

American Staffing Association

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VIA ELECTRONIC SUBMISSION

March 16, 2020

Hon. Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
Treasury Building
1500 Pennsylvania Avenue, NW
Washington, DC 20220

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

Dear Secretary Mnuchin:

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 the adoption of a mechanism that reimburses businesses expeditiously such that they can continue to operate.

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

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The bill currently gives the Secretary of Labor authority to exempt small businesses with fewer than 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 adoption of a revenue-based test in any small business definition.

The foregoing actions 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