



BULLETIN #71/2020 MAY 20, 2020

_CORONAVIRUS UPDATE #57

PPP LOAN FORGIVENESS WEBINAR – THURSDAY, MAY 21, 2 P.M.

GOV. BAKER STRESSES PHASE ONE RESTART DECISIONS UP TO EMPLOYERS

NEW DOL RULE ON CALCULATING FLUCTUATING WORKWEEK OT

“MCQUEEN v ANDRETTI”

NADA DEALERSHIP LIFELINE WEBINARS SCHEDULE

MASSACHUSETTS COVID-19 DAILY TRACKER

[This bulletin supplements our previous bulletins #11 and #16 through #70 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

PPP Loan Forgiveness Webinar

On Thursday, May 21, at 2:00 p.m. ET, MSADA associate member Albin Randall & Bennett will conduct a webinar to discuss the current forgiveness process for Paycheck Protection Program (PPP) loans. (As with everything else we have experienced with this program, the information is subject to change right up to air time.)

To register in advance for this webinar:

https://zoom.us/webinar/register/WN_t_bA2KByQECMr5Azl3tb2w

After registering, you will receive a confirmation email containing information about joining the webinar.

Baker Stresses Phase One Restart Decisions Up To Employers

[Courtesy State House News Service]

Two days after telling some types of businesses how they could re-open after a prolonged public health closure, Gov. Charlie Baker today emphasized that there's no need for any company or religious institution uncomfortable with the idea of re-opening to come back to work right away.

"I think we want people to do whatever they're most comfortable doing here," Baker said.



The governor also said that cities like Boston are free to put additional restrictions on how fast offices re-open, addressing a concern levied by Boston Mayor Marty Walsh a day earlier that had frustrated some figures in the administration. Walsh said he thought the state's guidance allowing offices to re-open on June 1 in the city at 25 percent capacity was "too much" on the first day.

Baker and Lt. Gov. Karyn Polito on Monday released a detailed, four-phase strategy to re-open the economy after more than two months of ordering most businesses to shut their doors and to let their employees work from home, if possible.

The shutdown was designed to control the transmission of the deadly Coronavirus, which has killed 5,938 people in Massachusetts so far. But it has also led to more than 1 million state workers filing claims for unemployment benefits, and many businesses, including popular restaurants and retailers, closing for good.

Still, Baker told business owners and faith leaders not quite comfortable yet with the idea of returning to the office to keep away for now.

"No one who's part of phase one has to do anything," Baker said. He said he's heard from some faith leaders who want to continue offering services outside before moving back into churches, and the Dorchester Reporter reported yesterday that no Catholic churches in Dorchester or Mattapan plan to offer liturgies this weekend.

Baker and Lt Gov. Karyn Polito visited Symmons Industries, a plumbing parts manufacturer in Braintree, today to see firsthand how a local business is implementing new workplace safety standards required by the state in order to resume some normal operations. The governor had no public events yesterday, making it the first time he took questions since unveiling a re-opening strategy that has been criticized both for going too fast and too slow.

Manufacturing was one of three sectors, including constructions and houses of worship, that were allowed to go back to work immediately under the first phase of the re-opening plan.

Symmons Industries CEO Tim O'Keeffe said the company recently rehired 25 employees after implementing layoffs during the shutdown. As orders for plumbing valves declined, Symmons shifted production to begin making things like ear-savers for masks and copper, antimicrobial tools for people to open doors and push elevator buttons without touching surfaces.

Now, the third-generation family businesses is trying to ramp back up its traditional manufacturing of producing water valves and other precision parts, and hopes to get back close to full workforce capacity.

Throughout the process of figuring out how to keep worker safe on the job, O'Keeffe said the company has learned techniques to make employees feel comfortable with new rules, such as temperature checks when they arrive for a shift. Symmons now pumps '80s music



into the hallway where employees wait to have their temperatures taken to lighten the mood, he said.

While employers like Symmons are ramping back up, Baker also said he was encouraged by the number of companies that said they would continue to have employees work from home, calling it "absolutely the right thing to do."

But he acknowledged the consequences of remote work.

"That will create some distance and it won't just be physical distance. There will be a lost opportunity there for people to engage with one another," Baker said. "And I think in some ways, that's part of what the next act associated with all of this will be about."

Part of the governor's re-opening plan allows for offices to re-open in most parts of the state on May 25 at 25 percent capacity, while observing social distancing, wearing masks, and taking other precautions. Boston, where many employees use public transit to reach their jobs, was given an additional week to prepare.

However, Walsh yesterday said he thought bringing 25 percent of the office workforce back to Boston as a starting point would be "too much" and potentially overwhelm the city's child care system, which is still largely shut down. He said he was considering a lower level for the capital city to start.

Asked about the mayor's comments, the governor pointed out that the mayor's chief of staff Kathryn Burton served on the re-opening advisory board led by Polito.

"The decision the city has to make, Boston has to make, is whether they want to go up to 25 percent on June 1, or up to some other number," Baker said. "But that was considered from our point of view a cap with respect to phase one. And we're expecting people will make decisions based on a variety of issues with regard to how far they want to go and how fast on that one."

City Hall would not say whether Burton raised the mayor's concern with the 25 percent capacity limit during the development of the re-opening plan, but acknowledged some concessions made to the city, such as the later June 1 office re-opening date.

The governor and lieutenant governor were joined at Symmons by Braintree Mayor Charles Kokoros and state Sen. Walter Timilty. Kokoros said he has reassigned his team of building inspectors to the city's health department to assist with enforcement of the new workforce safety standards as places like Symmons begin to re-open.

Baker also addressed the lack of plans to re-open child care centers to make it possible for more people to return to work, saying his administration is continuing to work with providers to allow day care centers to re-open safely, and reiterating the existing capacity in the emergency child care system that's available.

"I am fully confident we will figure this out, but this is something we all believe we need to get right and if this takes a little longer, I think that's the appropriate thing to do," the



governor said.

New DOL Rule on Fluctuating Workweek Method of Computing Overtime

On May 20 the U.S. Department of Labor Wage and Hour Division [issued a rule](#) allowing employers to pay bonuses and other incentive-based pay to salaried, nonexempt employees whose hours vary from week to week. It expressly states that employers can pay bonuses, premium payments, commissions or hazard pay to salaried employees compensated using the fluctuating workweek method of compensation, thereby eliminating any disincentive and providing greater flexibility for employers to provide such additional compensation.

The new rule is responsive to comments filed by NADA in 2019 urging DOL to issue a clarification in light of the varied case law and administrative interpretations on the fluctuating workweek method. Dealerships often provide bonuses and incentive payments to employees who do not fall neatly into fixed “wages” or “salary.” These forms of pay are valuable in that they reward employee performance, enhance company culture and promote professionalism.

NADA recognizes that most salaried dealership employees are covered by one or more of the federal exemptions from overtime pay, but suggests that this new rule can benefit certain nonexempt salaried employees.

Dealers should consult with their employment law attorney regarding the new DOL rule’s application to their operations.

“McQueen v Andretti”

To mark the 50th anniversary of this fateful Sebring 12 Hour race, a series of intimate, behind-the-scenes photos have been published in a digital exhibition titled “McQueen vs Andretti”. These remarkable photographs give us a unique perspective, capturing the emotions of the drivers and helping us to relive one of motorsport’s all-time great races. Here is a brief summary of how the race went down. Prints from this collection are available through the “McQueen v Andretti” digital exhibition website with all proceeds going to the COVID-19 Community Response Fund. Click on [Petrolicious](#).

NADA Dealership Lifeline Webinars Schedule for This Week

NADA’s Lifeline Series Webinars designed to help dealers during the re-opening phase:

- **Thursday, May 21, 1pm-2pm ET:** [NADA All Dealer Town Hall Meeting](#). Join a virtual town hall meeting with NADA Chairman Rhett Ricart and NADA President and CEO Peter Welch.
- **Friday, May 22, 1pm-2pm ET:** [The Best Ideas from NADA 20 Groups, Part 4: In Times of COVID-19 Pandemic](#). NADA 20 Group consultant Tim Gavin will review best ideas from NADA 20 Groups during these unprecedented times.

Daily Massachusetts COVID-19 Tracker



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