



# THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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## Reminder to Dealers: NADA District Director Election Coming Up

Washington-area NADA members will be selecting a regional director this year, and WANADA encourages all our eligible member dealers to participate. [Geoff Pohanka](#) has served the metro Washington, D.C. district admirably as the regional NADA director, and now represents the interests of regional dealers as the chair of the association's Industry Relations Committee.

Geoff Pohanka is running for another term as director and, with that in mind, NADA will be soliciting nominations for regional directors in the coming weeks. All NADA members in the metro Washington region should receive a nomination ballot in the mail no later than June 12; please complete and return the ballot in short order, so that it is *received* (as opposed to postmarked) before July 3. Members will only be able to nominate one person.

All nominees who receive at least 10 percent of the total votes cast will then be placed on the general election ballot; those will be mailed to metro Washington members at the end of July, with a requirement that the completed ballot be received by NADA no later than August 21. If only one member is nominated, the general election will be cancelled and that nominee will serve the upcoming three-year term.

WANADA thanks Geoff Pohanka for his service to the Washington area's new auto dealers on the national board, and we encourage all eligible member dealers to participate in this year's election process.

## D.C. Region Prepares to Start Re-Opening

Leaders across the Washington area reaffirmed their commitment to beginning the re-opening process over the coming week, with D.C. and Northern Virginia likely to shift towards their versions of an initial re-opening by Friday. But while more businesses may be re-opening in the region in the near future, it is increasingly clear that mandatory mask usage will be a hallmark of commercial activity for months to come.

On Tuesday, Virginia Gov. Ralph Northam announced that Northern Virginia, Accomack County, and the city of Richmond would soon join the rest of the commonwealth in shifting to "phase one" of the [Forward Virginia re-opening plan](#). Under [Executive Order 61](#), which was suspended for the jurisdictions listed above, many non-essential businesses in the rest of the

commonwealth are currently allowed to open at 50 percent of their lowest published capacity, so long as they can enforce social distancing requirements.

At the same time, Gov. Northam announced that he will be instituting a statewide face-covering requirement on Friday, at the same time the state fully shifts into phase one. Masks are currently required for employees of public-facing businesses, but beginning this weekend all patrons will need to wear them indoors as well. Masks will also be required on public transit, and when accessing state and local government services. Children under 10 and those with medical conditions that would make mask-wearing inadvisable are exempt from the order.

In the District of Columbia, Mayor Muriel Bowser said the city continues to make progress, and the city will almost certainly be able to enter their version of stage one under the [ReOpen DC plan](#). Under the city's plan, which is more stringent in some parts than those in Maryland and Virginia, non-essential retailers will be able to re-open for curbside service, while limited outdoor sit-down dining will also be permitted. Many facilities, including museums, pools, theatres, and gyms, will remain closed. All non-essential retailers will be limited to either a capacity of 5 patrons per 1,000 square feet of indoor space or 50 percent capacity, whichever is lower.

The mayor also introduced a city-wide mask ordinance a couple of weeks ago, when she last extended the city's [stay-at-home order](#). The mask ordinance largely mirrors those in Virginia and [Maryland](#), requiring patrons to wear them on public transit, in ride share vehicles, and when inside enclosed businesses. There are also carveouts for young children and those with certain medical conditions.

In Maryland, Gov. Larry Hogan delegated much of the re-opening responsibility to the county executives in the D.C. region, following his decision to implement a ["stage one" reopening](#) on May 15, pending local approval. Each county in Maryland could fully adopt the governor's executive order, which implements the first stage of the state's [Roadmap to Recovery](#), or do a piecemeal approach.

Montgomery County, which currently remains in a stay-at-home operating status, has created a [COVID-19 dashboard](#), featuring a series of benchmarks that County Executive Marc Elrich says the jurisdiction must hit in order to proceed to stage one. Last week, Prince George's County Executive Angela Alsobrooks reaffirmed that her county remained on track to proceed to stage one beginning on June 1, which is when the latest stay-at-home order expires.

Charles County Commission Chairman Reuben Collins [said his county](#) will proceed to stage one on Friday, while the other large counties in the region – Howard, Frederick, and Anne Arundel – have each issued modified stage one orders, which allow manufacturing and some previously-closed retail activity to resume, but under more strict patron capacity requirements than Hogan's order.

Some Maryland counties have issued more stringent mask requirements than the state requires, and Gov. Hogan also has [empowered local county police](#) and health departments to enforce these orders. Virginia's mask ordinance, for now at least, will only be enforced by the state Department of Health. While both states allow their state health departments to shutter non-compliant businesses, Virginia's orders currently lack any criminal enforcement component.

## Md. SALT Workaround for Pass-Throughs Takes Effect July 1

Under Maryland [Senate Bill 523](#), which was enacted into law earlier this month without Gov. Larry Hogan's signature, pass-through entities will be able to tax advantage of a higher State and Local Tax deduction, which had been capped at \$10,000 under the federal tax reform bill passed in 2017.

SB 523 will allow pass-through entities (defined for this purpose to include, at minimum, S-corps, LLCs, partnerships, and business trusts) to pay income taxes directly at the entity level and then afford their members and partners the chance to claim a state tax credit against those taxes. This option is an elective one, not mandatory.

There may be reasons why a partner or outright owner of a pass-through entity may not wish to claim this new workaround. The provision will take effect beginning with this current tax year, and WANADA encourages you to speak with your CPA or financial advisor to determine if this credit is right for you or your business.

## Dept. of Labor Issues Final Rule on Non-Exempt Salaried Workers

Last week, the U.S. Department of Labor's Wage and Hour Division [issued a final rule](#) that explicitly allows employers to offer bonuses, commissions, and other incentive-based payments to non-exempt salaried workers whose work hours vary week to week. According to a [press release issued by DOL](#), the rule will go into effect 60 days after it is published in the [federal register](#).

You can view the full text of [the final rule here](#). In addition to providing employers with certainty that they are able to offer bonuses to non-exempt workers with varying work schedules, the rule also specifies a calculation process for how these of supplemental payments fit into calculating an employee's rate of pay for overtime purposes.

The ability of businesses to offer bonuses to non-exempt workers with fluctuating workweeks had been a source of debate in federal court over the past decade, with contradictory rulings leading many employers to stop offering bonuses to non-exempt salaried employees. This rule explicitly codifies a procedure for offering bonuses to non-exempt workers, which will hopefully benefit non-exempt workers and employers alike.

According to the text of the final rule, the Department is also taking this regulatory step in order to help employers more effectively develop flexible work schedules in the midst of the COVID-19 pandemic. The federal government says "this rule will make it easier for employers and employees to agree to unique scheduling arrangements while allowing employees to retain access to the bonuses and premiums they would otherwise earn."

Please note that this rule does not inherently supersede other state and local wage and employment laws; WANADA encourages you to reach out to your legal counsel if you need clarification on how this new rule might impact your business' specific operations.