



NJ AUTO INDUSTRY ALERT

June 13, 2016

NEW MVC DEALER REGULATIONS EXPECTED, LEGISLATURE TACKLES \$15 MINIMUM WAGE AND PAID SICK LEAVE

NJ MVC to Propose Regulatory Amendments Concerning Dealers

The New Jersey Motor Vehicle Commission (“MVC”) is expected to propose amendments later this month regarding licensed motor vehicle dealers. The proposals, in part, are designed to address some of the criticism leveled at the MVC by the State Commission of Investigation last December.

One proposal would impose additional requirements for all persons serving as “authorized signatories” for any dealership including prohibiting independent contractors from serving as authorized signatories and prohibiting the simultaneous representation by signatories for more than one licensee at any given time. Here, the MVC is attempting to address the concern that certain multi dealer locations that house dealerships that do not share absolute commonality of ownership have one person that represents many dealers at the same time. The proposal fails to properly consider that many individuals serve as signatories for more than one dealership when they are an owner, officer and employee of multiple license holders at the same time. This aspect of this proposal could be problematic for many new and used car dealers throughout the State if adopted without modification.

The MVC has also proposed formally setting forth a structure for the distribution of dealer plates and establishing guidelines for obtaining and retaining them, including requiring each licensee to sell a minimum number of vehicles that are to be eligible for dealer plates. For the most part, these proposals mirror existing MVC policy that is not officially set forth in any regulation.

The MVC has also proposed including a minimum number of vehicles sold or leased in order to obtain temporary registration privileges.

Finally, there are a number of proposals to modify the rules regarding the “established places of business” requirements when a building houses more than one dealership and there is *not* absolute common identity of ownership of the licensed dealers located in the building. In those scenarios, existing regulations include building requirements that exceed those mandated by the state agency responsible for statewide building codes and virtually every municipality within the state. The MVC has an exception or grandfather clause to the existing regulations that has existed since March 6, 2006. In an attempt to further regulate multi-dealer locations, the MVC’s proposals will seek to limit the grandfather clause to only structures that existed prior to that date



and clarify the exception does not extend to any new construction or additions made outside the existing footprints of the buildings on or after March 6, 2006. The proposals, although well intended, fail to address how the MVC will treat those dealerships that made additions or added new construction to original footprints to buildings after March 6, 2006 that were subsequently grandfathered and will now be confronted with a regulation that attempts to take away currently lawful places of business.

We anticipate the rule proposals to be published later this month. The public will have 60 days to provide public comment. The MVC will publish its responses to public comments and can clarify or amend its positions with respect to the proposed regulations before voting on them.

\$15 Minimum Wage Legislation Advances--Passes Assembly

Legislation to increase New Jersey's minimum wage, sponsored by legislative leaders Senate President Steve Sweeney (D-West Deptford) and Assembly Speaker Vincent Prieto (D-Secaucus), has passed the Assembly along party lines by a 42-30-1 vote. The bills, (A15/ S15, would raise New Jersey's minimum wage to \$15 an hour by 2021 with annual increases based on the Consumer Price Index (CPI). If it becomes law, the bill would immediately increase the minimum wage to \$10.10.

Governor Christie has publicly stated his plans to veto the legislation. The sponsors have announced they will seek a constitutional amendment if and when this happens. If successful, a ballot initiative would most likely be on the ballot in November 2017.

Paid Sick Leave Bill Stalls Again

Efforts to enact paid sick leave have once again stalled. S799, sponsored by Senate Majority Leader Loretta Weinberg (D-Teaneck) would mandate that all NJ businesses provide employees with one hour of earned sick leave for every 30 hours worked up to 72 hours of accrued time. For employers with less than 10 employees in the state, that number drops to 40 hours of earned sick leave to be accrued or carried-forward. The bill provides that employees may use earned sick leave for themselves or to care for a family member.

The bill was scheduled for a full vote in the Senate on May 9 but pulled from the agenda due to differences between the leadership in the Assembly and Senate over whether to continue to allow municipalities to set their own sick leave rules.

The legislation has been a top-priority for the Democratically-controlled Legislature; however, Republican Governor Chris Christie is widely expected to veto the partisan measure. The Assembly version of the bill, A1446, sponsored by Assemblywoman Pam Lampitt (D-Voorhees), has not yet been considered by the Assembly Labor Committee.



By: Anthony Bush and Grace S. Power of Eckert Seamans Cherin & Mellott, LLC

Anthony Bush is a Member in Eckert Seamans' Princeton Office with over two decades of experience with automotive issues. He counsels a wide spectrum of clients including automobile dealerships, operators of wholesale motor vehicle auctions, auto parts distributors, finance companies, and auto body repair facilities. Tony and Eckert Seamans have expertise representing dealers in consumer and corporate litigation, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of Consumer Affairs, and in legislative and regulatory issues affecting the automotive industry. Grace Strom Power is an Associate in the Princeton Office and has over 10 years of government affairs experience in both the public and private sectors, advising and representing clients before the New Jersey State Legislature, Office of the Governor, state and local agencies, commissions and regulatory authorities.

For more information about the NJIADA, contact Paula Frendel at njiada.pfrendel@gmail.com

*For more information about any of the issues above, or any other legal issues impacting your dealership, contact **Tony Bush** at (609) 989-5056 or abush@eckertseamans.com or **Grace S. Power** at (609) 989-5008 or gpower@eckertseamans.com.*

©Eckert Seamans Cherin & Mellott, LLC, 2016, all rights reserved.