

American Staffing Association

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VIA ELECTRONIC SUBMISSION

March 16, 2020

Hon. Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

Hon. Charles Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

Re: HR 6201: Families First Coronavirus Response Act and Other Proposals to Help Employees and Businesses

Dear Majority Leader McConnell and Democratic Leader Schumer:

The American Staffing Association (ASA) submits the following comments regarding the above-referenced proposed legislation. ASA is a national trade association that represents temporary and contract staffing firms throughout the United States. ASA's member staffing firms recruit, employ, and assign temporary and contract workers to provide special assistance in cases of employee absences, special projects, or seasonal workloads. The staffing industry plays a critical role in the nation's economy, employing approximately 16 million temporary and contract workers annually and generating approximately \$139 billion in sales in 2018.

We appreciate Congress's efforts to expeditiously address the public health and economic impact of COVID-19. However, we are concerned that bill's paid leave provisions and related tax credits would cause thousands of staffing firms to go out of business and cause millions of employees to lose their jobs because of the firms' inability to front the wage payments while awaiting reimbursement under the refundable tax credit mechanism.

To the extent that the bill provides relief to small businesses, we also strongly urge that businesses, like staffing firms, that have large employer headcounts but small business revenue be judged by their revenue, not headcount, as provided under Small Business Administration rules.

Finally, we join the U.S. Chamber of Commerce and other groups in calling for payroll tax relief and other measures to help employees and businesses.

The Refundable Tax Credit Will Cause Insurmountable Liquidity Issues and Will Cause Staffing Firms to Go Out of Business

HR 6201's Division C, "The Emergency Family and Medical Leave Act," and Division E, "The Emergency Paid Sick Leave Act," provide expanded leave and other benefits for workers employed by businesses with less than 500 employees. Although these businesses would be entitled to social security tax credits and refunds in connection with the provision of these benefits, such refunds would not be provided in a timely manner and would lead to many staffing firms' financial ruin. ASA therefore strongly urges Congress to adopt a government administered, publicly funded, wage maintenance program that does not rely on employer payments.

The 50-Employee Size Threshold for Small Business Status Does Not Work for Staffing Firms

The bill currently gives the Secretary of Labor authority to exempt small businesses with fewer than

American Staffing Association

50 employees from the bill's FMLA expansion if the business demonstrates that paying for time off up front would pose a serious threat to its viability. While this exemption is well-intended, it will not work for staffing firms because of the extraordinarily large number of temporary employees who work on short-term intermittent jobs on any given day relative to the number of permanent staff that operate the business. The Small Business Administration has adopted a revenue-based size standard for many service businesses, including temporary staffing (NAICS Code 561320) which currently is \$30 million in annual revenue. We urge the Senate to include a revenue-based test in any small business definition.

Other Measures to Help Employees and Businesses

ASA joins the Chamber of Commerce and others urging temporary cancellation of employer payroll taxes through May. This would provide businesses substantial additional operating capital to keep paying their employees and avoid layoffs.

Small businesses loan programs also should be expanded and streamlined. The Small Business Administration disaster loan program should be immediately made available nationwide, eliminating complex and time-consuming local certification, and the approval process should be streamlined for amounts below \$350,000.

Finally, loans and loan guarantees should be provided to employers with more than 500 employees experiencing significant revenue loss from the Coronavirus. Legislation should expand the use of the Federal Reserve Discount Window through the easing of restrictions of Section 13-3 of the Federal Reserve Act. All government financial agencies (U.S. Treasury, Federal Reserve, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) should work with banks to establish a system of credit facilities to provide such loans and loan guarantees.

By taking the foregoing actions, Congress would help protect employees and strengthen the economy, thereby saving thousands of businesses and millions of jobs.

Very truly yours,



Stephen C. Dwyer
Senior Vice President and Chief Legal Officer