



NCADA Summary Executive Order 131

On Thursday, April 9, 2020, Governor Roy Cooper issued [Executive Order 131](#) (“[EO 131](#)”), to supplement the original statewide “Stay at Home” order included in Executive Order 121 issued on March 27, 2020. EO 131 notes that recent evidence indicates that additional measures are required to ensure social distancing and prevent the spread of COVID-19 in retail businesses, including restrictions on maximum occupancy during the emergency, clearly marking spacing for social distancing and frequent and routine environmental cleaning and disinfection of high-touch areas. These “Additional Social Distancing Requirements” are included in Section 1 of EO 131 and are summarized below. Dealers are encouraged to fully review the official EO 131 and related [FAQs](#).

Effective Date

Section 1 of Executive Order 131 (“Additional Social Distancing Requirements”) is effective Monday, April 13, 2020, at 5:00 pm and shall remain in effect for thirty (30) days from that date, unless repealed, replaced, or rescinded by another order.

New Requirements for Retail Establishments

Under Executive Order 131, all retail establishments that are permitted to operate under the previously issued Executive Order 121 or under any local government order are required to take additional steps to limit the risk of community transmission of COVID-19, and to ensure that employees and customers are able to maintain appropriate social distancing.

Executive Order 121 (original statewide “stay at home” order) specifically included “**auto supply, sales, ... auto-repair**” and “**automobile dealers**” as Essential Businesses and Operations exempt from the general closure of non-essential businesses required under that order.

Further, under the new Executive Order 131, “**vehicle dealerships**” are specifically included in the term “**retail establishments**” and are subject to these new requirements.

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Additional Social Distancing Requirements

Emergency Maximum Occupancy

1. Emergency Maximum Occupancy Calculation - The occupancy of all operating retail establishments shall be limited to be no more than:
 - Twenty percent (20%) of the stated fire capacity; ***or***
 - Five (5) ***customers*** for every one thousand (1000) square feet of the retail location's total square footage, including non-customer-facing portions.

The limit calculated for a dealership is that dealership's "***Emergency Maximum Occupancy.***"

2. Enforcement of Emergency Maximum Occupancy by Staff - If the retail establishment has reached Emergency Maximum Occupancy or expects to reach Emergency Maximum Occupancy, it must post sufficient staff at store entrances and exits to enforce the Emergency Maximum Occupancy limit.
3. Posting Requirement - The Emergency Maximum Occupancy for the retail establishment must be posted in a conspicuous place.

Social Distancing Markings

1. Marking of Six Feet Spacing - To encourage the minimum Social Distancing recommended by the Centers for Disease Control ("CDC"), all operating retail establishments must clearly mark six (6) feet of spacing:
 - a. In lines at cash registers; and
 - b. In other high-traffic areas for customers and near high-volume products, inside the retail establishment.

All operating retail establishments must enforce these limitations.

2. Marking Outside the Establishment - In addition, operating retail establishments which have reached or expect to reach Emergency Maximum Occupancy must clearly mark six (6) feet of spacing in a designated line outside the establishment.

Cleaning and Disinfection. All operating establishments shall perform frequent and routine environmental cleaning and disinfection of high-touch areas with a disinfectant approved by the Environmental Protection Agency ("EPA") for SARS-CoV-2 (the virus that causes COVID-19).

No New Authority to Remain Open. This new Executive Order 131 does not authorize a business to operate which does not currently qualify as a COVID-19 Essential Business and Operation under the previously issued Executive Order 121. ***Further, the Order shall not be deemed to authorize a business to operate if it has been deemed nonessential or otherwise has been ordered to be closed by a local government order.***

Effect on Local Orders. EO 131 provides that, in an effort to create uniformity across the state for retail businesses that may continue to operate, the Order also amends all local government emergency prohibitions and restrictions to remove any language that sets a different standard for maximum occupancy in retail establishments or otherwise **directly conflicts** with the above noted “Additional Social Distancing Requirements.” EO 131 likewise prohibits the adoption of local government prohibitions or restrictions that set a different standard for maximum occupancy in retail establishments or otherwise **directly conflict** with the above noted “Additional Social Distancing Requirements.”

At this time, it is clear that the provisions of any local government order that set a different threshold for maximum occupancy in a retail establishment than the Emergency Maximum Occupancy requirement noted above are effectively amended to conform with this EO 131. However, the extent to which any additional social distancing marking or cleaning and disinfection requirements that may be included in a local government order will be impacted by EO 131 is not clear at this time. However, it is important to note that EO 131 references a **“direct conflict”** between a local government order provision and the Additional Social Distancing Requirements of EO 131, and does not appear to address any additional requirements that a local government order may impose in these areas.

Recommended Policies for Retail Establishments

In addition to the *“Additional Social Distancing Requirements”* noted above, EO 131, also includes the following *“Recommended Policies for Retail Establishments”* that the Order strongly encourages all operating retail establishments to follow to limit the risk of spreading COVID-19, and to ensure that employees and customers maintain appropriate social distancing.

Reduce Transmission Among Employees

- **Cloth Face Coverings** - All retail establishments are encouraged to supply, provide education on proper use, and encourage the use of cloth face coverings for all employees in positions that do not allow them to consistently maintain a six(6)-foot distance from employees or customers, subject to the availability of these products.

- Stay Home if Sick - All retail establishments should instruct employees to stay home if they are sick.
- Spacing Markings in Staff-Only Areas - To encourage the minimum social distancing requirements recommended by the CDC, all retail establishments are encouraged to mark six (6) feet of spacing in high-traffic areas within staff-only portions of the establishment's premises. Note, as noted above, this six-foot spacing marking is a **requirement** for high-traffic **customer** areas of the retail establishment.

Hand Hygiene

- Hand Sanitizer Availability - All retail establishments are encouraged to place hand sanitizer prominently at entry and exit points, subject to availability of this product and to have disinfecting wipes and/or sprays that are EPA approved against SARS-CoV-2 available for shopping carts and baskets.
- Employee Hand Washing - All employers should have their employees wash hands or use hand sanitizer, subject to the availability of that product, between interactions with customers and other employees.

Designated Shopping Times for Seniors and At-Risk Groups. All retail establishments are encouraged to designate exclusive shopping times for senior and other at-risk groups as defined by the CDC.

Signage for Social Distancing. All retail establishments are encouraged to post signage that reminds customers and employees about required social distancing (at least six (6) feet apart).

Online Ordering, Curbside Pickup, and No-Contact Checkout. All retail establishments are encouraged to develop and use systems that allow for online, email, or telephone ordering, no-contact curbside or drive-through pickup or home delivery, and contact-free checkout.

Additional Recommendations for High-Volume Retail Establishments. High-volume retail establishments, such as grocery stores and pharmacies, are strongly encouraged to take the following additional measures to promote social distancing (at least six (6) feet apart) of customers and prevent spread of respiratory droplets.

- Use acrylic or plastic shields at cash registers.
- Clearly mark designated entry and exit points.
- Provide assistance with routing through aisles in the store.