



## **BULLETIN #21/2020 March 18, 2020**

### **CORONAVIRUS UPDATE #7**

**MSADA LETTER TO GOV. BAKER - "DEALERSHIPS ARE ESSENTIAL BUSINESSES"**

**NADA WEBINAR - "RUNNING A DEALERSHIP IN A PANDEMIC" - MARCH 19, 1PM-2PM**

**SBA, MASS. ROLLOUT LOAN PROGRAMS FOR BUSINESSES**

**IRS 90-DAY TAX PAYMENT DEFERRAL**

**GOV. BAKER SIGNS UI WAITING PERIOD WAIVER LAW**

**SENATE TO ACT ON FAMILIES FIRST BILL**

*[This bulletin supplements our previous Bulletins #11, and #16 through #20 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]*

### **Auto Dealerships ARE Essential Businesses**

As states and other jurisdictions implement measures to confront the spread of the Coronavirus (COVID-19) pandemic, many have taken emergency action to issue orders forcing the closure of businesses deemed "non-essential." Yesterday we wrote about seven counties in the San Francisco Bay area issuing shelter in place orders, which included designating as "essential" businesses "gas stations and auto-supply, auto-repair, and related facilities." Those orders left it unclear as to how auto retail sales are to be handled. (Frankly, there is language in the orders that one could use to argue that sales activities are part of the "essential" services at dealership facilities.) Late yesterday, a couple of southern California counties and the state of Nevada took a similar step. Given the lack of uniformity in how the states and other jurisdictions have classified dealership sales, service, and parts operations, NADA along with the Alliance for Automotive Innovation sent a joint letter to President Trump stressing the need to consider vehicle repair, maintenance, and sales facilities as "essential" operations.

Since last weekend, we have been in communication with Governor Charlie Baker and his staff regarding treatment of franchised dealerships during any proposed business shutdown or shelter in place order. Media misinterpretation and misreporting of Gov. Baker's Sunday, March 15, order prohibiting gatherings of greater than 25 people left many businesses with a false impression of a shutdown if it has more than 25 employees



than 25 people left many businesses with a false impression of a shutdown if it has more than 25 employees on site at one time. The fact that the wording of the order itself never discussed retail business closings (other than the complete shutdown of bars and restaurants except for take-out food service) and was very specific to public gatherings of more than 25 at gyms, conference centers, theaters, etc., eluded the grasp of those reporters upon whom the public relies for accurate and timely information; some went so far as to include "retail stores" in its list of facilities to be closed under the Baker order. Totally irresponsible.

In an effort to bolster our lobbying on this item, and in the spirit of NADA's letter to President Trump, your Association has sent a letter to Gov. Baker respectfully requesting that, if there is to be any shelter in place order issued for Massachusetts (which the Governor insists is not under consideration), such an order deem as "essential business" dealership sales, service, and parts operations. A similar letter was delivered also to Boston Mayor Marty Walsh, who has openly contemplated a shelter in place order for the city. Here is the text of our letter to Gov. Baker:

March 17, 2020

The Honorable Charles Baker  
Office of the Governor  
State House, Room 280  
Boston, MA 02133

Dear Governor Baker,

First off, on behalf of our members and their dedicated employees, we wish to express our appreciation for your leadership and the efforts of the Baker-Polito Administration in addressing the Coronavirus (COVID-19) health crisis and ensuing economic disruption as we all in the Commonwealth implement appropriate mechanisms to defeat this emergency. While our federal and state public agencies address the health crisis, the private sector economy is nearing a collapse as a result of people limiting outside activities, either out of precaution or due to restrictions placed on businesses and public gathering spaces by federal, state, and local governments in an effort to contain the virus and limit the strain on our public health system. We certainly are living in extraordinary times, to say the least. In this century, we have survived similar economic disruptions with the September 11, 2001, terrorist attacks on our soil and the great recession over a decade ago, but never in combination with a full-blown health crisis. We commend your efforts at this difficult time.

MSADA respectfully submits the following comments to you in an effort to keep a necessary segment of our economy working to ensure stability within a shaken economy. Our Association represents the interests of 425 franchised new-car and truck dealers in Massachusetts. Our member dealers employ over 25,000 men and women in their franchise stores. More importantly, retail activity at our member dealerships represents almost 20% of the retail activity in Massachusetts. The retail transportation economy is a key component to ensuring that those working in our communities can provide the services needed to combat this health crisis together - whether it is servicing vehicles owned and used by health care providers and first responders, or making sure a company can replace a delivery vehicle that has broken down, or getting replacement parts to a trucking company so they can continue to move groceries and medicines to stores



across the Commonwealth and New England. In the face of these challenges confronting our citizens on any number of levels, our members want you and consumers to know that our dealerships are clean, safe, and open for business, ready to serve whatever is needed in our collective battle against COVID-19.

Moving forward, we understand that public officials are contemplating the imposition of further limitations on retail business operations, transportation activities, and other public spaces in an expanded effort to contain the virus spread. As we write this, several counties in northern and southern California as well as the state of Nevada have issued shelter in place orders designed to shutter all but what are deemed "essential business activities". It seems that it is only a matter of time until similar orders follow, at the federal, state, and municipal levels.

As we all continue to confront the challenges posed by the pandemic, we want to underscore the importance of ensuring that consumers and businesses have access to a safe and well-functioning motor vehicle fleet. Motor vehicles, both new and old, are critical to ensure that the public can get food and other necessities of life, as well as to continue to interact with one another in a manner consistent with public health officials' recommendations. This applies not only to light-duty vehicles but also to the medium and heavy-duty trucks that are a crucial component of the nation's transportation infrastructure. Given the importance of safe transportation in addressing the Coronavirus outbreak, we have an obligation to ensure that motor vehicles remain available, safe, and properly maintained.

Consequently, it is vital that vehicle sales, repair, and maintenance facilities be considered "essential operations" if the Commonwealth imposes certain requirements due to the Coronavirus pandemic. These facilities perform needed safety recall repairs, manufacturer warranty work, and safety-critical maintenance, including brake repair, steering repair, and much more, as well as sales to replace vehicles needed by entities and people engaged in assisting those requiring essential services, equipment, and products. We note that many local jurisdictions, when issuing closure orders for non-essential businesses, have included motor vehicle facilities on the list of those that are essential.

Similar guidance is needed in the Commonwealth if we are to travel a similar path of business restriction in order to fight this pandemic. Accordingly, we hereby respectfully request that, as you consider further statewide initiatives to contain the severity and duration of the spread of the COVID-19 Coronavirus, including potential Executive Orders, you ensure that the Commonwealth's motor vehicle fleet remains as safe and operational as possible by ensuring that dealership sales, repair, and parts operations are deemed "essential businesses."

Thank you for your consideration of this matter. We are in this fight together, and we stand ready to assist in any manner possible. Should you have any questions, please do not hesitate to contact us.

Sincerely,

Chris Connolly  
Herb Connolly Motor Group President  
MSADA President

Robert O'Koniewski  
MSADA Executive Vice President

**NADA Webinar - "Running a Dealership During a Pandemic: Legal Issues and Federal Mandates"**



On Thursday, March 19, 1:00 p.m.-2:00 p.m., NADA will conduct a webinar to provide guidance to its member dealers as they confront the Coronavirus pandemic head-on. Labor attorney Rick Warren and NADA staff David Regan and Doug Greenhaus will review key pandemic-related legal issues and mandates for automobile dealerships. There will a particular focus on COVID-19 issues involving employees, customers, and the business continuity. The presenters also will address new federal legislation being discussed with the Families First Coronavirus Response Act, hopefully sent to President Trump for his signature today. [This webinar is an NADA/ATD member-only webinar.](#) To register for this webinar, click [here](#).

### **SBA, Mass. Small Business Loan Programs**

As we reported in Bulletin #17 (March 13, 2020), President Trump signed legislation creating a new small business loan program through the Small Business Administration (SBA), in which the SBA will work directly with state governors to provide targeted, low-interest loans to small businesses that have been severely impacted by the Coronavirus. The Massachusetts Emergency Management Agency and the Baker-Polito Administration are working with the SBA to roll out the Economic Injury Disaster Loan (EIDL) program. The first step in this process is to meet a minimum threshold of affected businesses within Massachusetts. To do this, affected small businesses and non-profits should download, complete, and submit the [SBA EIDL Worksheet and Instructions](#) to expedite activation of the EIDL program. Completed forms may be submitted by email to [Disaster.Recovery@mass.gov](mailto:Disaster.Recovery@mass.gov) or by fax to (508) 820-1401. If submitting by fax, be sure to include an email address.

In addition, the Baker-Polito Administration has created the COVID-19 Loan Fund of \$10 million to provide financial relief to Massachusetts businesses that have been affected by COVID-19. Massachusetts Growth Capital Corporation (MGCC) will receive and process all applications for this fund.

- Who Qualifies: It is open to Massachusetts-based businesses impacted by COVID-19 with under 50 full- and part-time employees, including nonprofits (negative impact must be verifiable).
- Terms and Conditions: This fund is being offered with no payments due for the first 6 months, then 30-months of principal and interest payments and no prepayment penalties.
- Businesses can apply for loans up to \$75,000.

More information on the COVID-19 loan program can be accessed [here](#).

### **U.S. Treasury Provides 90-Day Tax Payment Deferral**

*[The following information is provided courtesy of our accountant partner O'Connor & Drew.]*

Earlier today, during a White House Coronavirus briefing, Treasury Secretary Steven Mnuchin announced that taxpayers may defer individual tax payments due of up to \$1 million for 90 days without interest and penalties. C Corporations may also defer tax payments of up to \$10 million for 90 days without interest and penalties.

Secretary Mnuchin's announcement was unclear about whether this policy changes the April 15 deadline, as he stated that "we encourage those Americans who can file their taxes to continue to file their taxes [by]



April 15...just file your taxes...you will automatically not get charged interest and penalties."

At this time, it appears that the 90-day deferral only applies to tax balances due and that the April 15 filing deadline remains in place. We will keep you updated when published guidance and additional details are made available.

### **Gov. Baker Signs UI One-Week Waiting Period Waiver Law**

On Monday in Bulletin #19 we reported that Gov. Baker filed Senate 2598, which would waive the one-week waiting period for unemployment benefits to be paid to workers impacted by Coronavirus. This afternoon, the governor signed into law a redraft of that bill, [Senate 2599](#). The one-week waiting period will be waived for any person making a claim for unemployment benefits who has become separated from work as a result of any circumstances relating to or resulting from the Coronavirus COVID-19 outbreak or the effects of the governor's March 10, 2020, declaration of a state of emergency. The waiver goes into effect back to March 10 and will expire 90 days after termination of the state of emergency.

### **Federal Legislation Update**

The U.S. Senate is expected today to take up and pass the re-corrected House version of the Families First Coronavirus Response Act. We would be lying to you at this point if we attempted to explain what has changed in the current version of the Act from the bill that was first passed by the House last Saturday morning. We will wait to see what is presented to the President for his signatures to re-iterate the various provisions of the Act as we laid them out in Bulletin #19 (March 16, 2020) after initial House passage.

### **MSADA - YOUR DEALER ANSWER PLACE**

If you have any questions regarding this bulletin, please contact Robert O'Koniewski, Esq., MSADA Executive Vice President, by e-mail at [rokoniewski@msada.org](mailto:rokoniewski@msada.org), or Peter Brennan, Esq., MSADA staff attorney, by e-mail at [pbrennan@msada.org](mailto:pbrennan@msada.org), or either by phone at (617) 451-1051.