

TO: NAW Direct Members

FROM: NAW Government Relations Team

**RE: NAW Critical Update Number 49 – May 14 at 4:00 PM**

## 1. Latest on the Main Street Lending Program

As of today – yet again – no MSLP launch date has been announced. We will continue to monitor the Federal Reserve for information and provide you with any relevant and timely updates.

While there is still no official guidance, we may learn more next week. The Senate Banking Committee is holding a virtual hearing next week, at 10:00 A.M. on May 19th, which may provide answers. Both Treasury Secretary Mnuchin and Fed Chairman Powell will be testifying remotely.

According to the Committee:

*THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS will meet REMOTELY to conduct a hearing entitled, “The Quarterly CARES Act Report to Congress.” The witnesses will be: The Honorable Steven T. Mnuchin, Secretary, Department of the Treasury; and The Honorable Jerome H. Powell, Chairman, Board of Governors of the Federal Reserve System.*

For additional information or to watch the hearing next Tuesday, go to:

<https://www.banking.senate.gov/hearings/the-quarterly-cares-act-report-to-congress>

## 2. Latest on the Paycheck Protection Program

As reported by the *Business Journal Daily*, NAW, the Associated Builders and Contractors, the American Institute of CPAs, the National Federation of Independent Business, the S Corporation Association and four other small business advocates issued a statement in response to the lack of clear and consistent guidance from the Department of the Treasury and Small Business Administration on the Paycheck Protection Program. To read the full story, go to:

<https://businessjournaldaily.com/industry-associations-ask-sba-for-clarity-on-ppp-forgiveness/>

### **3. FMCSA Extends Emergency Declaration for a Second Time**

Yesterday, the Federal Motor Carrier Safety Administration (FMCSA) extended their emergency declaration relaxing hours of service rules for a second time. The emergency declaration is now in effect through June 14<sup>th</sup>. As we have previously reported, on March 13<sup>th</sup>, FMCSA issued an emergency declaration that suspended hours of service (HOS) regulations for operators of commercial motor vehicles that are providing emergency relief through direct assistance to support state and local efforts to combat the COVID-19 outbreak. The emergency declaration was expanded on March 18<sup>th</sup> to include additional definitions of “direct assistance.”

According to FMCSA officials, this declaration is the first time that FMCSA has issued nationwide hours of service relief. The emergency declaration specifically suspends parts 390-399 of Title 49 Code of Federal Regulations (of which HOS is part 395).

FMCSA’s definition of “direct assistance” refers to commercial motor vehicle operations which are needed for:

- Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19.
- Supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants.
- Food, paper products and other groceries for emergency restocking of distribution centers or stores.
- Immediate precursor raw materials—such as paper, plastic or alcohol—that are required and to be used for the manufacture of essential items.
- Fuel
- Equipment, supplies and persons necessary to establish and manage temporary housing, quarantine.

- Persons designated by federal, state or local authorities for medical, isolation, or quarantine purposes.
- Persons necessary to provide other medical or emergency services.

This declaration does not exempt routine commercial deliveries or mixed loads that may include relief supplies. FMCSA has stated, “There are not specific requirements to identify a vehicle operating under an emergency declaration or for paperwork that must be carried on the vehicle. However, drivers should be prepared to explain to law enforcement officers how their shipment qualifies under the emergency provisions.”

To view all of FMCSA’s COVID-19 related information, including updates on FMCSA’s Hours of Service National Emergency Declaration, go to:

<https://www.fmcsa.dot.gov/COVID-19>

#### **4. Trucking Hours of Service News of Interest but Unrelated to COVID-19**

Today, NAW participated in a conference call with Jim Mullen, Acting Administrator of the Federal Motor Carrier Safety Administration (FMCSA), where it was announced that the publication of the final rule on hours of service (HOS) regulations would be published in the Federal Register in the coming week. The Administrator noted that the agency received 8,000 public comments, including NAW’s, and it was clear that FMCSA should update the HOS rules to include more flexibility for trucking professionals.

According to FMCSA the final rule includes the following changes:

- Expands the short-haul exception to 150 air miles and allows a 14-hour work shift to take place as part of the exception
- Expands the driving window during adverse driving conditions by up to an additional 2 hours
- Requires a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break
- Modifies the sleeper berth exception to allow a driver to meet the 10-hour minimum off-duty requirement by spending at least 7, rather than at least 8, hours of that period in the berth and a minimum off-duty period of at least 2 hours spend inside or outside of the berth, provided the two periods total at least 10

hours, and that neither qualifying period counts against the 14-hour driving window.

NAW is pleased that FMCSA took our comments into consideration when finalizing the rule, specifically allowing on-duty/not driving time to qualify as the required 30-minute break.

To view the final rule, go to:

<https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-05/HOS%20Master%20050120%20clean.pdf>

## 5. Resources for Employers

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW has provided information about webinars and seminars that you may find useful:

### ***Layoffs, Furloughs, Recalls & Other COVID-19 Employer Issues:***

Join Kara Govro, senior legal editor at ThinkHR, as she addresses the compliance aspects of layoffs, furloughs and recalls to help employers navigate these difficult decisions.

- Host: National Association of Health Underwriters
- Date: Friday, May 15<sup>th</sup>
- Time: 1:00 pm EST
- Place: Webinar (access instructions e-mailed upon registration)
- RSVP: Register online at:

<https://register.gotowebinar.com/register/7912882126648305424>

### ***The Virtual Executive Employer – Exploring the Impact of COVID-19 on Your Business, Workforce and Beyond:***

On May 7th & 8th, the *Little Law Firm* presented the Virtual Executive Employer Experience. For your convenience, they are providing complimentary access to the recorded presentations. Littler also invites you to explore the firm's [resources for employers](#) to learn how COVID-19 is affecting various aspects of employment law, and how different jurisdictions around the world are addressing the outbreak.

To view the presentations, go to:

<http://www.executiveemployer.com/agenda>

The presentation topics include:

- The Most Challenging Workplace Issues Still Confronting Employers During the COVID-19 Pandemic
- COVID-19's Litigation Aftermath: Preparing for the Coming Wave of Legal Claims
- Labor Relations Impact of COVID-19: Issues for Union and Non-Union Employers (Protected Concerted Activity, Union Organizing & Bargaining Demands)
- Changes to Family Medical and Sick Leave Obligations in the Time of COVID-19
- Restructuring Your Workforce: Furloughs, Reductions In Force and Compensation Changes in Response to COVID-19

## 6. Latest on Re-Opening the Economy

With state and local governments gearing back up to re-open the economy, many employers are seeking answers to the challenging issues they will face as they resume their business operations amidst COVID-19.

**Stateside Associates** publishes a daily report about State and Local Government responses to the evolving situation. Some of the new developments in today's report include:

- **Georgia** Governor Brian Kemp (R) has issued an order entitled Reviving a Healthy Georgia.
- **Kentucky** Governor Andy Beshear (D) issued an order that extends previous orders allowing pharmacists to dispense 30-day refills. This order will be in effect until June 7.

- The **New York** Senate Committee on Labor will consider SB 8308, which would ensure rights, protection and hazard pay for essential workers during a state of emergency.

We are also providing a spreadsheet that includes state and local COVID-19 response information provided by **MultiState Associates**.

To view their spreadsheet, go to:

[https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57\\_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM\\_6H7-S308qdKmJfpVstYWf300nyujvZPFsy/pubhtml?urp=gmail\\_link](https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM_6H7-S308qdKmJfpVstYWf300nyujvZPFsy/pubhtml?urp=gmail_link)

### **May 28 NAW Webinar on Economic Outlook:**

We are partnering with NAW senior economic advisor Alan Beaulieu to produce a second critical economic forecast webinar. This webinar, “Distribution Post COVID-19 Outlook,” will run Thursday, May 28, from 3:00 to 4:30 PM EDT. Seats are limited, so if you are interested, please purchase your seat today at:

[www.naw.org/distribution-post-covid-19](http://www.naw.org/distribution-post-covid-19)

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

Many thanks—

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