



# Bulletin

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## **Dealer Surety Bond**

### **Surety Bond Legislation - Effective March 28, 2017**

On September 29, 2016 legislation was signed into law which changed the dollar amount of the surety bond dealers (other than New Motor Vehicle Dealers) are required to maintain in order to become, or remain, registered under section 415 of the New York State Vehicle and Traffic Law. This law will become effective on March 28, 2017.

### **The new surety bond amounts required are as follows:**

\$20,000 – Retail or Wholesale Motor Vehicle Dealer (other than new) that sold 50 or fewer vehicles in the previous calendar year.

\$100,000 – Retail or Wholesale Motor Vehicle Dealer (other than new) that sold more than 50 vehicles in the previous calendar year.

The dollar amount of the bond required to be maintained by dealers applying to become, or to remain, registered as a new motor vehicle dealer remains unchanged at \$50,000. Original dealer applicants cannot be approved on or after March 28, 2017 unless a bond has been submitted in compliance with the new law. Applications received prior to March 28th may require the submittal of an amended bond if the application is still in process on or after March 28th. Applicants are encouraged to secure the higher bond amount to minimize disruption in their approval process. The law also requires that any existing dealer (other than New Motor Vehicle Dealers) shall be required to provide surety bonds that comply with these new requirements upon the renewal, replacement, alteration, or extension of such dealer's current surety bond.

This information is being posted as a courtesy so you can begin to prepare for the March 28th effective date.  
[NYS Assembly Bill 8166A](#), Chapter 342 - Effective Date March 28, 2017

## **Attorney Corner**

SO – You don't think that employee timekeeping and overtime pay affects you? Guess again!

On December 31, 2016, the State of New York expanded overtime provisions. The Federal government tried but was blocked by the Courts – New York was not. Overtime is required to be paid to employees under New York Labor Law [NYLL] and under the federal Fair Labor Standards Act [FLSA] unless the employee is an "exempt" employee.

### **Who is an exempt employee?**

- 1) Executive exemption – is an employee whose primary [and usually only] duty is management. For example, a Service Manager is a large shop whose management duties also involve supervising shop people and hiring and firing.
- 2) Administrative exemption – this is an employee who performs office functions, including human resources or non-manual work that is directly related to management support.

However, there is a salary threshold for these employees in New York State:

- \$750 per week on or after December 31, 2016
- \$825 per week on or after December 31, 2017
- \$900 per week on or after December 31, 2018
- \$975 per week on or after December 31, 2019
- \$1,050 per week on or after December 31, 2020
- \$1,125 per week on or after December 31, 2021

The Federal, non-NY salary threshold is \$913 per week effective May 23, 2016. On November 22, 2016, a Texas Federal Judge blocked the federal attempt. Thus far there hasn't been an expansion of the Federal Threshold BUT the NY threshold still applies to NY businesses. [Welcome to NY!]

### **Record Keeping:**

Your employee can be the greatest person you will ever meet but you must protect yourself in case they or others are courted by a law firm that advertise and are essentially FLSA trolls.

Keep a record of the shop hours and when you may be closed for vacation, holidays, etc. A NYS Labor Department trial, the Labor Department Administrative Law Judge will not take or accept your testimony as to when the shop was open or closed or the shop hours.

**How to Protect:**

- 1) If you have a time clock – use it and publish a rule that only the employee assigned to the time card is allowed to punch in and out. It is a discharge offense if an employee does it for another. Both should be terminated.
- 2) If you do not have a time clock, use a sign in sheet for each employee. They must sign in and record their hours and must sign each line that the time entered is correct.
- 3) Never, never ever,
  - a.] pay in cash. The employee will testify before the NYS Labor Board at a hearing that you consistently underpaid the cash no matter what the time sheet or time card says.
  - b.] Pay by check (use a payroll service and direct deposit wherever it can be done) and never cash employee checks. The employee will claim that yes you cashed the check but that you required the employee to give you a portion of their paycheck.

You can cover all of the above in an Employee manual that I and the Association can provide to you for a nominal cost. We will customize for your facility and supply professionally printed copies for you. If more than ten copies there is a nominal printing charge.

For a simple time sheet, please call Carla Obalde and she will be happy to email or fax you a time sheet without charge. You can make as many copies of the time sheet as needed. Any questions, you can email them to me.

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**Air Pump Requirements**

If a fueling station has 4 or more gas dispensing nozzles they are required to offer air to their customers. The requirement that fueling stations have 4 or more gas dispensing nozzles have an air device available for use is cited in NYS Weights & Measures Law Article 16.

Section 192 (6) Gasoline Stations: Air pumps required

- a. Definition as used in this subdivision: “Dealer” shall mean any person owning or operating a premise or facility with four or more gas dispensing nozzles for the retail sale of motor fuels for use in motor vehicle.
- b. Any dealer must provide on premises where motor vehicle is sold at retail for use in motor vehicles a functioning motor driven air compressor capable of inflating motor vehicle tires for use by customers during hours in which such station is open for business.

The following signage requirements only apply to air devices which require payment:

Time per vend requirement is found in NIST Handbook 44. Section 5.55 Timing Devices

UR.1. Statement of Rates – The price in terms of money per unit or units of time for the service dispensed and the number coins will accept and be activated by at one time, shall be clearly, prominently, and conspicuously displayed.

Statement of responsibility is found in New York State Rules and Regulations.

Section 221.16 - Coin Operated Devices – Coin operated devices which dispense time, commodities or services must have a sign conspicuously posted stating name, address and telephone number of the owner or operator of such devices. The telephone number or numbers must be such that the owner, operator or his representative can be contacted at any reasonable business hour. This section shall not apply to devices owned and operated by any branch of government.

I hope you enjoyed reading this month’s bulletin. If you have any questions feel free to call the association. We are here to help you and your industry.

Regards,  
*Carla Obalde*  
Operations Manager

**Welcome New Members**

Milad Nukho & Sons, Inc. - Yonkers, NY

Fossil Petroleum - Carmel, NY

VJay Auto Service Center - Mt. Vernon, NY