



BULLETIN #81/2020 JUNE 4, 2020

_CORONAVIRUS UPDATE #67

**U.S. SENATE APPROVES HOUSE BILL CHANGING PPP LOAN LAW – BILL
AWAITS PRES. TRUMP'S SIGNATURE**

OCD WEBINAR ON PPP LAW CHANGES – FRIDAY, JUNE 5, 11 AM

**COALITION SENDS DEMANDS TO GOV. BAKER FOR NEXT RE-OPENING
STAGE**

NADA COVID-19 RESOURCES

NADA DEALERSHIP LIFELINE WEBINAR FOR TOMORROW

MASSACHUSETTS COVID-19 DAILY TRACKER

[This bulletin supplements our previous bulletins #11 and #16 through #80 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

U.S. Senate Passes PPP Loan Law Changes

Last evening the U.S. Senate, by unanimous consent, approved legislation that would substantially amend certain aspects of the Paycheck Protection Program to allow businesses more flexibility in using the loan funds and qualifying for forgiveness. As we reported in Bulletin #76 (5/28/20), the U.S. House of Representatives passed the legislation, [H.R. 7010](#), on May 28 on a 417-1 vote. The Senate approved the House legislation in its exact form, thereby avoiding a conference committee or additional negotiations between the chambers. President Donald J. Trump is expected to sign the legislation once it lands on his desk.

Please keep in mind, the U.S. Treasury and the Small Business Administration will need to make changes to the PPP application, interim rules, and FAQs to reflect the statutory changes awaiting the President's signature. Further, once signed into law PPP loan recipients and prospective borrowers should consult competent accountant and legal professionals regarding your particular situation.

The following information comes from an article in the *Journal of Accountancy*:

PPP forgiveness changes coming as Senate passes House bill

By Jeff Drew

The U.S. Senate passed the House version of Paycheck Protection Program (PPP) legislation Wednesday night, tripling the time allotted for small businesses and other PPP loan recipients to spend the funds and still qualify for forgiveness of the loans



loan recipients to spend the funds and still qualify for forgiveness of the loans.

The bill passed in a unanimous voice vote hours after Wisconsin Sen. Ron Johnson initially blocked it. Among the key provisions is a change in the threshold for the amount of PPP funds required to be spent on payroll costs to qualify for forgiveness to 60% of the loan amount.

The Senate approval sends the House bill, called the [Paycheck Protection Flexibility Act](#), to President Donald Trump, who is expected to sign it.

The vote had to be unanimous because the Senate is not officially in session. That meant that any senator could force the matter to be delayed until the Senate returned to Washington with enough members for a quorum and a vote.

Leaders from both parties in the Senate pushed to pass the legislation on Wednesday as the clock on the initial eight-week window recently expired for the first recipients of PPP loans. Johnson dropped his objections after Senate leader Mitch McConnell agreed to add a [letter](#) to the Congressional Record clarifying that June 30 remains the deadline for applying to receive a PPP loan. The bill moves the June 30 deadline for spending the PPP funds to Dec. 31 to accommodate the new 24-week window.

Following is a summary of the legislation's main points compiled by the American Institute of Certified Public Accountants (AICPA):

- Current PPP borrowers can choose to extend the eight-week period to 24 weeks, or they can keep the original eight-week period. New PPP borrowers will have a 24-week covered period, but the covered period can't extend beyond Dec. 31, 2020. This flexibility is designed to make it easier for more borrowers to reach full, or almost full, forgiveness.
- Under the language in the House bill, the payroll expenditure requirement drops to 60% from 75% but is now a cliff, meaning that borrowers must spend at least 60% on payroll or none of the loan will be forgiven. Currently, a borrower is required to reduce the amount eligible for forgiveness if less than 75% of eligible funds are used for payroll costs, but forgiveness isn't eliminated if the 75% threshold isn't met. Rep. Chip Roy (Texas), who co-sponsored the bill in the House, said in a House speech that the bill intended the sliding scale to remain in effect at 60%. Senators Marco Rubio and Susan Collins indicated that technical tweaks could be made to the bill to restore the sliding scale.
- Borrowers can use the 24-week period to restore their workforce levels and wages to the pre-pandemic levels required for full forgiveness. This must be done by Dec. 31, a change from the previous deadline of June 30.
- The legislation includes two new exceptions allowing borrowers to achieve full PPP loan forgiveness even if they don't fully restore their workforce. Previous guidance already allowed borrowers to exclude from those calculations employees who turned down good faith offers to be rehired at the same hours and wages as before the pandemic. The new bill allows borrowers to adjust because they could not find qualified employees or were unable to restore business operations to Feb. 15, 2020, levels due to COVID-19 related operating restrictions.
- New borrowers now have five years to repay the loan instead of two. Existing PPP



loans can be extended up to 5 years if the lender and borrower agree. The interest rate remains at 1%.

- The bill allows businesses that took a PPP loan to also delay payment of their payroll taxes, which was prohibited under the CARES Act.

The PPP in brief:

The PPP launched in early April with \$349 billion in funding that was exhausted in less than two weeks. Congress provided an additional \$310 billion in funding in [an April 21 vote](#), but demand for the program soon waned due to controversies over publicly traded companies and other large enterprises being awarded loans. Concerns about the attainability of loan forgiveness under the program's rules also contributed to small businesses and other eligible entities casting a wary eye to the program.

Congress established the PPP to provide relief to small businesses during the coronavirus pandemic as part of the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136. The legislation authorized Treasury to use the SBA's 7(a) small business lending program to fund loans of up to \$10 million per borrower that qualifying businesses could spend to cover payroll, mortgage interest, rent, and utilities.

PPP funds are available to small businesses that were in operation on Feb. 15 with 500 or fewer employees, including tax-exempt not-for-profits, veterans' organizations, Tribal concerns, self-employed individuals, sole proprietorships, and independent contractors. Businesses with more than 500 employees also can apply for loans in certain situations.

OCD Webinar on PPP Law Changes – Friday, June 5, 11:00 a.m.

MSADA accountant partner O'Connor & Drew will be hosting a **free 30-minute webinar tomorrow, June 5, at 11:00 a.m.**, to discuss the changes to the PPP law.

Please click the link [here](#) to join the webinar.

Telephone Dial-in

(for higher quality, dial a number based on your current location):

US: +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 847 7367 9523

Password: 410340

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. No pre-registration is required.

If you are unable to attend, we will also be recording the webinar and posting it along with the slide deck to our website at:



Coalition Outlines Demands for Next Re-Opening Stage - Baker Set to Announce Next Move on Saturday

[Courtesy of *State House News Service*]

Gov. Charlie Baker on Saturday (June 6) will announce whether he's ready to move Massachusetts into the next phase of re-opening from its COVID-19 lockdown. But before that step is taken, a group of doctors, union leaders, and community and public health advocates today demanded that at-risk populations, including people of color, be adequately protected.

The Massachusetts Public Health Association and other groups have come together to produce a set of criteria that they insist should be met before the state moves to Phase Two of its reopening. Several of their benchmarks would preclude Baker from re-opening the next group of businesses, including restaurants and retail shops, by next week.

The demands include a significant boost in testing activity and a demonstrated decline in infection rates among populations for which the state has incomplete or zero data on the spread of the Coronavirus.

"We will not accept a re-opening at the expense of workers, particularly low-wage workers and Black and Latinx communities," said Carlene Pavlos, the executive director of the Massachusetts Public Health Association.

The demands for equity in the state's reopening strategy come as thousands of people in cities across Massachusetts have been demonstrating for days against police brutality and institutional racism, which advocates said can also be observed in the impact of COVID-19 in minority communities.

Dr. Regina LaRocque, an infectious disease specialist at Massachusetts General Hospital, said the COVID-19 epidemic has been "supercharged" by other public health epidemics in poorer, racially diverse communities where air quality and other factors have made health outcomes worse.

"Coronavirus is going to be with us for a long time here in Massachusetts and the criteria that the Massachusetts Public Health Association is laying out is the underpinning of an equitable and safe response that we need in Massachusetts," LaRocque said.

The MPHA is part of a task force that was brought together in March to examine issues of equity in the state's response to the spread of coronavirus. The task force released a set of criteria today that it wants to see met before Baker moves the state further along its path to re-opening, including documented declines in transmission in communities of color, greater worker protections, and substantially more testing.

The list of demands has been signed onto by more than 100 people and organizations, including the ACLU of Massachusetts and elected leaders like Boston City Councilor Andrea Campbell.



"The challenge is we as people have not been deemed essential, just our work," said Atyia Martin, of the Black Boston COVID-19 Coalition.

The groups specifically want to see a sustained reduction in infections over a two-week period for both the overall state population, but also subgroups like people of color, seniors, the disabled, and those working in high-risk occupations.

While the state publishes data on the effects of COVID-19 on minorities, race and ethnic data was still missing for 39.5 percent of total cases as of yesterday and for 38.4 percent of patients hospitalized with the disease. The race of 41.8 percent people who have died from COVID-19 is also unknown.

Oami Amarasingham, deputy legislative director of ACLU of Massachusetts, called the state's racial data "abysmal" and non-existent for people with disabilities.

Worker protections must also be strengthened, advocates said, and local boards of health must be given financial support through loans, grants, or other technical assistance to be able to enforce health safety standards as businesses reopen.

Al Vega, from the Massachusetts Coalition for Occupational Safety and Health, said the Department of Labor Standards and local boards of health must be given resources to hire additional inspectors to enforce safety protocols and shut down non-compliant businesses, and workers must be protected from retaliation if they refuse to work in unsafe conditions.

The third demand revolved around testing. Baker has submitted a plan to federal government and received federal funding to dramatically ramp up testing to 45,000 tests per day by the end of July, yet fewer than 10,000 test per day are currently being conducted, which is well below existing capacity.

The group said the state should be testing 32,000 people a day to remain on track to reach its testing goals, and Helena DaSilva Hughes, of the Immigrant's Assistance Center in New Bedford, said testing, including for asymptomatic people, must be available "without people having to go through flaming hoops."

"You can't clean fish from home and you can't be a personal care attendant without being close to the client, so many more people need to be tested, starting with our essential workers," Hughes said.

The group's final demand is that the governor put more voices representing essential workers, the Black, Latinx, and LGBTQ communities and senior citizens on a board that would help him make future decisions about re-opening.

Many of the task forces' participants said they have requested time to discuss these issues with the governor, and sent letters to the administration, but have been greeted mostly with silence from the administration.

Baker has said he plans to make an announcement on Saturday about whether to move into Phase Two as soon as Monday, June 8, and the overall state health trends point to the



administration being close to ready to take that next step.

Boston Mayor Marty Walsh hinted today at one sector he expects to get a green light. "The restaurants, I believe, can open on Monday, outdoor capacity," he said.

The governor has repeatedly noted that the statewide positive testing rate is down, as are hospitalizations.

LaRocque, however, said overall positive trends could be masking negative outcomes among vulnerable populations, and hiding hot-spots of the virus that could be detected with better testing and data collection. She said the state should not tie itself to a timeline for reopening.

"We are operating on the virus's timeline," LaRocque said.

Pavlos urged the governor to sign legislation on his desk that would require more data reporting and collection than is currently being done by the administration, and the creation of a task force to study and make recommendations to address disparities in the health care system during the pandemic for underserved or underrepresented cultural, racial, ethnic, and linguistic populations and people with disabilities.

Baker has until Saturday to act on the bill, and a spokeswoman on Thursday said the governor was "carefully reviewing" the bill.

NADA COVID-19 Resources for Dealers

NADA has produced a tremendous amount of resources to help dealers and their operations during the Coronavirus pandemic. A prolific source of information has been the NADA regulatory affairs team, by way of guidance, analysis, interpretation and explanation. The regulatory affairs group has recently worked with the NADA public affairs team to reorganize all of the regulatory compliance materials on the NADA Coronavirus Hub. The trove of materials is now organized by "Information" and by "Key Documents." Hot links lead you to every individual item/resource. The site and the links will be updated continuously. Bookmark the address, and click on the links as you need them for the latest versions of everything, such as CARES Act, SBA, PPP, Tax Relief, and more. Please check it out here: <https://www.nada.org/coronavirus/regulatory/>.

NADA Dealership Lifeline Webinar for Tomorrow

NADA will conduct the following webinars this week:

- **Friday, June 5, 1pm-2pm ET:** [*The Best Ideas from NADA 20 Groups, Part 6: In Times of COVID-19 Pandemic*](#). Tim Gavin, NADA 20 Group consultant, will review some of the best new ideas from NADA 20 Groups during these unprecedented times.

Recordings of [all webinars in NADA's Lifeline Series](#) are available 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](#).