

New York State Labor Law 195 Required Notice

Dealership Employee Pay Rate and Payday Forms

Instructions for Completing Notice and Acknowledgement Forms

Hourly Rate Employee

Flat, Straight Salary

Exempt from Overtime (ie., salespersons, etc.)

Exempt from Overtime (ie., service writers, etc.)

Exempt from Overtime (ie., managers, etc.)





Completing Employee Pay Rate and Payday Notice and Acknowledgement Forms

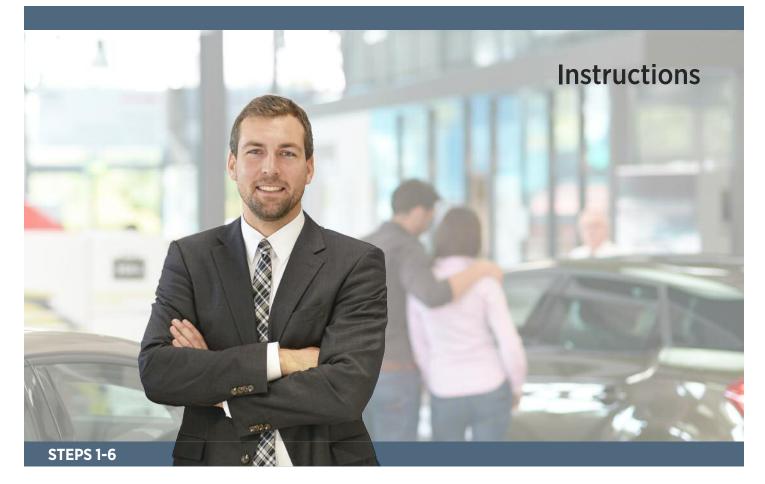
New York Labor Law Section 195 Required Notice

New York State Labor Law requires dealers to provide a wage notice to every new employee at the time they are hired. Dealers must also provide this notice seven days before any change in pay rate(s), allowances claimed, or payday, or any of the other information contained in the wage notice unless the change is reflected on the wage statement that accompanies the payment of wages.

The New York State Department of Labor (NYSDOL) has published templates of the required forms which dealers can customize for their employees. As a benefit of membership, GNYADA's Employee Relations Plan is providing you with the enclosed examples of completed forms. Blank forms can be found at www.gnyada.com/dealers/payforms/overview.

Also included are section-by-section instructions which correspond to the required NYSDOL forms. Depending on your employee classification system, employees such as BDC workers may be classified differently. Be sure to use the form that corresponds to your own pay plan. Included on the sample exempt forms is language to help you identify the specific exemption for employees not entitled to overtime pay.

Carefully follow the instructions to properly complete each form.



This is general information. For specific legal advice, consult your dealership's attorney.

EMPLOYER INFORMATION: Dealers must complete the follow-

ing information in the box provided on the left side of the form: Name

- Doing Business As (DBA) name(s) (if any)
- Physical Address
- Mailing Address
- Phone Number

Note: the form provides space for the dealership's FEIN number – this information is optional.

NOTICE GIVEN: Dealers must indicate in the form whether the notice is given:

- At hiring
- Before a change in pay rate(s), allowances claimed (likely not applicable to Dealers) or payday, unless the change is reflected on the statement that accompanies the payment of wages.

EMPLOYEE'S RATE(S) OF PAY: Dealers must state the employee's rate(s) of pay.

Special Considerations:

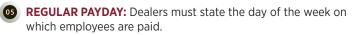
Technicians: Dealers should state the applicable hourly rate and, if applicable, "See attached incentive plan."

Employees paid commission: Dealers should state the applicable rate and then state: "Your terms of employment with the Dealership, including calculation of commissions, are set forth in a separate agreement attached hereto."

The separate agreement (see Sample Commission Agreement) must contain the terms and conditions of employment, including how commissions are calculated, and must be signed by both the Dealer and the employee.

04 A

ALLOWANCES TAKEN: Dealers must indicate if any allowances are taken against the minimum wage. This does not include "demo allowances." Allowances taken against the minimum wage include meal credits, lodging credits and tips. If no allowances are taken, check the box for "none."



PAY IS: Dealers must specify whether the employee is paid weekly, bi-weekly (every two weeks) or at some other frequency.

- Manual workers, e.g., technicians, partspersons, etc. must be paid at least weekly.
- Clerical and other workers (e.g., office personnel) must be paid at least bi-weekly.
- Commissioned salespersons, commissioned service writers/managers and commissioned F&I employees must be paid in accordance with the terms of the commission agreement, at least monthly.

STEPS 7-8

07 OVERTIME PAY RATE(S): Dealers must state the overtime pay rate for all non-exempt employees.

Except as provided herein, the overtime pay rate must be at least 1 1/2 times the employees' regular rate for all non-exempt employees with a single rate of pay. For exempt employees the dealer may state the applicable exemption, however, such information is optional.

WHITE COLLAR EXEMPTION

Administrative, Executive, Highly-Compensated

Dealer should state the following:

 Administrative, executive, or highly-compensated employee exemption (29 U.S.C. § 213(a)(1) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In order to be exempt from federal minimum wage and overtime requirements, you must be paid a weekly salary of at least \$970.*

Administrative Exemption applies if:

- 1. Employee is paid at least \$970* per week on a salary basis;
- 2. Employee's primary duty is performance of office or nonmanual work directly related to management or general business operations of the employer or customers; and
- 3. Employee's primary duty includes the exercise of descretion and independent judgement with respect to matters of significance.

Employees who may qualify: Office Manager, Controller

Executive Exemption applies if:

- Employee is paid at least \$970* per week on a salary basis; 1.
- 2. Employee's primary duty is managing the enterprise, or a customarily recognized department or subdivision of the enterprise; and
- 3. Employee customarily and regularly directs the work of two or more other full-time employees; and
- 4. Employee has the authority to hire and fire employees, or the employee's suggestions and recommendations as to hiring, firing, advancement, promotion or other change of status must be given particular weight.

Employees who may qualify: General, Sales, Service Managers

Highly-Compensated Employee Exemption applies if:

- Employee is paid total annual compensation of \$122,148 or 1. more (must include at least \$970* per week on a salary basis); and
- 2. Employee customarily and regularly performs at least one of the duties of an exempt executive, administrative or professional employee.

Employees who may qualify: General Managers, Sales Managers

NOTE: Dealers claiming a White Collar exemption must pay an employee a weekly salary of at least \$675** to be exempt from state minimum wage and overtime requirements. If such an employee is paid less than \$675** per week, the dealer must ensure that the total compensation for that workweek equals or exceeds the minimum wage for all hours worked in that workweek up to 40 hours and at least 11/2 times the minimum wage for all hours worked in excess of 40 in that workweek.

SALESPERSON, PARTSPERSON AND MECHANIC EXEMPTION

Salespersons, partspersons and mechanics qualify for this exemption (Dealers should note that the United States Department of Labor [DOL] recently decided not to specifically include service managers, service writers, service advisors, or service salespeople as a qualifying exemption.) The term "mechanic" does not include employees primarily performing such nonmechanical work as washing, cleaning, painting, polishing, tire changing, installing seat covers, dispatching, lubricating or other nonmechanical work.

Dealer should state the following:

Automobile salesperson, partsperson and mechanic exemp tion (29 U.S.C. § 213(b)(10)(A) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. Your total compensation shall be equal to or exceed the minimum wage for all hours worked up to 40 hours in a workweek and at least 11/2 times the mini mum wage for all hours worked in excess of 40 in a workweek.

Salesperson Exemption applies if:

Employee spends over 50% of his/her time making sales or obtaining orders or contracts for the sale of vehicles.

Partsperson Exemption applies if:

Employee spends over 50% of his/her time requisitioning, stocking and dispensing parts.

Mechanic Exemption applies if:

Employee spends over 50% of his/her time doing mechanical work in servicing an automobile.

COMMISSION EMPLOYEE EXEMPTION

Dealer should state the following:

The commission exemption (29 U.S.C. § 7(i) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In any workweek in which you work in excess of 40 hours, your total compensation shall be equal to or exceed at least 11/2 times the minimum wage for each and every hour worked.

Commission Employee Exemption applies if:

- Employee's regular rate of pay exceeds 1 ½ times the 1. applicable minimum wage for every hour worked in a workweek in which overtime hours are worked; and
- 2. More than half the employee's total earnings in a representative period (not less than a month) consists of commissions.

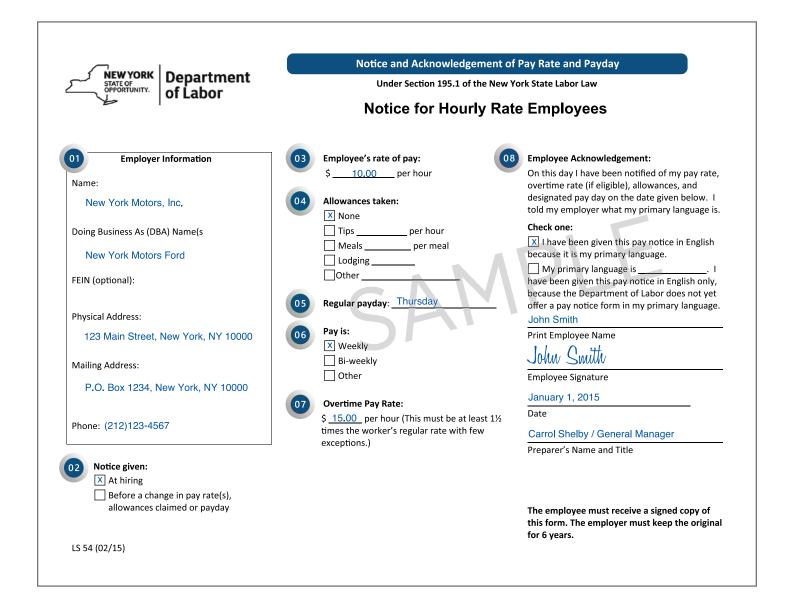
Employees who may qualify: F&I employees, Service Writers

EMPLOYEE ACKNOWLEDGMENT: Dealers must provide notice in the primary language of the employee in the New York State Department of Labor (NYSDOL) publishes template notices in the employee's primary language. Employees must complete, sign and date the acknowledgment.

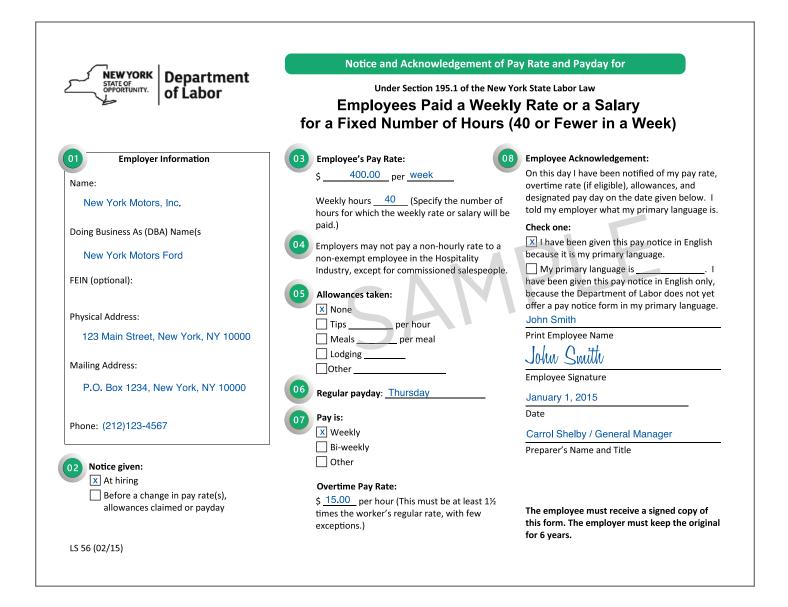
The NYSDOL has prepared templates in English, Spanish, Chinese, Russian, Haitian Creole, Polish and Korean. Templates are available at: https://labor.state.ny.us/formsdocs/wp/ ellsformsandpublications.shtm.

* Proposed by the United States Department of Labor. These figures will be indexed and revised annually.

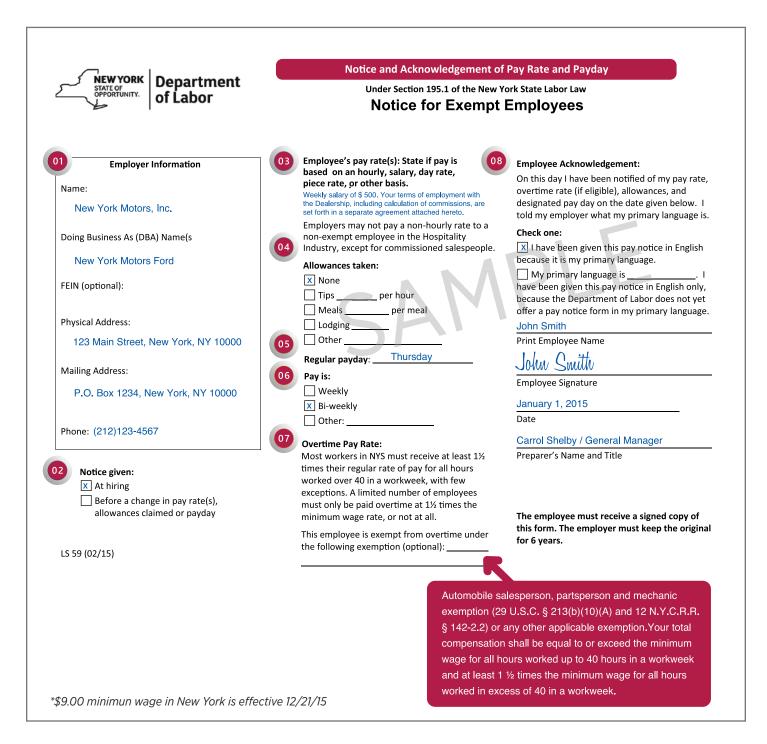
Hourly Rate Employees



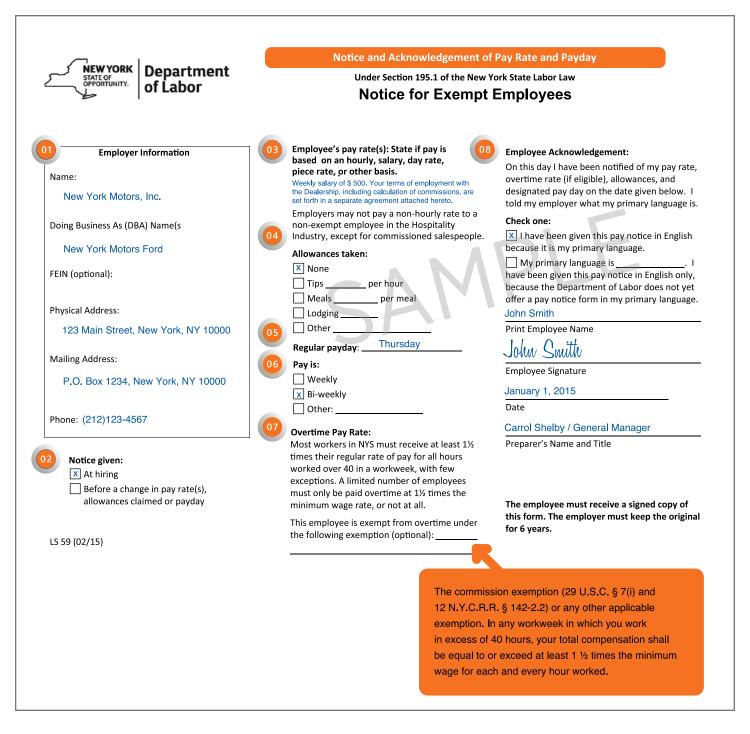
Flat, Straight Salary (entitled to overtime pay)



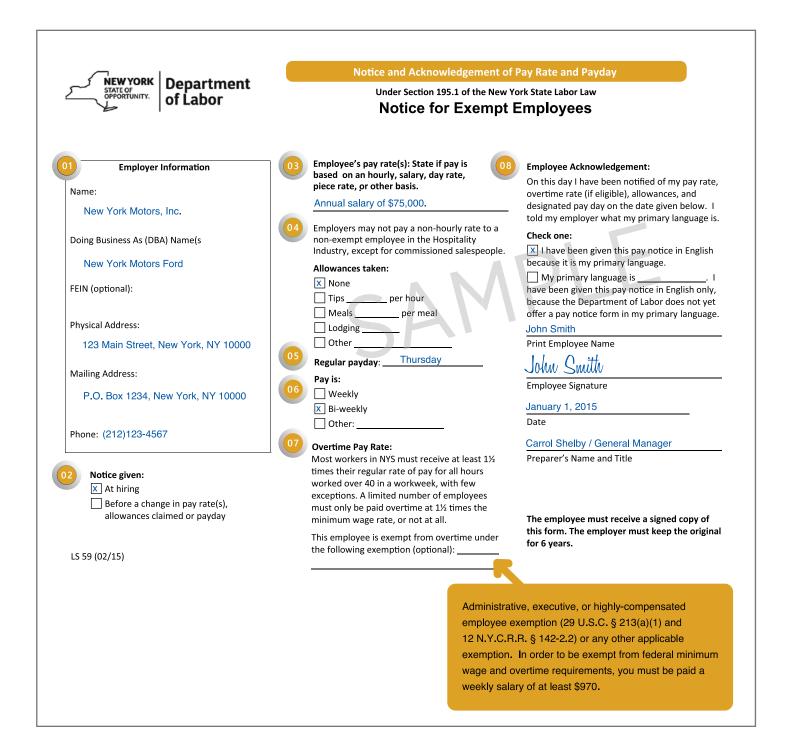
Exempt from Overtime (ie., salespersons, etc.)



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Greater New York Automobile Dealers Association Employee Relations Plan 18-10 Whitestone Expressway, Whitestone NY 11357 www.gnyada.com | tel 718-746-5900 | 800-245-4640 | fax: 718-746-5557

The Greater New York Automobile Dealers Association (GNYADA) represents franchised new car and truck dealers in New York City, Long Island, and Putnam, Orange, Dutchess, Westchester and Rockland counties. Our members sell, lease, and service new and used cars and trucks. GNYADA also owns and manages the New York International Automobile Show, the oldest and largest-attended auto show in North America.

The Employee Relations Plan(ERP) is a separate membership program that provides members with professional guidance in the complex field of labor and employment relations. ERP services are provided through a hotline to labor law specialists, seminars, and publications.



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