



Highlights of COVID-19 Legislation for the Veterinary Profession

Congress has taken unprecedented steps to respond to the COVID-19 outbreak and its impact on individuals and families, the health system and medical supply chain, and the economy. Two extensive packages of legislation were enacted in March 2020 - the **Families First Coronavirus Response Act** (FFCRA) and the **Coronavirus Aid, Relief, and Economic Security Act** (CARES Act). Together, these bills temporarily expand access to paid leave, direct support to individuals and families, suspend federal student loan repayment, broaden unemployment benefits to include support for those who are self-employed, and provide financial support for small businesses to maintain their workforce and operations with an opportunity for substantial loan forgiveness.

Here's what veterinarians and veterinary business owners need to know:

New Leave Requirements

Congress sought to support individuals and employees should they become ill, need to care for a sick family member, or remain home due to school closures or a childcare provider being unavailable, by providing new paid leave requirements in light of COVID-19. The leave requirements are effective April 1, 2020 through December 31, 2020. Congress also recognized this would put a strain on small businesses, so the bills provide a range of relief - through loans and tax policies - to help employers absorb these costs and remain viable during the COVID-19 outbreak.

- **Employers with fewer than 500 employees are required to provide Emergency FMLA to employees as well as paid sick leave.**
 - Emergency FMLA provides 12-weeks of job protected leave for childcare. First 10 days are unpaid, then leave is paid.
 - Full-time employees required 80 hours of paid sick leave.
 - Legislation includes daily and aggregate pay caps per employee.
- **Includes waiver if requirements jeopardize financial viability.** The legislation provides an opportunity for businesses with ***fewer than 50 employees*** to be exempt from the leave requirements ***should they threaten the business's financial viability***.
 - More guidance is expected from the Department of Labor (DOL) soon. In the meantime, veterinary practices should document any impact to their practice in anticipation of DOL regulations.

Supports for Small Businesses, Employee Retention and Ongoing Operations

- **Access to forgivable loans.** The legislation expands access to Small Business Administration (SBA) loans and establishes a new, temporary paycheck protection program to provide loans for payroll and other qualified costs for small businesses, sole proprietors, self-employed and independent contractors. The paycheck protection includes substantial loan forgiveness for qualified expenses. Learn more about how to access these programs and find more information [here](#).

- **Tax credits and tax deferrals to support small businesses.** While guidance from the Internal Revenue Service is needed, the law allows employers to receive an advance tax credit instead of having to be reimbursed on the back end. There are a number of tax policies included, such as:
 - Payroll tax credits, also available to self-employed individuals
 - A new retention tax credit to encourage businesses to keep workers on payroll during the crisis
 - A new tax-free benefit for employers providing student loan repayment (up to \$5,250; for 2020 only)

Individual Supports

- **Expands the size and scope of unemployment benefits.** Provides benefits to self-employed and independent contractors and others who may not have been previously eligible for unemployment. It also expands benefits by providing an additional \$600 weekly federal benefit.
- **Individual “recovery rebates.”** Provides a tax credit of \$1,200 for individual filers (\$2400 for joint filers) plus \$500 per child. The credit is phased out for individuals with adjusted gross income over \$75,000 (\$150,000 joint filers). The credit phases out completely at \$99,000 for individuals and \$198,000 for joint filers. The Administration is expected to advance the “rebate” tax credit as rapidly as possible.
- **Provides federal student loan relief for 6 months.** Provides six months of relief on federal student loan payments and suspends interest accrual (through Sept. 30, 2020). During this time, borrowers would receive credit for making payments in order to remain on track for loan forgiveness programs such as the Public Service Loan Forgiveness (PSLF) Program.
- **Relaxed rules on retirement accounts.** The law waives the 10% penalty on early distributions from retirement accounts for 2020. Any amount required to be included in income is allowed to be spread over three years.

The federal government has several departments engaged in implementation of the coronavirus response legislation, including the Department of Treasury, Department of Labor, Department of Education, and the Small Business Administration. Each has a website dedicated to COVID-19 resources and developments, available here:

- Department of Treasury Internal Revenue Service COVID-19 resources and guidance: <https://www.irs.gov/coronavirus>
- Department of Labor page for COVID-19 resources and most recent press releases: <https://www.dol.gov/coronavirus>
- Department of Education page for COVID-19 resources: <https://www.ed.gov/coronavirus>
- Small Business Administration COVID-19 resources: <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

Members are encouraged to submit questions on the CARES Act or the Families First Coronavirus Response Act via coronavirus@avma.org as they will help inform a FAQ document and other materials to follow.



Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

The following document provides a section-by-section summary of the relevant provisions of the CARES Act for veterinarians and veterinary business owners.

Title I: Keeping America's Workers Paid and Employment Act

CARES Act Title I establishes a new, temporary payroll protection loan program for small businesses, sole proprietors/self-employed, and 501(c)(3)s to access loans for payroll, benefits, and operating expenses. The intent is to help small businesses maintain workers and operations by providing quick capital and broad loan forgiveness for the amount used for payroll and operating expenses. To expedite distribution, the bill waives requirements for fees, collateral, and credit to increase eligibility for both lenders and borrowers. Additionally, aside from the paycheck protection program detailed below, the bill directs SBA to pay the principal, interest, and fees for qualifying existing and new SBA 7(a) loans for six months.

Paycheck Protection Program

Sec. 1102: Creates a new Paycheck Protection Program that authorizes the Small Business Administration (SBA) to make 100% guaranteed covered loans to small businesses (including sole proprietors, independent contractors, and eligible self-employed) that have been impacted by COVID-19 and need the funds to retain workers and maintain payroll and other debt obligations. Applicants are required to provide a good faith certification that the loan is needed because of the economic uncertainty and that the funds will support retaining workers.

Highlights of the loan program include:

- Covers period of February 15, 2020 to June 30, 2020
- Maximum amount of loan increased from \$5 million to \$10 million and individual size of loan determined by a formula that considers average total of monthly payroll costs prior to outbreak
- Eligible costs: salary or wages, healthcare group plans (including premiums), retirement benefits, cash tips, state or local tax assessed on employee compensation, paid time off (sick, vacation, parental, family leave), allowance for dismissal, mortgage payments (excludes pre-payments), rent, utilities, and interest on other previously incurred debt obligations.
 - For sole proprietors and independent contractors, loans fund **cannot** be used for: compensation in excess of an annual salary of \$100,000, as prorated for the covered period; tax payments for federal insurance; tax payments for income; and payment of federally mandated COVID-19 paid sick leave and family leave.
- Does not preclude applying for an economic injury disaster loan for purposes other than payroll.

Loan Forgiveness

Sec. 1106: Establishes a loan forgiveness component for the paycheck protection program loans for portion used during the 8-week covered period for payroll costs, covered mortgage interest, covered rent, covered utilities. Amount forgiven cannot exceed the principal.

- Excludes payroll costs for employees that make more than \$100,000
- Amount of canceled debt will be reduced proportionally by the decrease in full-time equivalent employees as compared to the period of February 15, 2019 to June 30, 2019 and the amount of

any reduction in total salary or wages paid to any employee during the covered period that is greater than 25% of that paid during the most recent full quarter.

- There are provisions for re-hires in determining the loan forgiveness to ensure employers are not penalized for the reduction in payroll if the employee has since been rehired during the covered period.
- Canceled debt is excluded from gross income tax
- Requires applicant to submit documentation to qualify, including: payroll tax filings, receipts of payments, canceled checks, etc. Determination is required within 60 days of filing.
- After one year, the outstanding balance of the loan that is not eligible for forgiveness has a 10-year maximum maturity and a 4% interest rate. Allows repayment deferment for at least six months and directs additional guidance from SBA.

Emergency Economic Injury Disaster Loans

Sec. 1110: Extends the eligibility of the emergency economic injury disaster loans (EIID) to sole proprietorships or independent contractors through the end of the year. Waives requirements that the entity be in business for a year; personal guarantee requirement for loans under \$200,000; and that the applicant is unable to obtain credit elsewhere. Allows an eligible entity to request an emergency advance of up to \$10,000 within 3 days of application that can be used for any allowable purpose, including mandated sick leave, maintaining payroll, increased costs due to supply chain interruptions, rent or mortgage payments. An applicant is not required to repay the advance even if denied the loan. Once approved, the advance amount will be reduced from the loan forgiveness amount.

Title II: Assistance for American Workers, Families and Businesses

CARES Act Title II creates a new federal pandemic unemployment program that would provide support for individuals who are typically ineligible for benefits or who have exhausted state benefits. It authorizes an additional \$600 federal benefit. This section also includes new tax provisions for both individuals and businesses, including advanced tax credits and flexibility in retirement account withdrawals

Pandemic Unemployment Assistance

Sec. 2102 - 2107: Creates a temporary pandemic unemployment program from January 27, 2020 through December 31st, 2020 for individuals that traditionally are not eligible for unemployment benefits and who are unable to work as a direct result of the coronavirus emergency. This includes the self-employed and independent contractors.

- Covered individual is a person not eligible for regular compensation or extended benefits under State or Federal law. Includes an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or the new pandemic emergency unemployment compensation program (a distinct program from this one)
- Provides that the weekly benefit will be the same as that authorized under the unemployment compensation law of the individual's state of employment, plus an additional \$600. There are provisions for calculating the weekly benefit for the self-employed, plus the additional \$600.
- New Pandemic Emergency Unemployment Compensation program provides an additional 13 weeks of federal unemployment benefits through December 31, 2020 for individuals that remain unemployed after state unemployment benefits have been exhausted.

Recovery Rebates

Sec. 2201: Creates a new, 2020 recovery rebate that is an advanced tax credit of \$1,200 for individual filers (\$2400 for joint filers) plus \$500 per qualifying child, for residents who are not a dependent of another taxpayer and have a work-eligible social security number. The credit is phased out for individuals with adjusted gross income over \$75,000 (\$150,000 joint filers). The credit phases out completely at \$99,000 for individuals and \$198,000 for joint filers. There is a provision for advancing the “rebate” tax credit as rapidly as possible.

Retirement Account Withdrawals

Sec. 2202: This section waives the 10-percent early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes. Coronavirus related purposes are for an individual:

- Diagnosed with COVID-19, or
- Whose spouse or dependent is diagnosed COVID-19, or
- Who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of childcare due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19.
- Any amount required to be included in gross income may be spread out over a three-year period. The amounts distributed may also be repaid and treated as a rollover.
- Increases the limit on loans from plans from \$50,000 to \$100,000 for coronavirus related loans during the six months after enactment.
- Current outstanding loans with due dates between the date of enactment and December 31st are delayed one year.

Employer Student Loan Repayment Benefit

Sec. 2206: This provision allows employers to provide a student loan repayment benefit to employees on a tax-free basis for 2020. An employer may contribute up to \$5,250 annually toward an employee’s student loans, and this would be excluded from the employee’s income. It applies to student loan payments made by an employer after the date of enactment and before January 1, 2021.

Employee Retention Credit

Sec. 2203: Establishes a refundable payroll tax credit for businesses that fully or partially suspend operations due to a COVID-19 order. The amount eligible is 50 percent of qualified wages paid by employers during the COVID-19 crisis.

- The credit is based on qualified wages paid to the employee.
- The amount of qualified wages per employee that may be taken into account for all calendar quarters shall not exceed \$10,000. – forgivable
- For eligible employers with greater than 100 full-time employees, qualified wages are wages paid to an employee who is not providing services due to the employer’s business being fully or partially suspended due to a COVID-19 related shut-down order, or the period of time beginning when the gross receipts declined by more than 50% compared to the same quarter last year, and ending when gross receipts are greater than 80% compared to the same quarter last year.
- For eligible employers with 100 or fewer full-time employees, qualified wages are wages paid by the employer during a COVID-19 related shut-down order, or wages paid by the employer during a quarter when the gross receipts declined by more than 50% compared to the same quarter last year, and ending when gross receipts are greater than 80% compared to the same quarter last year.

- The credit is provided for wages paid from March 13, 2020 through December 31, 2020.
- The tax credit is not available for those who receive a forgivable small business loans (see Sec. 1102).

Delay of Payment of Employer Payroll Tax

Sec. 2302: Allows employers and self-employed individuals to defer payment of the employer share of the Social Security payroll tax (i.e. - the 6.2%).

- The provision requires that the deferred employment tax be paid over the next three years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.
- Does not apply to any taxpayer who has had indebtedness forgiven under the small business COVID-19 loan program.
- The deferral period begins at enactment and ends January 1, 2021.

Modifications for Net Operating Losses

Sec. 2303: Under IRC 172(a): Relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Sec. 2304: Under IRC 461(l)(1): For pass-throughs and other noncorporate taxpayers, modifies the loss limitation applicable to pass-through businesses and sole proprietors. This will allow noncorporate entities to utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees.

Modification of Limitation on Business Interest

Sec. 2306: Temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50-percent of taxable income (with adjustments) for 2019 and 2020. This provision will allow businesses to increase liquidity with a reduced cost of capital.

Tax Deduction for Qualified Improvement to Property

Sec. 2307: Technical Amendment Regarding Tax Deduction for Qualified Improvement to Property enables businesses to immediately write off costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, increases companies' access to cash flow by allowing them to amend a prior year return, and incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Title III: Supporting America's Health Care System in the Fight Against Coronavirus

Title III addresses several aspects of healthcare - access to care, workforce, supply chain, innovation, and drugs. Education provisions provide assistance and flexibility to students negatively impacted by COVID-19. Title III includes Department of Labor provisions, including limitations, on the federal mandates for

paid sick and family and medical leave for the coronavirus enacted in the Families First Response Act of 2020.

Prioritize New Drug Applications

Sec. 3111: Permits the Food and Drug Administration (FDA) to prioritize reviews of supplement to a new drug application, an abbreviated new drug application, or a supplement to such an application that could help mitigate or prevent such shortage and prioritize an inspection or reinspection of an establishment that could help mitigate or prevent such drug shortage.

Supply Chain

Sec. 3112: Requires drug manufacturers to submit more information when there is an interruption in supply, including information about active pharmaceutical ingredients, when active pharmaceutical ingredients are the cause of the interruption. Requires manufacturers to maintain contingency plans to ensure back-up supply of products. Requires manufacturers to provide information about drug volume.

Sec. 3121: Clarifies that during a public health emergency, a medical device manufacturer is required to submit information about a device shortage or device component shortage upon request of the FDA.

Animal Drugs

Sec. 3302: Provides Breakthrough Therapy designations for animal drugs that can prevent human diseases – i.e. speed up the development of drugs to treat animals to help prevent animal-to-human transmission, which is suspected to have occurred with outbreak of novel coronavirus, leading to the SARS-CoV-2 pandemic.

Supplemental Educational Opportunity Grants

Sec. 3504: Allows institutions to use Supplemental Educational Opportunity Grants for students impacted by COVID-19.

Online Learning

Sec. 3510: Allows for foreign institutions to offer online/distance learning to U.S. students receiving Title IV funding during the duration of the COVID-19 disaster.

Student Loan Deferment

Sec. 3513: Allows the Secretary of Education to defer student loan payments, principal, and interest for 6 months (through September 30, 2020) without penalty to the borrower for all federally owned loans.

- Consumer Reporting Agencies are to treat suspended payments as if they were a regularly scheduled payment made by the borrower
- Debt collections related to federal loans are suspended.
- Borrowers could continue making payments toward principal.
- During this time, borrowers would receive credit for making payments in order to remain on track for loan forgiveness programs such as the Public Service Loan Forgiveness (PSLF) Program.

Department of Labor: Paid Sick and FMLA Limitations

Sec. 3601: Provides a limitation that employers shall not be required to pay more than \$200 per day and \$10,000 in the aggregate for each employee under this section (Family and Medical Leave Act as amended by Families First Coronavirus Response Act).

Sec. 3602: Provides a limitation that employers shall not be required to pay more than \$511 per day and \$5,110 in the aggregate for sick leave or more than \$200 per day and \$2,000 in the aggregate to care for a quarantined individual or child for each employee under this section (Emergency Paid Sick Leave Act-Division E of the Families First Coronavirus Response Act).

Sec. 3605: Allows an employee who was laid off by an employer March 1, 2020, or later to have access to paid family and medical leave in certain instances if they are rehired by the employer. Employee would have had to work for the employer at least 30 days prior to being laid off.

Advance Refunding of Tax Credits

Sec. 3606: Allows employers to receive an advance tax credit from Treasury instead of having to be reimbursed on the back end. Creates regulatory authority to implement the tax credit advances.

Title IV: Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Title IV appropriates \$500 billion in federal funding for the Department of Treasury for direct lending and grants to buoy those industries most devastated by COVID-19, such as restaurants, hotels and airlines.

Coronavirus Economic Stabilization Act of 2020

Subtitle A: Provides \$500 billion to Treasury's Exchange Stabilization Fund to provide loans, loan guarantees and other investments. Includes provisions to ensure appropriate distribution and oversight of dollars, such as prohibiting stock buybacks, requirements to maintain employment levels, compensation for certain employees and prohibitions on companies associated with the President, Vice President, their children or families from benefiting from loans or loan guarantees provided in the bill.

Sec. 4018: Creates a Special Inspector General for Pandemic Recovery within the Department of Treasury

Sec. 4020: Creates a Congressional Oversight Commission charged with oversight of implementation of Title IV. Terminates on Sept. 30, 2025

Sec. 4022: Prohibits foreclosures on all federally backed mortgage loans for a 60-day period beginning March 18, 2020. Provides up to 180 days of forbearance for borrowers of a federally backed mortgage loan who have experienced a financial hardship related to the COVID-19 emergency.

Sec. 4023: Provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced financial hardship

Sec. 4024: Prohibits eviction filings for 120 days after enactment for nonpayment of rent where the landlord's mortgage on the property is insured, guaranteed, supplemented, protected or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

Title V: Coronavirus Relief Funds

Creates a \$150 billion "Coronavirus Relief Fund" for state, territorial, tribal and local governments. All but \$11 billion would go directly to states. \$11 billion set aside for DC, territories and tribal governments. Local governments with 500,000 or more residents would be able to apply for their own direct funding, with smaller ones needing to go through their state sums. A population-based formula would determine the amount each state receives, with no state seeing less than \$1.25 billion, including funds set to local governments.

Title VI: Miscellaneous Provisions

Designates bill as emergency spending and thus exempt from budget caps and sequestration.

Emergency Appropriations for Coronavirus Health Response and Agency Operations

Provides nearly \$340 billion to support the entire federal government's response to COVID-19 and to ultimately support states and communities.

The federal government has several departments engaged in implementation of the coronavirus response legislation, including the Department of Treasury, Department of Labor, Department of Education, and the Small Business Administration. Each has a website dedicated to COVID-19 resources and developments, available here:

- Department of Treasury Internal Revenue Service COVID-19 resources and guidance: <https://www.irs.gov/coronavirus>
- Department of Labor page for COVID-19 resources and most recent press releases: <https://www.dol.gov/coronavirus>
- Department of Education page for COVID-19 resources: <https://www.ed.gov/coronavirus>
- Small Business Administration COVID-19 resources: <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

COVID-19: FAQ FOR VETERINARY SMALL BUSINESSES

Recent emergency stimulus legislation has provided significant federal funding through the Small Business Administration (SBA) for new loan programs to assist small businesses, independent contractors, and the self-employed, coping with the financial impacts of [COVID-19](#).

SMALL BUSINESS LOANS

Disaster Assistance Loans

- *Who can apply?* Small businesses operating in states that have declared a disaster
- *How much?* Up to \$2 million available for economic injury including fixed debts, payroll, accounts payable, and other bills that can't be paid because of the disaster's impact.
- *Terms and repayment?* 3.75% interest rate with a 30 year-maximum repayment, determined on borrower's ability to repay
- *How to apply?* Online at <https://disasterloan.sba.gov/ela/Information/ApplyOnline>
- *Questions?* Contact the SBA disaster assistance customer service center at 1-800-659-2955 (TTY: 1-800-877-8339) or e-mail disastercustomerservice@sba.gov.

Temporary Payroll Protection Program with Forgiveness

- *Who can apply?* Small business operating on 3/15/2020 with under 500 employees
- *What about Sole-proprietors, Independent Contractors, and Self-Employed?* Eligible to apply, but there's a \$100,000 compensation limit
- *How much?* Up to \$10 million available for payroll and eligible costs. Loan amount will be 250% of your average monthly payroll costs.
- *Terms and repayment?* After 1 year, 4% interest rate for the outstanding balance that is not forgivable with 10-year maximum repayment and a one-time 6 month deferral
- *What could be forgiven?* The amount equal to what was spent on eligible costs from 2/15/2020 - 6/30/2020 reduced proportionately by: employee layoffs (unless they are rehired) and the reduction to an employee's pay by more than 25% compared to the last full quarter. This will not be counted as taxable income. SBA must provide determination within 60 days of filing.
- *How to apply?* SBA will be releasing information on how to apply for the payroll protection loan
- *How to apply for forgiveness?* SBA guidance is pending, but applicants will need to have supporting documentation to qualify, including: payroll tax filings, receipts of payments, canceled checks, etc.

Emergency Economic Injury Disaster Loan

- *Who can apply?* Small business operating on 3/15/2020 with under 500 employees that applied for a SBA Economic Injury Disaster loan and now need immediate cash
- *What about Sole-proprietors, Independent Contractors, and Self Employed?* Eligible to apply until 12/31/2020
- *How much?* Provides an advance of \$10,000 distributed within 3 days that is used to cover paid sick leave, payroll, rent and mortgage payments, and other repayment obligations
- *Terms and Repayment?* An applicant is not required to repay the advance even if denied the loan. Once approved, the advance amount will be reduced from the payroll protection loan forgiveness amount.
- *How to apply?* SBA will require a signed affidavit that indicates you are an eligible applicant.