



BULLETIN #101/2020 JULY 15, 2020

CORONAVIRUS UPDATE #83

**MSADA WEBINAR – PREPARING FOR COVID-RELATED LITIGATION –
FRIDAY, JULY 17, 11:30 AM - 12:30 PM**

NADA WEBINAR ON PPP LOAN FORGIVENESS – TODAY, JULY 15, 1PM-2PM

SJC TO HEAR CASE CHALLENGING GOV. BAKER'S COVID-19 AUTHORITY

MASS. JOINS NEW COMPACT OF STATES PUSHING ELECTRIC TRUCKS

RIGHT TO REPAIR QUESTION WILL BE ON NOVEMBER BALLOT

MASSACHUSETTS COVID-19 DAILY TRACKER

MSADA Webinar: Preparing for COVID-Related Litigation: What Can We Expect?

On Friday, July 17, 11:30 a.m. – 12:30 p.m., your Association and MSADA associate member Fisher & Phillips will present a special webinar for our members that will identify possible litigation that dealerships can expect arising out of the COVID pandemic; return-to-work issues related to the pandemic; and steps dealerships can take to avoid litigation. It will be presented by attorneys Jeff Fritz, Josh Nadreau, and Joe Ambash of Fisher & Phillips.

Register at <https://attendee.gotowebinar.com/register/6780577566051643408>

NADA's Dealership Lifeline Series Webinar Will Highlight PPP Forgiveness – Today, July 15, 1:00 p.m.

Wednesday, July 15, 1:00 p.m.-2:00 p.m.: A new Dealership Lifeline Series webinar, [PPP Loans: Applying for Forgiveness](#), will focus on forgiveness elements of the Paycheck Protection Program and is designed for dealers, key managers and outside advisors who are assisting dealer-borrowers with their loans. Moderated by NADA's chief regulatory counsel, Doug Greenhaus, the session will include a review of key guidance on loan forgiveness. Presenters Daniel Thompson and Jay Goldman, CPAs with the firm Boyer & Ritter, will discuss applying for and maximizing loan forgiveness. Click [here](#) to register.

Note: Participants should print these SBA forms prior to the webinar:

- [PPP Loan Forgiveness Application](#) (form 3508)
- [PPP Loan Forgiveness Application Instructions for Borrowers](#)
- [PPP EZ Loan Forgiveness Application](#) (form 3508EZ); and
- [PPP EZ Loan Forgiveness Application Instructions for Borrowers](#).



Recordings of [all webinars in NADA's Dealership Lifeline Series](#) are available to NADA and ATD members 24/7, free of charge.

SJC to Hear Case Challenging Baker's COVID-19 Orders - Plaintiffs Claim Improper Use of Civil Defense Act

[Courtesy *State House News Service*]

The state's highest court will hear arguments in September in a lawsuit brought against Gov. Charlie Baker challenging his authority to declare a COVID-19 state of emergency and to issue the emergency orders that have shaped life in Massachusetts for the last four months.

Justice Barbara Lenk, sitting as part of a single-justice session, [ordered](#) a lawsuit brought by the New Civil Liberties Alliance to be transferred to the Supreme Judicial Court for arguments in September. The suit revolves around whether a governor can use the powers afforded under the Civil Defense Act to declare an emergency around public health.

"The Governor's orders are invalid because the COVID-19 pandemic is not a 'civil defense emergency.' The Civil Defense Act is a 1950's-era statute designed to protect the Commonwealth from foreign invasions, armed insurrections, and civil unrest associated with natural disasters. It has never before been invoked for a health emergency," the plaintiffs said. "On the other hand, the legislature passed the Public Health Act explicitly to empower health authorities to control and prevent transmission of infectious diseases dangerous to public health. Under the Public Health Act, principal responsibility for disease control lies with local boards of health, not with the Governor."

The plaintiffs include business owners in Hubbardston, Lexington, Burlington, and Marlborough, the pastors of churches in Westfield and Medford, and Ben Haskell, headmaster of Trinity Christian Academy in Hyannis.

Both the New Civil Liberties Alliance and the Baker administration asked for a single justice of the SJC to review the complaint.

"Due to the nature of the questions raised, and the multiple pending cases in State and Federal courts related to these issues of State-wide significance, the parties' motion to transfer is the most expeditious way to resolve the questions presented in the petitioner's complaint," Lenk wrote in her order.

The governor has said that he was mindful to not trample upon anyone's constitutional rights when imposing virus mitigation measures. For example, Baker has said repeatedly that he did not think he had the authority to order residents to stay in their homes, and he opted instead to advise people that they would be safer at home.

The Massachusetts Fiscal Alliance, which is not a plaintiff in the suit but supports the action, celebrated Lenk's order on Tuesday.

"It looks like the plaintiffs and all those who care about keeping state government



accountable will have their day in court -- the state's highest court. This case is not an attack on the Governor and makes no judgement as to whether his policies are good or bad," Paul Craney, spokesman for the Fiscal Alliance, said. "What this case hopes to clarify is whether the Governor has the legal authority to impose so many far reaching executive orders or should he abide by the provisions set forth by the legislature in state's Public Health Act."

Mass. in New Compact of States Pushing Electric Trucks

[Courtesy *State House News Service*]

Massachusetts is among 14 states and the District of Columbia that are newly committing to a plan to accelerate the market for electric trucks, an effort that supporters say will help drain the transportation sector of harmful greenhouse gas emissions.

The agreement, part of a joint [memorandum of understanding](#), sets a goal of at least 30 percent zero-emission vehicle sales by 2030, and 100 percent by 2050. Participating states will use an existing multi-state ZEV Task Force to develop and implement a ZEV action plan.

Fleets targeted under the agreement include large pickup trucks and vans, delivery trucks, box trucks, school and transit buses, and long-haul delivery trucks.

"This bipartisan, multi-state agreement and ambitious zero-emission vehicle goal set the standard for the rest of the country as the nation faces the challenges of a changing climate," Gov. Charlie Baker said in a statement.

The participating states are California, Connecticut, Colorado, Hawaii, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Washington, D.C.

Ceres, a national non-profit that works with investors and companies on sustainability efforts, called the agreement "the largest multi-state collaboration on clean transportation in U.S. history" and touted support for electric vehicles from executives at IKEA, PepsiCo., DHL Express, and Unilever.

"Major businesses and institutions support state efforts to transition to zero emission vehicles because it will generate significant economic, social, and environmental benefits," said Alli Gold Roberts, director of state policy for Ceres. "Transportation is the greatest source of greenhouse gas emissions in the U.S., and trucks and other heavy-duty vehicles are responsible for an increasingly larger share of emissions. Forward-looking leadership and coordinated action between states is essential for developing the market-enabling levers that will drive electric truck deployment at the pace and scale needed to tackle the climate crisis."

The Baker administration last month expanded the state's electric vehicle rebate program to include commercial and non-profit fleets.

Right to Repair Question Cleared for November Ballot



[Courtesy *State House News Service*]

A proposal to increase access to automobile telematic data is now on course to be decided at the ballot box after opponents of the latter question dropped their challenge. Secretary of State William Galvin announced Monday that he certified the ballot question, as well as one addressing ranked choice voting, so each cleared the final hurdle and will appear before voters on November 3.

An automobile manufacturer-backed group that is fighting the vehicle data question filed a challenge with the State Ballot Law Commission last week, arguing that it should be ineligible to make the ballot because the electronic signature-gathering company the campaign hired did not comply with technical requirements laid out by the state's highest court. However, the group withdrew their challenge on Monday after the Supreme Judicial Court [ruled in favor of](#) Republican congressional candidate Helen Brady, who had initially been deemed ineligible for the same signature-gathering reason.

A spokesman for the organization said it will continue to fight the ballot question, forecasting almost four months of vocal campaigning for and against the proposal to update the state's 2012 right-to-repair law.

Daily Massachusetts COVID-19 Tracker

The state's COVID-19 Dashboard with up-to-the-date data can be found [here](#).

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, or Peter Brennan, Esq., MSADA staff attorney, by e-mail at pbrennan@msada.org, or either by phone at (617) 451-1051.