ROPA Legislative Report

7/29/2020

Adam Schiff- (D-CA)- H.R. 7691 - Amends subtitle A of title II of division A of the CARES Act to provide Pandemic Unemployment Assistance to individuals with mixed income sources, and for other purposes.

Sponsor: Rep. Schiff, Adam B. [D-CA-28] (Introduced 07/20/2020) Cosponsors: (19) To amend subtitle A of title II of division A of the CARES Act to provide Pandemic Unemployment Assistance to individuals with mixed income sources, and for other purposes.

Tim Scott(R-SC) S.4209 - Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020. (Bi partisan 26 Cosponsors) S. 4001 -> became S.4209 and passed the Senate on 7/3/20 and House on 7/9/20. Now moves to the President's desk. Addresses the issue of states first billing nonprofits for 100% of their liability before reimbursing them for the 50% covered under the CARES Act. Nonprofits continue to seek 100% coverage of liability.

Support the Arts and Work of Artists

S. 3747 WORK NOW Act - lead sponsor Sen. Klobuchar had confirmed intention to add arts and cultural organizations for priority eligibility (13 Democratic Cosponsors)

START Act (Reviving the Economy Sustainably Towards A Recovery in Twenty-Twenty Act) S. 3814, Senators Young, Bennet (26 Bipartisan cosponsors)

To create a loan program to provide funding to the hardest-hit businesses for the remainder of 2020 and provide loan forgiveness.

Note that Independent Sector and National Council of Nonprofits have called for revisions to create loan forgiveness parity among for-profit and nonprofit organizations. For-profits are eligible for more loan forgiveness for those with more than 500 FTEs. The rate of loan forgiveness is a multiplier based on the percentage of declined revenue. The multiplier is 90% for for-profit organizations. According to NCN: "For nonprofits with SO or fewer employees, the bill would
provide forgiveness of 70 percent. For nonprofits with between 51 and 500 employees, loan forgiveness would be only 20 percent. Nonprofits with 501 or more employees could get PPP loans but would not be eligible to receive forgivable loans.” Note that nonprofits with less than 500 FTEs could elect to use the 90% multiplier, based on declines of revenue, excluding donations, grants, dues, and investment income.

From the Bennett/Young explainer of the bill and how it works:

A performing arts center is a 501(c)(3) nonprofit with 45 employees and sees its revenues decline by 66% in 2020 compared to 2019. It receives a $1.155 million loan, of which $533,610 is forgiven and the remaining $616,390 is to be repaid over 7 years.

- The nonprofit takes out a RESTART loan of $1.155 million.
- The nonprofit’s gross receipts declined from $6 million in 2019 to $2.05 million in 2020, a decline of 66%.
- The nonprofit has 2 options in how to calculate its loan forgiveness.

**Prioritized Paycheck Protection Program (P4) Act**

Senators Cardin, Shaheen, Coons (House companion: Democratic Reps. Angie Craig (MN-02) and Antonio Delgado (NY-19).

Limited to very small PPP borrowers (under 100 employees)

**CALMER Act (Culture, Arts, Libraries, and Museums Emergency Relief Act of 2020)**

No bill number yet. Sponsored by Reps. Maloney and Nadler.

Would include additional relief funding and support for arts and cultural agencies beyond levels set in HEROES Act.


Would establish a paycheck recovery program to provide grants for certain small businesses and employers that have lost revenue because of COVID-19 (106 Democratic Cosponsors)
Paycheck Security Act- S.3793 - Senators Warner, Sanders, Jones and Blumenthal

Modifies the employee retention tax credit to secure the paychecks and benefits of workers, to provide a refundable credit against payroll taxes for the operating costs of employers (13 Democratic cosponsors)

HR 6776: JOBS Credit Act of 2020

HR 7079: Clean Start: Back to Work Tax Credit Act

Healthy Workplaces Tax Credit

On the gig/freelancers front, this is what Freelancers Union sent today, with a link to their Senate letter, in case it’s useful:
https://blog.freelancersunion.org/2020/07/20/senate-action-is-needed-now/

Craig’s google doc: https://drive.google.com/file/d/1X4Qhu19-5DCNU_5dt8k3EbZcVT3XNtRC/view?usp=sharing

Main Street Federal Reserve Loans

On July 17, 2020, the Federal Reserve modified the Main Street Lending Program to support greater access to credit for nonprofit organizations such as educational institutions, hospitals, and social service organizations. As detailed in term sheets, the Board approved two new loan options to provide support to a broad set of nonprofit organizations that were in sound financial condition prior to the pandemic.

The Main Street nonprofit loan terms generally mirror those for Main Street for-profit business loans, including the interest rate, principal and interest payment deferral, five-year term, and minimum and maximum loan sizes. Nonprofits will be eligible for two loan options, and the chart below has additional details on the final terms.

More information is forthcoming. Subscribe for updates on the latest information related to the Main Street Lending Program.
Amendments:

Amendment to Interior Appropriations Bill to Reduce Kennedy Center Funding by Congressman LaMalfa (R-CA 1) AMENDMENT TO DIVISION C OF RULES COMMITTEE PRINT 116–59
February 4, 2020

Dear Member of Congress:

On behalf of 80,000 members of the American Federation of Musicians, I write urging your support of H.R. 2474, the Protecting the Right to Organize Act ("PRO Act") and ask that you oppose any amendments or any offensive motions that may be offered during House deliberations.

The PRO Act strengthens the National Labor Relations Act by supporting the ability of working people to have a voice on the job. The bill would update the National Labor Relations Act to allow workers to have a greater say in such important workplace issues as higher wages and retirement security. Once workers vote to form a union, the National Labor Relations Board could seek enforcement and relief in federal court allowing for swifter justice. In addition, the bill would prohibit employers from forcing workers to attend captive audience meetings designed to encourage workers from voting against the union. Companies and corporate officers would be confronted with stiff financial penalties for violating the law.

The PRO act also establishes a mediation and arbitration process to prevent employers from avoiding the completion of a first contract. Historically, many employers attempt to stall first-contract negotiations in an effort to frustrate and in some cases stop the collective bargaining process, often after union organizers and negotiators have worked for years to finalize a first contract.

The bill also supports workers’ right to picket or withhold their labor in order to push for workplace changes. It also protects employees’ right to strike and prevents an employer from hiring permanent replacement workers and allows unrepresented workers to participate in collective action and class action lawsuits against unscrupulous employers.

Finally, HR 2474 eliminates state right to work laws which over the years have given more power to billionaires and special interest groups at the expense of lowering worker wages, eroding pensions and healthcare coverages in states where such laws have been enacted.

We urge you to support the PRO Act. Thank you.

Sincerely yours,

Raymond M. Hair, Jr.
International President
American Federation of Musicians of the United States and Canada
July 1, 2020

Docket No. APHIS-2008-0119  
Regulatory Analysis and Development  
PPD, APHIS, Station 3A-03.8  
4700 River Road, Unit 118  
Riverdale, MD 20737-1238

Re: Implementation of Revised Lacey Act Provisions (Docket No. APHIS-2008-0119)

Dear Sir or Madam:

This letter is submitted by the American Federation of Musicians of the United States and Canada, the American Federation of Violin and Bow Makers, Chamber Music America, and the League of American Orchestras. We are writing in response to the request for public comment on the Notice to implement Phase VI of the Lacey Act enforcement schedule (Federal Register on March 31, 2020 (85 FR 17849). The Notice will add several product categories to those required to file declarations when transporting certain covered plant products into the United States.

The American Federation of Musicians of the United States and Canada (AFM), celebrating 122 years of existence, is the largest organization in the world dedicated to representing the working interests of professional musicians. The AFM’s more than 80,000 members perform all styles of music: alternative, rock, classical, pop, gospel, jazz, country, folk, big band, reggae, contemporary Christian, to name just a few. AFM musicians can be found in recording studios for motion picture and film, as back up musicians for internationally recognized featured artists, in American and Canadian symphony orchestras, and any other venue that requires the use of highly trained professional artists.

The American Federation of Violin and Bow Makers was founded in 1980 to provide the musical community with a standard of work and expertise upon which they could depend. The Federation’s mission is to enhance the public’s understanding and appreciation of the violin and bow families, and of related areas of expertise, including the making of new instruments, as well as conservation and restoration of historical and modern instruments. Now numbering over 170 of the finest makers, dealers, and restorers in the United States and Canada, the Federation has strict requirements for membership. In addition to submitting an example of work for review, a prospective member must have at least nine years of experience working in the profession.
The mission of Chamber Music America (CMA), the national network of ensemble music professionals, is to develop, support, and strengthen the chamber music field. Since its inception in 1977, CMA has defined chamber music as music for small ensembles between two and ten musicians, one per part, generally without a conductor. Because of the broad definition, multiple styles of music are included in CMA: Western and non-Western classical and contemporary, jazz, and evolving forms. Its 6,000+ members include ensembles, concert presenters, independent musicians, educators, music businesses, and others who advocate for and appreciate music for small ensembles.

The League of American Orchestras is the not-for-profit service organization for the field of symphony orchestras. Founded in 1942 and chartered by Congress in 1962, the League represents a diverse membership of orchestras across North America and it links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners. There are more than 1,600 nonprofit orchestras in all 50 states, serving virtually every community. As members of the 501(c)(3) charitable sector, orchestras depend upon private philanthropy and civic support to fuel programs that serve community needs. Orchestras actively engage in international cultural activity through touring globally and inviting guest artists to perform for audiences in the United States.

**Effective Date of Declaration Requirement**

The Notice solicits public comments on the proposed Harmonized Tariff Schedule list by July 1, 2020. We assume that a notice containing a final Harmonized Tariff Schedule will be issued following the comment period. The Animal and Plant Health Inspection Service (APHIS) has proposed that the Phase VI enforcement should begin on October 1, 2020. Because the covered product list is subject to change, we believe the effective date for declaration filing should be six months after the final notice is issued. A six-month effective date would enable exporting and importing stakeholders to inform their constituencies and prepare for compliance with the new declaration requirements.

**Enforcement Discretion**

In the case of musical instruments, it is important to recognize that a very substantial proportion of instruments in international circulation are years, decades, or even centuries old, raising very difficult challenges for those interested in complying with declaration questions calling for identification of the scientific name of each plant product contained in the instrument, the quantity of the plant products, the country from which the plant was harvested, and the value of the import. We urge APHIS to recognize the difficulty of establishing the provenance of plant specimens contained in many musical instruments and to exercise its enforcement discretion by waiving or relaxing enforcement of declaration requirements in the case of older finished musical instruments, parts, or accessories containing plant specimens. In its most recent rulemaking published on March 2, 2020 at (7 CFR Part 357, Docket No. APHIS-2013-0055), APHIS adopted “a threshold of no more than 5 percent of the total weight of the individual product unit, provided that the total weight of the plant material in an entry of products in the same 10-digit HTSUS provision does not exceed 2.9 kilograms.” The rule further states that, “We will continue to consider ways to implement de minimis exceptions based on criteria other than weight to the plant declaration requirement.” Most older musical
instruments will contain wood that exceeds the 5 percent *de minimis* exemption. We suggest that APHIS consider an exemption based on criteria that take into account the age of musical instruments.

**Definition of “Import”**

In its most recent rulemaking published on March 2, 2020, APHIS also restated its decade-long enforcement policy that the term “import” is limited to formal entries only, saying “In a notice published in the Federal Register on February 3, 2009 (74 FR 5911, Docket No. APHIS-2008-0119), we stated that we would be enforcing the declaration requirement only for formal consumption entries (i.e., most commercial shipments). In that notice we also stated that we did not intend yet to enforce the declaration requirement for informal entries (i.e., most personal shipments), personal importations, mail (unless subject to formal entry), transportation and exportation entries, in-transit movements, carnet importations (i.e., merchandise or equipment that will be re-exported within a year), or upon admittance into a U.S. foreign trade zone or bonded warehouse.” We urge APHIS to include a statement of this enforcement policy in a final Notice on Phase VI declaration enforcement. The very many traveling musicians and ensembles that depend upon international artistry to advance their livelihoods and international cultural exchange will need absolute assurance of exemptions from the declaration requirements.

The American Federation of Musicians of the United States and Canada, the American Federation of Violin and Bow Makers, Chamber Music America, and the League of American Orchestras appreciate APHIS’s continued cooperation, and we are available as needed to discuss Lacey Act enforcement and related issues.

Sincerely,

Raymond M. Hair, Jr.
International President
American Federation of Musicians of the United States and Canada

David Samuels
President
American Federation of Violin and Bow Makers

Margaret Lioi
Chief Executive Officer
Chamber Music America

Jesse Rosen
President & CEO
League of American Orchestras
July 6, 2020

The Honorable Bennie G Thompson, Chairman
Members of the Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson and
Members of the Committee:

On behalf of America’s arts and entertainment unions, we write to urgently express our deep concerns about the prospective furlough of more than 70% of persons employed by the United States Citizenship and Immigration Service (USCIS). We are also concerned about the possibility that the agency may be subjected to a shut down through the end of this year.

The USCIS is a vital link that helps facilitate thousands of jobs for Americans employed in the entertainment industry and ancillary businesses that depend on the free flow of creative professionals in and out of the United States. Each year, performing artists and entertainment professionals who travel to the United States, and American performers who fulfill countless professional engagements around the world use USCIS to acquire travel visas necessary to employment. Without the work of the USCIS, billions in visa application fees and artist remuneration will disappear from the US economy.

Each year, our organizations assist USCIS adjudicators in determining whether artists from other countries are qualified to perform in the US market. As domestic venues schedule visiting artists, ancillary businesses such as restaurants, hotels, airlines, transportation companies, together with a variety of other related support businesses benefit from artist appearances. Similarly, US artists require USCIS visa services to facilitate their performances abroad.

We also wish to express our support for the dedicated USCIS employees whose jobs are now in jeopardy because of diminished support by the federal government. Without the expert advice and administration of visa services that these workers provide, many internationally known performers will be unable to enter or exit the US.

Americans have suffered tremendously from the closing of performance venues across the country due to the COVID-19 pandemic. The American entertainment industry will be one of the last to fully return to business as usual. Billions of dollars in artists’ live performance and media salaries, residual and fringe benefit payments and sales revenue will be lost, along with significant loses in tax payments to state, local and federal tax entities if visa services in the entertainment industry are halted.

The work of USCIS employees is vital not only to the US, but to countries throughout the world whose citizens consume US entertainment. Congress has the power to help bring this country’s economy back on line by allowing USCIS to continue the vital work of processing arts and entertainment visas.

(More)
The USCIS is critical to the overall economic recovery of our nation, and its work should continue unabated. We implore congress to continue funding this vital agency.

Sincerely yours,

Ray Hair, Jr., President
American Federation of Musicians of
The United States and Canada

Kate Shindle, President
Actor’s Equity

Len Egert, National Executive Director
American Guild of Musical Artists

Susanne Doris, National Executive Director
American Guild of Variety Artists

Carlo Fiorletta, President
Guild of Italian American Actors

Gabrielle Carteris, President
SAG-AFTRA

Evan Yionoulis, President
Stage Directors and Choreographers Society

Lowell Peterson, Executive Director
Writers Guild of America, East
July 6, 2020

The Honorable Nita Lowey, Chairwoman
Committee on Appropriations
U.S. House of Representatives
H-307 The Capitol
Washington, DC 20515

Dear Chairwoman Lowey:

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