

Dealer

OVDA
Oregon Vehicle Dealers Association

Solutions

April 2020



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Corporate Activity Tax Due April 15

Capitol Closed But Government Working

Executive Order on Business Social Distancing

Governor Issues Cap & Trade Order

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NOTE: NOTHING IN DEALER SOLUTIONS SHOULD BE CONSIDERED LEGAL OR TAX ADVICE.
CONSULT YOUR ATTORNEY OR TAX ADVISOR IF YOU HAVE ANY QUESTIONS.

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From the Editor's Desk

A message for our readers...

Staying up-to-date on COVID-19 is like drinking from a fire hose. Information changes daily — sometimes hourly. In terms of managing your business, your best resources are your tax adviser, your attorney and your banker.

This edition of *Dealer Solutions* aggregates some information from reliable sources, but may be outdated by the time you see it. That's just the nature of the world we are living in right now.

OVDA is here to help if you have any questions, especially with how state government is handling COVID-19. Just send your emails to ovda@ordealers.com or call 503-399-9199. We're all in this together — six feet apart.

There are COVID-19 related issues that are dealer-specific, especially ensuring that the auto industry remains an "essential" service when governments start closing parts of the economy. At the Federal level, FEMA considers our industry essential.

Here in Oregon, OVDA created a coalition of auto-related associations to submit a request to the Governor and the Joint Legislative Committee on Coronavirus Response to ensure that auto-related businesses stayed open. OVDA lobbyist Darrell Fuller drafted the statement and asked the other associations to join OVDA. We appreciate their quick and affirmative responses. You can read the request in the pages of this edition of *Dealer Solutions*.

In Oregon, Governor Brown did not close all but essential businesses as other states have. Instead, she created a specific list of which businesses are **NOT** essential. Those businesses had to close. But things can change and OVDA remains vigilant in ensuring you can keep your doors open.

And, of course, there are many COVID-19 issues which impact all businesses. OVDA has been an

active part of larger coalitions of business associations to advocate on your behalf. Some of the statements by these business groups are reprinted here in *Dealer Solutions*.

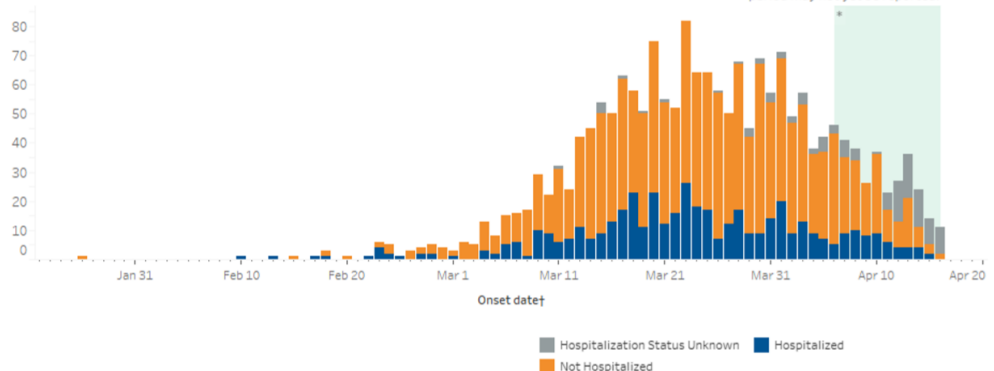
One of the biggest issues in Oregon is the implementation of the new Corporate Activity Tax. The CAT was a bad idea — new and higher taxes are almost always a bad idea — even before COVID-19. But with the tax starting January 1st, and the first quarter payment due April 30th, it is a particularly bad idea now, especially since the tax is based on activity, not profit. Businesses literally will be laying off employees so they can pay this new tax. It is absurd.

For now, be sure to follow the social distancing requirements created by her Executive Order (details inside). On the medical front, things are starting to get better, but the lockdown is likely to last through much of May, if not much longer.



Oregon's Epi Curve: Positive COVID-19 cases

This chart shows the number of Oregonians who have tested positive for COVID-19 and whether they were ever hospitalized for their illness.



Corporate Activity Tax

First Quarter Corporate Activity Tax payments due April 30; Good faith effort will prevent underpayment penalties

FROM THE OREGON DEPARTMENT OF REVENUE

April 17, 2020

Dear Corporate Activity Tax stakeholder:

First quarter 2020 estimated payments for Oregon's new Corporate Activity Tax are due by April 30. Taxpayers expecting more than \$5,000 of Corporate Activity Tax liability for the calendar year must make estimated payments.

The department understands that the COVID-19 pandemic may impact commercial activity, up or down, to an extent that makes it difficult for businesses to estimate their first payment. The department will not assess underpayment penalties to taxpayers making a good faith effort to estimate their first quarter payments for the CAT.

Taxpayers may demonstrate good faith effort by using the best information available to them at the time to estimate their payment. Taxpayers should document and retain the information they used to estimate their commercial activity as well as documentation used to show how they calculated their estimated payments. Taxpayers will not be required to submit this information to the department when they file their return or make estimated payments, but should keep the information in their records.

Guidance about making CAT quarterly payments can be found on the CAT page of the Department of Revenue website. Information available by following the Beyond the FAQ link includes answers to the questions:

- How to calculate CAT liability?
- When are estimated payments required?
- How do I pay my estimated taxes?

The CAT page also includes links to a video of the presentation made by CAT poli-

make a CAT payment" and links to register and make payments for the CAT through Revenue Online.

The CAT webpage also includes a link to the administrative rules for the CAT.

The 2019 Legislature created the CAT to boost funding for public schools. The CAT is imposed on businesses for the privilege of doing business in Oregon, including those located inside and outside of Oregon. It's measured on a business's **commercial activity**—the total amount a business realizes from activity in Oregon.

Businesses with taxable commercial activity in excess of \$1 million must pay the Corporate Activity Tax. The tax is \$250 plus 0.57% of gross receipts greater than \$1 million after subtractions.

The CAT applies to all business entity types, such as C and S corporations, partnerships, sole proprietorships, and other entities. Businesses with

more than \$750,000 in Oregon commercial activity are required to register for the CAT.

Taxpayers can email questions about the CAT to cat.help.dor@oregon.gov or call 503-945-8005.

Thank you.

Corporate Activity Tax Policy Team

cat.help.dor@Oregon.gov



cy staff during the March CAT update tour, which was cut short by concerns about the spread of the novel coronavirus, or COVID-19, and a PDF file of the PowerPoint presentation used during the tour. Guidance and examples of how to calculate CAT liability can be found in slides 30–38.

Additionally, taxpayers can access a PDF of a PowerPoint presentation on "How to

Corporate Activity Tax

**Businesses
working
together
hope to
delay the
Corporate
Activity
Tax (CAT)**



USE THE LINK BELOW TO CONTACT YOUR STATE LEGISLATORS. ASK THEM TO DELAY THE CORPORATE ACTIVITY TAX. THE CAT WAS A BAD IDEA EVEN BEFORE CORONAVIRUS SHUT DOWN THE ECONOMY. NOW, IN THE MIDST OF A PANDEMIC, NEW AND HIGHER TAXES WILL COST MORE JOBS AND CLOSE MORE BUSINESSES. LET YOUR VOICE BE HEARD BY CLICKING ON THE LINK BELOW.

<https://www.ProtectOurJobs.org/>

THE GOLDEN RULE:

HE WHO HAS THE GOLD MAKES THE RULES.

The Oregon Vehicle Dealer's Association has a campaign fund. We use donations from dealers to support candidates who: support a free market, lower taxes, fewer rules, and government getting out of the way of small businesses trying to grow.

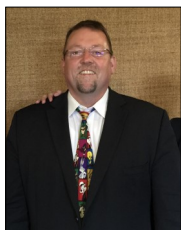
Will you help OVDA by making a donation today?

Call 503-399-9199 or email OVDA@ordealers.com for details or to

Dealer Industry Leadership

Your Oregon Vehicle Dealer Assn Board

The OVDA Board is comprised of active dealers. You likely see them at the auctions. They are volunteering some of their time to ensure the auto industry has a strong voice in Oregon. Would you like to be an industry leader? We are especially looking for dealers in southern, central and eastern Oregon, and for dealers who represent the large minority community of dealers. Are you passionate about the auto industry? Are you willing to donate a little of your time to improve the business in which you work? If you would consider joining our board, please email OVDA@ordealers.com or call 503-399-9199. Thank you for your interest.



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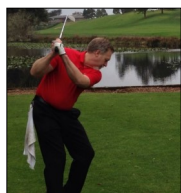


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Corporate Activity Tax



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Businesses petition for relief

A letter to the Governor and Legislative leadership on March 26, pleaded for relief from the Corporate Activity Tax (CAT).

It was signed by 49 different business associations (including **Oregon Vehicle Dealer Assn., Oregon Auto Dealer Assn., Oregon RV Dealer Assn., Northwest Auto Trades Assn., Oregon Power Sports Assn., Oregon Trucking Assn., and the Portland Metro New Car Dealers Assn.**

Below is the letter:

Your Oregon Employer Community calls on you to pass immediate relief to the new Corporate Activity Tax (CAT). The most immediate, pressing issue businesses have today is cash flow. The most important action the Legislature can take is to help businesses keep people employed by passing immediate relief from the new Corporate Activity Tax.

The CAT has only been in effect since January 1, 2020, and the programs it was intended to fund are not yet in place.

Employers and workers today are faced with a reality we never could have predicted one-year ago when the CAT was adopted. A global pandemic has forced large and small businesses to close their doors. Business owners are just trying to survive by any means necessary — reaching deep into their savings or business reserves to make payroll; and workers and employers are begging for relief and the opportunity to make it through this crisis.

Requiring CAT tax payments in April will be the absolute worst timing possible for struggling businesses during this crisis. Companies will be forced to pay this tax instead of paying employees, meaning potential layoffs across a broad spectrum of industries.

These unprecedented times call for unprecedented solutions. Bipartisan solutions that mirror the calls of the Joint Special Committee on Coronavirus Response.

We urge you to:

1. Delay the implementation of the Corporate Activity Tax for the first two quarters of 2020. Allow time for your employers to rebound and rebuild.

OR

2. Continue partial assessment of the CAT that builds on the priorities of the tax, while acknowledging the unprecedented time we are in. Provide employers with a temporary option of filing under a reduced rate of .285% (half the current rate) for the first two quarters of 2020 or allow them to double their current deduction of 35% to 70% for the first two quarters of 2020.

These proposals recognize the reality of today and do not impact the General Fund. A corporate activity tax when there is little commercial activity is too great a burden for Oregon employers to bear during a time of crisis. We urge you to provide immediate relief to local employers today. Ensure Oregon's employers, and our jobs, are still standing when this crisis is over.

Social Distancing Requirements

Governor Brown's Executive Order 20-12 creates specific legal requirements if your business stays open

On Monday, March 23rd, Governor Kate Brown issued an Executive Order (EO 20-12) immediately shutting down many Oregon businesses in an effort to slow the spread of Corona-virus. (To read the order, click [here](#) or search the internet).

Governor Brown's Executive Order is unlike the EOs issued by every other Governor. In other states, Governors issued Executive Orders shutting down businesses, except those considered "essential". Their EOs included detailed lists of which businesses are deemed essential. Some referenced a Department of Homeland Security document issued March 19th.

Governor Brown flipped this concept on its head and issued an Executive Order specifically listing which businesses are not essential, shutting them down. Businesses not on her list are allowed to continue operating with some new rules. Governor Brown's Executive Order requires the following businesses to close immediately:

Closure of Certain Businesses (Executive Order 20-12, Page Four)

2. ...Amusement parks; aquariums; arcades; art galleries (to the extent that they are open without appointment); barber shops and hair salons; bowling alleys; cosmetic stores; dance studios; esthetician practices; fraternal organization facilities; furniture stores; gyms and fitness studios (including climbing gyms); hookah bars; indoor and outdoor malls (i.e., all portions of a retail complex containing stores and restaurants in a single area); indoor party places (including jumping gyms and laser tag); jewelry shops and boutiques (unless they provide goods exclusively through pick-up or delivery services); medical spas; facial spas; day spas; and non-medical massage therapy services; museums; nail and tanning salons; non-tribal card rooms; skating rinks; senior activity centers; ski resorts; social and private clubs; tattoo/piercing parlors; tennis clubs; theaters; yoga studios; and youth clubs.

If your business is not on the Governor's list above, then good news -- you can stay open (for now). But there are new rules you must follow:

Required Social Distancing for Other Retail Businesses (Executive Order 20-12, Page Five)

6. ...I prohibit the operation of any other retail business not subject to paragraph 2 of this Executive Order, unless the business designates an employee or officer to establish, implement, and enforce social distancing policies, consistent with guidance from the Oregon Health Authority.

7. Retail businesses that fail to comply with paragraph 6 of this Executive Order will be closed until they demonstrate compliance.

So, if you are a retail business, which means you sell something -- including services -- and your employees interact with members of the public, OVDA's lobbyist, Darrell Fuller, **recommends** you do the following so you can **prove** you are complying with the Executive Order:

- (a) Designate -- in writing -- an employee or officer to establish, implement and enforce social distancing policies;
- (b) Establish, implement and enforce written social distancing policies for all employees and customers, indicating that everyone must maintain six feet of separation, including separating employees from one another;
- (c) Ensure all employees receive a copy of the written policies and acknowledge that they have received it, read it, and will comply with it. An initial or signature is preferable;
- (d) Make copies of the policies available to all customers;
- (e) Require your manager of social distancing policies to indicate, in writing, who is responsible for enforcing the social distancing policies during all hours that your business is open;

This can be as simple as designating the manager on duty as the responsible person. Businesses need a paper trail showing a good faith effort to comply with establishing, implementing and enforcing social distancing policies;

(Continued on page 8)

Social Distancing Requirements

Governor Brown's Executive Order 20-12, cont.

(Continued from Page 7)

(f) Your written social distancing policies should include explicit instructions to employees that they are not to use company time or vehicles to travel for any nonessential, non-work related purposes, to the maximum extent possible; and

(g) Use this [link](#) to download specific advice for employers from the Oregon Health Authority on social distancing policies (or search for it online).

Workspace Restrictions (Executive Order 20-12, Page Five)

9. ...Facilitate telework and work-at-home by employees, to the maximum extent possible. Work in offices is prohibited whenever telework and work-at-home options are available, in light of position duties, availability of teleworking equipment, and network adequacy.

10. When telework and work-from-home options are not available, businesses and non-profits must designate an employee or officer to establish, implement, and enforce social distancing policies, consistent with guidance from the Oregon Health Authority. Such policies also must address how the business

or non-profit will maintain social distancing protocols for business-critical visitors.

11. Businesses and non-profits that fail to comply with paragraph 9 and 10 of this Executive Order will be closed until they demonstrate compliance.

So, if you plan to keep your business open, OVDA **recommends** that you:

(a) Comply with everything listed above; and

(b) Create written protocols facilitating, to the maximum extent possible, which employees (if any) can telework or work-at-home. Document in writing specific reasons why employees (especially office employees) cannot telework or work-at-home. If nothing else, allow office employees to work from home for part of the day or part of the week, if at all possible.

Everything about Coronavirus and Executive Order 20-12 is still new. The paint just isn't dry, yet. But one thing is certain: Shortly after issuing EO 20-12, Governor Kate Brown sent a tweet from her official Twitter account [asking people to start filing complaints](#) (see photo).

And according to news reports, thousands of Oregonians responded. In fact, an April 7 story on the OBP website starts by noting, "Coronavirus concerns have led Oregon's workplace safety agency to receive over 2,000 complaints in recent weeks — as many as it normally gets in a year. Officials say they fall into two main camps: questions about whether certain businesses should be open at all and more specific concerns about how businesses that are allowed to stay open can do so while maintaining the health of workers and customers.

So, be careful out there.



IF NOT YOU, WHO? IF NOT NOW, WHEN?

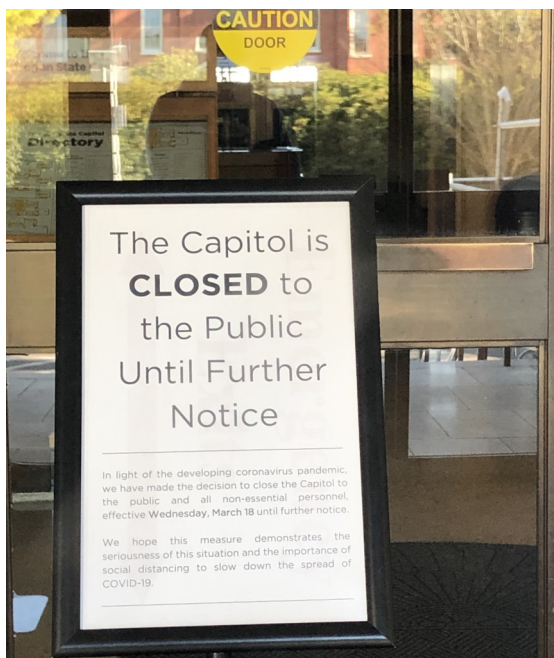
Join OVDA today and protect your livelihood by being a part of something that is already making a difference for your dealership every day. Join at www.ordealers.com, call 503-399-9199, or email OVDA@ordealers.com for details.

Capitol Update

The Capitol Building may be closed, but government never takes a day off.

The Oregon State Capitol has been closed to the public since March 18: No legislators. No lobbyists. No media. But the gears of big government continue to turn, virtual hearings are being held, and state agencies continue to promulgate rules and regulations.

In the middle of this pandemic, OVDA continues to actively represent your interests. In recent weeks, OVDA has partnered with other business associations to try to impact taxes and environmental overreach by the Governor. Just read the rest of *Dealer Solutions* to get a little taste of what is still happening behind the scenes on your behalf.



As the pandemic started hitting Oregon, the Legislature created the Joint Committee on Coronavirus Response. Their task was to look at short and long range options for the state of Oregon to help people, businesses and governments at all levels weather the coming storm. At first, it was thought a Special Session would convene in late March, or early April. That effort fizzled and now a Special Session may not occur until near the end

of May, after the state receives its quarterly tax revenue report. The May “revenue forecast” will foretell how badly the pandemic is impacting tax coffers.

As the Coronavirus Committee was working, OVDA lobbyist Darrell Fuller drafted testimony which was sent to the committee and the Governor. Fuller solicited the support of other auto-related associations and they agreed to co-sponsor the statement.

The following groups issued the statement on March 19: **Oregon Vehicle Dealer Assn., Oregon Auto Dealer Assn., Oregon RV Dealer Assn., Northwest Auto Trades Assn., Oregon Power Sports Assn., and the Oregon Tow Truck Assn.**

As Oregon governments move to protect our citizens from the Coronavirus pandemic, it is possible – if not likely – that it will be necessary to reduce business activity to only essential services for a period. In this case, on behalf of NATA, OVDA, OPSA, ORVDA, OADA and OTTA we request that motor vehicle sales, service and repair be included as essential services, as well as the supply chain

required to provide parts for repair.

The precedent for this has already been set:

- In a March 19, 2020 memorandum, the U.S. Department of Homeland Security includes motor vehicle service and repair as essential services, see attached; and
- Other states and jurisdictions which have already limited activity to essential services, including California, Pennsylvania and Nevada, specifically include motor vehicle service and repair as essential service.

The justification for declaring motor vehicle sales, service and repair as essential services is self-evident. ***Every other essential service function needs reliable transportation to move people and equipment from location to location:***

- Doctors, firefighters, emergency medical responders, and law enforcement need working motor vehicles to get to and from work. Moreover, ambulances, police cruisers and fire apparatus need to be serviced and repaired to work during the pandemic;

(Continued on page 10)

Capitol Update

Capitol closed (continued)

(Continued from page 9)

- Medical supplies, emergency supplies, groceries (farm to table) and other necessities (toilet paper) require motor vehicles to move products down the supply chain to retail locations for public use;
- Governments at all levels have agencies, such as public works and water departments, etc. which have motor vehicles that must be operable throughout the pandemic for public health, safety and welfare;
- Utilities, including, but not limited to, electricity, natural gas, water and sewer, and communications rely on fleets to operate. Those fleets require parts for proper maintenance, service and repair;
- NGO's like the Red Cross, Medical Reserve Corp. and others also rely on motor vehicles to move people and products -- including life-saving blood -- from location to location;
- Individuals need their motor vehicles to purchase food, visit doctors and conduct essential activities to maintain their own health and safety;
- With regard to recreational vehicles, these are used by many people as a

primary residence. As a result, maintaining RVs is crucial to their ability to remain housed during the pandemic; and

- With regards to motor vehicle sales, just as some vehicles need service and repair, others need to be immediately replaced due to wrecks, or repairs which are more costly than replacement, rendering the vehicle unsafe and unusable.

We believe the case is strong that all motor vehicle-related sales, service and repair businesses should be included as essential services. For the existing system to remain seamlessly effective, such a designation needs to include the following:

- Full-service motor vehicle mechanical and collision repair shops;
- Tire stores and "quick" oil change facilities;
- Towing businesses;
- Motor vehicle parts retail, wholesale and distribution businesses;
- Motor vehicle dismantlers (which are an essential link in supplying parts to the repair chain);

- Motor vehicle dealerships (including RV dealerships);
- Farm implement dealerships; and
- Power Sports dealerships (many first responder agencies rely on quads, gators, razors and other off road vehicles to move personnel and equipment in emergencies).

Finally, the transportation infrastructure to ensure timely delivery of the parts needed to supply those above. Truckers must have truck stops and rest areas open in order to safely move products across the United States. They must have places to safely stop to rest, sleep and eat.

Industry representatives are prepared to answer any questions to assist in your efforts to properly include the transportation service and repair industry in any list of essential services in Oregon. Please contact us if we can be of assistance.

#

THE GOLDEN RULE:

HE WHO HAS THE GOLD MAKES THE RULES.

The Oregon Vehicle Dealer's Association has a campaign fund. We use donations from dealers to support candidates who: support a free market, lower taxes, fewer rules, and government getting out of the way of small businesses trying to grow. Will you help OVDA by making a donation today? Call 503-399-9199 or email OVDA@ordealers.com for details or to

Cap and Trade

In the midst of a pandemic, Governor issues Executive Order to reduce greenhouse gases

Governor Brown:

On March 10, 2020, you signed Executive Order 20-04, directing state agencies to take actions to reduce and regulate greenhouse gas emissions. The order applies to 19 state agencies and commissions in total and specifically directs them to expedite the rulemaking process to the full extent allowed by law. The order also tasks the majority of the agencies subject to its provisions to report back to your office by May 15, 2020 with their proposed actions to reduce GHG emissions and mitigate the impacts of climate change.

Since this order was issued, the outbreak of COVID-19 has created an unprecedented economic and public health crisis in Oregon. This crisis has forced many of the industries in our state to focus their attention on complying with physical distancing mandates and new workplace restrictions while also trying to find ways to stay afloat amid such a sudden decline in sales and liquidity. Your administration, too, has been forced to work around the clock in an effort to respond to the outbreak and its impacts.

In recognizing the seriousness of the COVID-19 crisis and its longevity, we ask that you consider suspending Executive Order 20-04 immediately for the following reasons:

- E.O. 20-04 places an enormous burden on the state agencies subject to its provisions. Many of these agencies are currently focused on responding to the COVID-19 crisis and will be for the foreseeable future. Asking them to prioritize this order risks them being forced to pull time and resources away from their COVID-19 response efforts.
- E.O. 20-04 will require substantial financial resources to administer. Revenue projections are expected to be bleak, and Oregonians should anticipate substantial programmatic cuts in both the current and subsequent biennia. The state should continue to focus existing taxpayer dollars on COVID-19 response and recovery, not ramping up new programs that will cost tens of millions of dollars to implement.
- E.O. 20-04 will result in the direct regulation of dozens of industries through a variety of avenues. Virtually every one of these industries are struggling to survive the COVID-19 crisis and do not have the capacity due to lay-offs or furloughs to participate in a highly technical, expensive and expensive rulemaking process.
- Many of the industries that would be regulated under the order are currently engaged in essential business operations including manufacturing and trucking. These industries do not have the bandwidth to keep supply lines open and moving during this crisis while expending additional resources to comply with such an expansive new administrative program. The mandates required by E.O. 20-04 would jeopardize some of the very businesses that are most critical to keeping Oregonians safe and in their homes during this crisis.
- Current physical distancing requirements limit opportunities for meaningful public input. Oregonians need a full and fair opportunity to weigh in on such significant changes in state policies.

We acknowledge that Executive Order 20-04 is a priority for your administration and we understand the important role our industries play in protecting Oregon's environment, but we hope you will recognize the necessity of suspending this order's implementation until the COVID-19 crisis subsides. This action is paramount to protecting our economy from further retraction, preventing additional layoffs and assuring that essential industries can remain operational. Thank you for your consideration and for your leadership on behalf of Oregonians during this critical time.

No matter what happens, OVDA will continue to speak truth to power and defend Oregon vehicle dealers, most of which are small businesses.

We cannot allow ourselves to be ignored. That is why your membership is vital to our success. If we are to be YOUR voice, we need YOUR support. Thank you.

Cap and Trade

Whether it is COVID-19, or greenhouse gases, pleas by employers fall on deaf ears...



COVID-19 Notification

Oregon Vehicle Dealer Association is aware that some folks might want a quick fix to a posted letter to adhere to the Governors requirements to show who in writing is enforcing social distancing, and what steps are being taken by the dealership. We have created a fairly simple form letter to allow for dealers to post a letter showing that you are indeed allowed to be open, and in compliance with the standing executive order. This letter was not prepared by an attorney, and should be treated as such, and is not a replacement for having an attorney draft a letter. That disclaimer stated this should give you little to no trouble if OHA or OSHA visits your establishment. You can view that letter below, and there is a download link on the same page as this edition of Dealer Solutions.

Attention Customers & Vendors

Per Oregon Executive Order 20-12 our business is allowed to operate following the appropriate measures.

- (a) Designate – in writing -- an employee or officer to establish, implement and enforce social distancing policies;
- (b) Establish, implement and enforce written social distancing policies for all employees and customers, indicating that everyone must maintain six feet of separation, including separating employees from one another;
- (c) Ensure all employees receive a copy of the written policies and acknowledge that they have received it, read it, and will comply with it. An initial or signature is preferable;
- (d) Make copies of the policies available to all customers;
- (e) Require your manager of social distancing policies to indicate, in writing, who is responsible for enforcing the social distancing policies during all hours that your business is open;
- (f) Your written social distancing policies should include explicit instructions to employees that they are not to use company time or vehicles to travel for any nonessential, non-work-related purposes, to the maximum extent possible;

Designated Individuals to enforce Social Distancing:

Please note that you can find the original text of this Executive Order here:

https://www.oregon.gov/gov/admin/Pages/eo_20-12.aspx

Thank you to all of our Customers & Vendors for helping to keep our business continue to remain open under the current guidelines.