

NEWS BULLETIN

Maine Automobile Dealers Association

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2022-1

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HAPPY NEW YEAR

Calendar Year 2022 has begun. A new year brings a new beginning, presents new challenges, and offers fresh opportunities in all aspects of one's life. Your Association thanks you for your cooperation and participation in past MADA activities. It has been our privilege and our pleasure to address your questions, concerns and needs over the past year. We look forward to working with you into the future as we, together, meet the challenges and opportunities of 2022. Good luck and best wishes for a happy, healthy and prosperous New Year.

MAINE LAW RE: SEXUAL HARASSMENT IN THE WORKPLACE

In 1991, the Maine Legislature enacted a law requiring Sexual Harassment Education and Training in the Workplace. All employers, and thus all MADA members, must do three things at their business. First, they must "post in a prominent and accessible location in the workplace" a notice about the law. Second, they "shall provide annually all employees with individual written notice" concerning the provisions of the law as well as where to obtain assistance. Third, they must develop a training program for new employees, and an annual training session for managers and supervisory personnel.

The poster required by the law is included in the laminated poster containing required employee notices, which poster MADA makes available to its members (2022 posters will be delivered to your dealership during the week of January 10). **An annual notice to all employees is included with this bulletin.** Your obligation is to provide a copy to all employees, whether full or part-time. To ensure that all employees receive such notice, it is suggested that distribution be included with payroll.

If you employ 15 or more, your business is also required to "conduct an education and training program" for all employees, as well as additional training for supervisory and managerial employees. This training is required within one year of initial employment for new employees, and managers must receive their training within one year of the start of their managerial/supervisory functions. Training records containing the agenda, date and list of attendees must be retained for three years.

In addition to the inclusion of a sample employee notice, we have included a Training Checklist produced by the Maine Department of Labor (DOL). This checklist should be used to assist your dealership in the development of the required education and training program for managers, supervisors and new employees.

Significant penalties have been enacted for non-compliance with workplace posting of the required notice, as well as for lack of education and training.

CASH REPORTING RULE

Any business that received more than \$10,000 as a payment for goods is required to report that payment to the IRS by filing Form 8300. You are not required to tell the buyer at the time of purchase that the form will be filed. However, you are required to obtain the information necessary to complete the form including the buyer's birth date and social security number.

IMPORTANT: If you filed any Form 8300s during calendar year 2021, YOU ARE REQUIRED BY FEDERAL LAW to advise your customers in writing by January 31, 2022 that the form was filed. The instructions to the form say that a written statement must be provided to each person named in Form 8300 on or before January 31 of the year following the calendar year in which the cash is received. The statement must show the name and address of the business, the total amount of reportable cash received, and that the information was furnished to the IRS. Keep a copy for your records. Remember, the law requires written notification. Merely informing the customer at the time of sale that you will be filing a Form 8300 is not sufficient.

This written notification requirement could be fulfilled by sending your customer a letter on your dealership letterhead. As stated above, this notification can be provided at any time following the transaction, or as late as January 31 of the next calendar year. The following represents sample wording for the statement:

Dear (customer):

We are required by the Internal Revenue Service to report all transactions involving more than \$10,000 in cash or monetary instrument (cashier's check, bank draft, travelers check, or money order) as defined in 26 U.S.C. 60501.

(name and address of dealership) filed Form 8300 with the IRS on (date) indicating you gave us (amount) in connection with your purchase of (make, model, VIN).

Sincerely,

(your name)

MADA suggests you check your files, and if you haven't already given a "written notice" to any customer who has paid you more than \$10,000 cash in 2021, you should do so immediately. If you are audited by the IRS, there are penalties for failure to file the Form 8300 and for failure to provide written notification.

Based on audits conducted by IRS at Maine dealerships as well as those in other states, the following are a few tips to help your audit experience:

- 1) Keep a separate file for 8300s, in chronological order by date of sale;
- 2) Keep a copy of 8300, and a copy of the notification letter, in each customer's deal jacket;
- 3) File 8300 on transactions with an even \$10,000 cash even though the law says "more than \$10,000".

2022 LABOR LAW POSTERS

Due to delays in receipt of necessary language from government for the LABOR LAW laminated posters, the 2022 versions were not printed until last week. MADA will be delivering them to you the week of January 10.

SEXUAL HARASSMENT IS ILLEGAL

SEXUAL HARASSMENT IS A FORM OF EMPLOYMENT DISCRIMINATION AND IS ILLEGAL UNDER MAINE LAW.

Sexual Harassment is defined as: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Section 3.061 1, Maine Human Rights Regulations.

Examples of sexual harassment include, but are not limited to:

- * Display of sexually suggestive objects or pictures.
- * Flirtations, propositions and comments which are unwelcome and unsolicited.
- * Comments about appearance, clothing, anatomy which are graphic or degrading.
- * Sexual jokes and gestures.
- * Physical contact which is unwanted and inappropriate such as touching, hugging, kissing or fondling.
- * Retaliation for complaining about sexual harassment.

If you believe you are being sexually harassed you should notify your immediate supervisor, or if you cannot notify your immediate supervisor notify the person in your company designated to handle personnel or human resources problems.

If you believe you are being sexually harassed, Maine law allows you to file a complaint with the Human Rights Commission, within 6 months of the unlawful act or unlawful discrimination. The Human Rights Commission shall provide an opportunity to resolve the matter. If the matter cannot be resolved, the Human Rights Commission will investigate to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. If the Commission finds reasonable grounds to believe that unlawful discrimination has occurred it will try to eliminate the discrimination by informal means. If informal means of resolving the matter have not succeeded the Human Rights Commission will file a complaint with the Superior Court.

You may contact the Commission at its office in Augusta or by telephone at 624-6290.

Your employer cannot discharge or otherwise punish or penalize you because of any action you have taken to assert your rights under the Maine Human Rights Act or because you assisted in the enforcement of the Act.

This notice is provided to you pursuant to Maine Revised Statutes 26-807



Sexual Harassment Education and Training

Training Checklist

Sexual harassment is a form of sex discrimination that violates Title 5. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title 5.

Additional Resources:

Office of Attorney General's Guidance:

http://www.maine.gov/ag/about/harrassment_policy.html

Maine Human Rights Commission Guidance:

http://www.maine.gov/mhrc/guidance/sexual_harrassment.htm

Federal Equal Employment Opportunity Commission Guidance:

<https://www.eeoc.gov/eeoc/publications/upload/fs-sex.pdf>

Federal Statutes:

<https://www.eeoc.gov/laws/statutes/titlevii.cfm>

State of Maine Statutes:

<http://legislature.maine.gov/legis/statutes/5/title5sec4553.html>

Title 26 M.R.S.A. §807 requires employers with 15 or more employees in the workplace to conduct an education and training program for all new employees within one year of commencement of employment that includes a written notice of the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the Maine Human Rights Commission; directions on how to contact the Commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

MAINE
DEPARTMENT OF
LABOR
Bureau of Labor Standards

*The Maine Department of Labor provides equal opportunity in employment and programs.
Auxiliary aids and services are available to individuals with disabilities upon request.*

Multiple Parties

(Complete applicable parts below if box 2 or 15 on page 1 is checked.)

Part I Continued—Complete if box 2 on page 1, is checked

Form section for Part I, entries 3-14. Includes fields for Last name, First name, M.I., Taxpayer identification number, Address, Date of birth, City, State, ZIP code, Country, Occupation, and Identifying document (ID).

Form section for Part I, entries 3-14. Includes fields for Last name, First name, M.I., Taxpayer identification number, Address, Date of birth, City, State, ZIP code, Country, Occupation, and Identifying document (ID).

Part II Continued—Complete if box 15 on page 1 is checked

Form section for Part II, entries 16-27. Includes fields for Individual's last name or organization's name, First name, M.I., Taxpayer identification number, Doing business as (DBA) name, Employer identification number, Address, Occupation, City, State, ZIP code, Country, and Alien identification (ID).

Form section for Part II, entries 16-27. Includes fields for Individual's last name or organization's name, First name, M.I., Taxpayer identification number, Doing business as (DBA) name, Employer identification number, Address, Occupation, City, State, ZIP code, Country, and Alien identification (ID).

Comments – Please use the lines provided below to comment on or clarify any information you entered on any line in Parts I, II, III, and IV

Horizontal lines provided for entering comments.