

TO: NAW Direct Members

FROM: NAW Government Relations Team

DATE: April 23, 2020

1. Update on Congressional “Phase 3.5” Coronavirus Relief Funding

A few minutes ago, the House passed the \$484 billion coronavirus relief bill which provides \$380 billion for the small business Paycheck Protection Program and includes \$75 billion for hospitals and \$25 billion for coronavirus testing. NAW strongly supported this legislation and urges President Trump to quickly sign the bill into law.

Two weeks ago, Senate Democrats blocked the Senate Republicans initial offer of \$250 billion for small businesses, demanding a broader package of aid that included millions of dollars for hospitals and states. That conflict had resulted in a standoff between Democrats and Republicans, with Treasury Secretary Steven Mnuchin moving in to help negotiate a compromise.

The House also voted today to establish a new Subcommittee on the Coronavirus Crisis to study proxy voting as part of a way to re-open Congress. The House was expected to consider a rule change that would allow remote voting by proxy, but those plans were scrapped yesterday due to Republican opposition.

President Trump and congressional leaders are already talking about another phase of rescue legislation (“Cares 2.0”), though the path to an agreement may be difficult. Senate Majority Leader Mitch McConnell expressed skepticism yesterday about providing funds for state and local governments which is the top priority for Democrats. Leader McConnell has made it clear that the full Senate must be in session before Congress begins discussion on the next relief package.

As of now, Congress isn’t scheduled to return to Washington until May 4th, though negotiations and drafting of the next bill can take place without most lawmakers in town.

2. Treasury Department Toughens Standards for Paycheck Protection Program Recipients

Today, the U.S. Treasury Department released new guidance ahead of the next round of funding for the small business Paycheck Protection Program. This new guidance emphasizes that companies must certify their request is necessary in an effort to limit large companies with other funding options from applying for funds that need to be going to small businesses.

“Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business,” the guidance reads.

“For example, it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification.”

The new guidance was issued after many small businesses rightfully complained that several large companies, including Shake Shack, Sweetgreen, and Ruth’s Chris Steak House, all obtained PPP loans under the first batch of funding, while countless smaller companies’ applications were denied by their banks. Shake Shack recently announced that they would be returning the loan they received from the PPP. The new guidance states that companies who do want to return the money they have already accepted can do so by May 7th without penalty.

A new research study published by Morgan Stanley shows that hundreds of millions of dollars of Paycheck Protection Program emergency funding have been claimed by large, publicly traded companies. In fact, the U.S. government has allocated at least \$243.4 million of the total \$349 billion to publicly traded companies.

We expect much Congressional oversight of the PPP program over the next few months. The Senate Committee on Small Business and Entrepreneurship has announced that it will conduct aggressive oversight of the program this fall, including subpoena power to determine whether companies made false certifications to obtain loans.

To view the new guidance from Treasury, go to:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

3. Update on State and Local Government's Actions to Re-Open the Economy

As we have previously reported, more state governors are beginning to explore the logistics of how to re-open their states economies. NAW has been monitoring the reports of states re-opening and are working to identify a central resource for NAW members to utilize in tracking the flow of information.

Once NAW identifies a resource that will provide sufficient resources and information we will highlight the location. Recently, three states governors have announced new plans to re-open their states. According to the firm Stateside Associates, the specifics of these re-opening orders are:

- Colorado Governor Jared Polis (D) discussed what next steps will look like as health and safety restrictions change in the coming days and weeks. The governor discussed new modeling showing the state will not need to extend the Stay-at-Home order but will need to continue a variety of long-term social distancing measures. There are three levels of social distancing, which include: Staying at Home, Safer at Home, and Protect our Neighbors. On April 27, the state will be moving onto the Safer at Home phase.
- Kentucky Governor Andy Beshear (D) announced the launch of "Healthy at Work," a new initiative to help Kentucky businesses re-open safely as we fight COVID-19.
- Maryland Governor Larry Hogan (R) has announced the four building blocks that will be necessary to begin the state's recovery process. The state continues to make significant progress in all four of the following critical areas: 1) Expanding testing capacity; 2) Increasing hospital surge capacity; 3) Ramping up supply of PPE; and 4) Building a robust contact tracing operation. Governor Hogan plans to introduce the "Maryland Strong: Roadmap to Recovery" in the near future.

4. Payroll Protection Program Implementation Rulemaking:

On April 15th the Small Business Administration published an Interim Final Rule implementing the PPP statute. There are several provisions in the Rule that have raised concerns in the employer community, and NAW is preparing comments to submit to the SBA. Most of you individually, and every NAW member company, will be receiving an email from us tomorrow morning with more information on the SBA rule, and asking for company feedback so our comments accurately and fully reflect our industry concerns. If

you receive our message tomorrow morning, please provide any feedback you can. If you do not get that email but would like to provide feedback, please do. We need to receive feedback by Monday, May 4th. To read the SBA rule, go to:

<https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07672.pdf>

Now Available for Purchase On Demand: "Distribution Industry: Navigating the Crisis" with Alan Beaulieu: <https://www.naw.org/navigating-the-crisis/>

[Click here](#) for links to Critical Updates sent previously.

Many thanks—

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