advocacy of industry leaders, in collaboration with Fisher Phillips, Virginia lawmakers just provided significant relief to the automotive dealer industry by way of the state's updated budget bill. Signed by Governor Northam and effective August 10, the budget bill explicitly carves out exemptions for sales, parts, and mechanics just as under federal law from the overtime obligations that just took effect under Virginia's strict new wage and hour law – and otherwise would have caused havoc for the industry had they remained. This development is a significant victory for the Virginia dealership industry. But there remains uncertainty for Virginia dealers on how to handle the small amount time between the onerous law taking effect and the carve-out being enacted that will need to be carefully managed. What do you need to know about the welcome relief and how to manage this delicate situation for the time being?

What Happened?

When Virginia's first overtime law – known as the Virginia Overtime Wages Act (VOWA) – went into effect on July 1, 2021, it eliminated several exemptions that employers had grown accustomed to under the federal Fair Labor Standards Act (FLSA). For auto dealers, this meant the elimination of overtime exemptions for sales, parts, and mechanics under 29 U.S.C § 213(b)(10). Additionally, the new law caused confusion as to the continued validity of the commission-paid exemption under 29 U.S.C § 207(i). Fisher Phillips reported on the expected impact of VOWA on the dealership industry in June.

But hearing the cries from the Virginia dealership community, which for decades had grown to rely on these common-sense exemptions enjoyed by dealers across the country, and understanding the magnitude of this change as highlighted in our June publication, lawmakers in the state realized a change was needed. The legislature acted quickly and resurrected the exemptions in their budget bill for the next fiscal year. Absent this exemption, Virginia dealerships were facing increased costs and administrative burdens of having to reconfigure pay plans.

Still Work to Be Done

If there's any bad news, it's that a gap exists between the July 1 effective date of VOWA and the August 10 enactment of the budget bill. Automobile dealers are advised to take a conservative approach in addressing hours worked by employees in sales, parts, and mechanics for that six-

week time period. You need to ensure your pay policies complied with VOWA for that time to avoid liability. If you have questions about compliance, contact your Fisher Phillips attorney or the author of this Insight.

Looking to the future, the relief carved out by the legislature is temporary in that it only applies to the current budget year. In other words, this relief will be in effect until July 1, 2022. But hope remains that the change will be installed on a permanent basis, as industry leaders are actively working on creating a permanent legislative fix in next year's General Assembly.

We will continue to monitor and report on the developments on VOWA, especially ahead of the expiration of this temporary relief on July 1, 2022. Make sure you are subscribed to [Fisher Phillips' Insight Service](#) to ensure you receive the latest news. For further information, contact your Fisher Phillips attorney, the author of this alert, any attorney in our [Washington, D.C. \(metro\) office](#), or any member of our [Automotive Dealership Industry Practice Group](#).

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