



BULLETIN #64/2020 MAY 13, 2020

_CORONAVIRUS UPDATE #50

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MASSACHUSETTS COVID-19 DAILY TRACKER

[This bulletin supplements our previous bulletins #11 and #16 through #63 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

SBA Issues PPP Certification Safe Harbor

[Compiled from various sources, including NADA and associate members O’Connor & Drew; Albin Randall & Bennett; and Blum Shapiro.]

The Small Business Administration has altered the ever-shifting sands of Paycheck Protection Program (PPP) regulations once again.

This morning the SBA issued new guidance, via new FAQ #46, regarding the “safe harbor” issue for PPP loan necessity. FAQ #46 can be accessed [here](#); go to page 16 of the document.

First, FAQ #46 removes the May 14, 2020, deadline for loan payback if a borrower wished to avoid scrutiny of the self-certification on the loan application as to the need for the loan. In its place, FAQ #46 sets a categorical safe harbor for borrowers with loans, together with their affiliates, of less than \$2 million. Such a borrower is deemed to have made the required certification in good faith and need not be concerned about their necessity being challenged.

Further, for any loan greater than \$2 million, the borrower will still be subject to SBA review. If the SBA determines that the borrower lacked an adequate basis to make the certification, the borrower will be informed to repay the loan in full and will not be eligible for any forgiveness. However, provided that the borrower makes the repayment once notified, the SBA will not pursue administrative enforcement or referrals to other agencies.



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Finally, for dealer groups who used the franchise exception to obtain multiple loans, it now appears that each loan stands on its own as it relates to the \$2 million threshold since the franchise exception effectively means they are not affiliates. Based on footnote #20 to FAQ #46 in which reference is made to the interim final rule on affiliates (85 FR 20817), the law waives the affiliation rules for a franchise that is assigned a franchise identifier code by the SBA. Therefore, it would appear that this safe-harbor applies to dealer groups at the individual dealer group level and not the combined group level.

As we have stated numerous times previously, these guidances are always subject to change.

The detailed analysis from NADA is available [here](#).

California Releases Manual for Dealerships During COVID-19

To give you a sense of what other states are doing in regards to rules as businesses re-open or continue limited operations, here is the guide the State of California released governing dealership and rental operations: [COVID-19 Industry Guidance: Automobile Dealerships and Rentals](#). The guide provides comprehensive guidelines for a safe and clean working environment. Sections include work-specific plans; employee training during a pandemic; cleaning and disinfecting protocols; and individual control measures and screening. A good read as a look-in to what the Bear Republic is doing as it was the first state to initiate an economic shutdown to address the Coronavirus crisis.

Baker: Full Re-Opening Would be “Incredibly Irresponsible”

[Courtesy of *State House News Service*]

[*This article provides insight into where the governor is at with his re-opening thoughts as of today, five days out from the May 18 due date of the re-opening advisory commission's recommendations.*]

It would be "incredibly irresponsible" to send everyone back to work at the same time, Gov. Charlie Baker said today, pushing back against critics who have accused him of moving too slowly to restart the state's economy as he simultaneously tries to steer the state through the COVID-19 crisis.

The governor also resisted calls for him to tease out details of his reopening strategy before Monday, urging patience as some legislators and industries, like restaurants, are clamoring to be told what businesses will be on the initial list to reopen and what might be expected of them.

"I would love to be able to open everything up tomorrow. That would be an incredibly irresponsible thing to do," Baker said.

Baker addressed questions about his phased-in reopening plan from the parking lot of a community health center in Fall River where he traveled to tour one of the state's drive-through testing sites. The Stanley Street Treatment and Resources Center was one of the 18 community health centers that the administration teamed with Quest Diagnostics to provide supplies and support for testing.

Baker said residents have sacrificed too much over the past nine weeks to risk a second breakout of the virus because of growing impatience. His message of caution has been reinforced in recent days by officials like Attorney General Maura Healey, who said on the radio Tuesday that a "true patriot" would



follow the governor's instructions.

"People have gone through a tremendous amount of dislocation and discomfort and lost wages and a whole bunch of other things over the course of the past 60 days to get to get to the point where the virus has been contained enough and reduced enough that we can actually start to reopen the economy," Baker said. "The last thing we're going to do is reopen it in a way that fires that virus up again."

Testing, Baker said, will increasingly become a critical part of returning to work and more normal daily life for residents, and he said the state has plans to significantly ramp up testing in the coming months.

The state has so far tested more than 401,000 of its roughly 6.9 million residents, and at its peak tested 15,652 people in a single day on May 3. That volume of testing puts Massachusetts among the top five states, and even top five countries, for per capita testing, the governor said.

But Massachusetts could be doing more. Baker said labs have the capacity to test 30,000 a samples a day, which will allow the state to greatly expand access over the summer.

"Testing remains, obviously, a critically important pillar in our battle against COVID-19, both now and into the future, especially as we begin to plan the reopening process," Baker said.

Baker noted that the Department of Public Health issued new guidance on Tuesday recommending that anyone with symptoms of COVID-19, even if they are mild, be tested, along with anyone who has had close contact with a case of Coronavirus. He acknowledged that the inability of people with mild symptoms to get tested early in the pandemic had been a source of "frustration and, in some cases, fear of the unknown."

"It will not only help us understand where the infections are, but it will also help us help people isolate, participate in the tracing program and return to their normal lives faster. As we consider our reopening strategy, we view this as a critical component of getting toward a new normal that will help us navigate our daily lives with the presence of COVID-19," he said.

Some public officials and industries, however, think the governor isn't allowing them to return to their lives and livelihoods fast enough.

Three Republican lawmakers on Tuesday called on the governor to immediately provide more clarity on his plan for reopening, and to put his trust in business owners to figure out how to safely return to work. Restaurants are among the industries clamoring to be told what they might need to do to reopen beginning next week.

The Massachusetts Fiscal Alliance wrote a letter to every member of the Legislature today complaining of Baker's reluctance to share details of his plan before May 18.

"Millions of residents of the Commonwealth followed the Governor's lock down order, now it's time for the Governor to listen to the millions of Massachusetts small business owners and workers who want to safely reopen. Every job is essential and every day is essential. The Governor needs to be clear and transparent with the specifics of his plan and not delay another day," said Paul Craney, spokesman for the alliance.



The experience of the shutdown has been very different for white collar workers who continue to work from home and be paid and blue collar workers who have lost their jobs, Craney said.

The [Greater Boston Chamber of Commerce](#) had hoped Baker would announce his phased reopening plan by Friday, May 8, to give employers and workers at least 10 days to prepare for a potential reawakening of activity.

Baker has insisted that his plan will focus first on reopening businesses that have limited face-to-face interactions with customers.

"I want this to be done in a deliberate way, and you don't do something in a deliberate way when you start leaking it out and issuing it out before you actually release the report. I don't want the starting gun, so called, to go off today or tomorrow. I want it to go off on Monday, and I want it to go off in a targeted and phased way, period," Baker said.

The rate of positive test results for COVID-19 and the declining number of patients hospitalized with the disease have shown progress in the state's fight against the virus over the past several days. The Department of Public Health reported 870 new cases on Tuesday with a positive test rate of 13 percent, and only 33 new deaths.

But Baker said that some hospitals are still operating under surge plans that took advantage of extra space and staff to accommodate an influx of COVID-19 patients requiring beds. There are still more than 3,000 patients hospitalized with COVID-19 in Massachusetts and almost 1,000 in intensive care, he said.

"This is not a virus to be trifled with or disrespected and I think it's important for everybody to understand that," Baker said.

COVID-19 Safety Products to Help Your Dealership Keep Running

Leader Auto Resources: Your Association's endorsed provider for shop and dealership supplies, LAR is offering for sale gloves and 3-ply masks. Orders can be placed online [here](#) or by calling 877-527-8729. More health and hygiene promos will be following as LAR builds out its inventory offerings to more closely align with dealership needs. LAR will do its best to find alternate sources for hard to come by inventory such as masks, gloves, hand sanitizer, etc.

Reynolds and Reynolds: R&R, your Association's endorsed provider for dealership documents, has created a new line of products to help keep your employees and customers safe during this pandemic crisis. From face masks and hand sanitizer to safety shields and social distancing signage, Reynolds is offering these products exclusively to their dealership partners and can be your one-stop shop for safety-related products. To order such products, contact your Reynolds sales rep, or call (800) 344-0996, or contact by email at RDS@reyrey.com.

KPA's Return to Work Safely Program

MSADA associate member KPA has announced its [Return to Work Safely Program](#), which provides dealers with an online toolset of assets, training, and everything they will need to help safely guide their return to normal operations and ensure they stay compliant with stringent state and federal COVID-19 regulations. Information about the program can be found at: <https://www.kpa.io/return-to-work-safely->



[program.](#)

KPA also has added additional webinars to its “Return to Work Safely Webinar Series” to prepare dealerships for the “new normal.” All webinars are complimentary. The webinars can be accessed at: <https://info.kpa.io/kpa-coronavirus-video-resources>.

O'Connor & Drew Webinar: PPP Eligibility and Forgiveness – Friday, May 15, 11:00 a.m.

In anticipation of new forgiveness guidance, O'Connor & Drew, our accounting partner, is planning to present a webinar this **Friday, May 15, at 11:00 a.m.** We are hopeful that the SBA/Treasury will provide guidance surrounding self-certification and loan forgiveness as we approach the previously announced May 14 safe harbor date for borrowers to return funds.

NOTE - If no new information is available, OCD may reschedule the webinar for a later date.

Webinar information:

Please click this link to join the webinar: <https://us02web.zoom.us/j/84978027347?pwd=T1RMRkVhVkd6Q2ZEBXVsNERQcVVKQT09>

Telephone Dial-in (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 929 436 2866 or +1 301 715 8592 or +1 346 248 7799 or
+1 669 900 6833 or +1 253 215 8782

Webinar ID: 849 7802 7347
Password: 364681

Please plan to join the Zoom webinar a few minutes early to reserve your spot, the link will be active **15 minutes before the webinar begins.**

Please note that the live webinar's attendance is limited to 1,000 guests.

_If you are unable to attend, OCD will also be recording the webinar and posting it to the OCD website at <https://www.oed.com/covid-19/>.

NADA's Lifeline Series Webinars for This Week

NADA is working around the clock to make sure dealers have the information they need to combat COVID-19 disruptions. Here is next week's schedule:

- **Thursday, May 14, 1pm-2pm ET:** [Proactive Recovery: Comprehensive Planning for Reopening Your Dealership](#). Ian Grace, senior manager of Partner Performance, will share his approach for reopening dealerships, detailing specific and actionable measures you can take now.
- **Friday, May 15, 1pm-2pm ET:** [The Best Ideas from ATD 20 Groups, Part 2: In Times of COVID-19 Pandemic](#). ATD 20 Group consultant Ray Grapsy will review best ideas on business development, marketing, sales, parts and service and communications and discuss key short- and long-term strategy initiatives as dealers recover from the economic damage of the pandemic.

Recordings of all webinars in NADA's Lifeline Series are accessible to NADA and ATD members 24/7,



free of charge. Click [here](#).

Daily Massachusetts COVID-19 Tracker

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