

Understanding President Trump's Proclamation that Limited U.S. Immigration: The Current and Future Outlook for Private Clubs

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Presented by:

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Moderated by:

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Visit nationalclub.org/coronavirus for more information

Henry Wallmeyer

**President and CEO
National Club Association**



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nationalclub.org/coronavirus

The screenshot shows the top navigation bar of the National Club Association website. The logo is on the left, and the navigation menu includes Home, Legislation, Finance, Leadership, Health & Safety, Membership, Operations, Workforce, and a Contact Us button. The main content area has a green and blue background with a coronavirus particle graphic. It features the text 'A NATIONAL CLUB ASSOCIATION SUPPORT SITE' and a large title 'Coronavirus What Clubs Need to Know'. Below the title is a play button icon and a text snippet: 'Listen: NCA's Joe Trauger Updates Clubs on a New Relief Bill and How Your Voice Can Help'. At the bottom is a button with a group icon and the text 'Become Part of the NCA Network'.

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A NATIONAL CLUB ASSOCIATION SUPPORT SITE

Coronavirus What Clubs Need to Know

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Joe Trauger

**Vice President of Government Relations
National Club Association**



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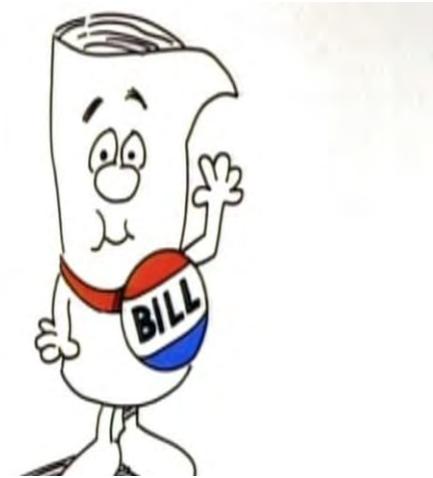
Finally, It's July...

- Discussions are underway in Senate
- House passed \$3 trillion package in June
- Administration is eyeing \$1 trillion stimulus

What's In the Mix?

- State and Local Budgets
- Individual Payments
- PPP – extended to August 8, 2020 – what's next?
- ERTC – NCA Supports Bipartisan Enhancement of Program
- PHIT Act?
- Federal Reserve Main Street Lending Program – NCA comments urging expansion to nonprofits

The House and Senate are both in recess until July 20, 2020. Some Committees are conducting business remotely.



Visit nationalclub.org/coronavirus for more information

Lots of Unknowns

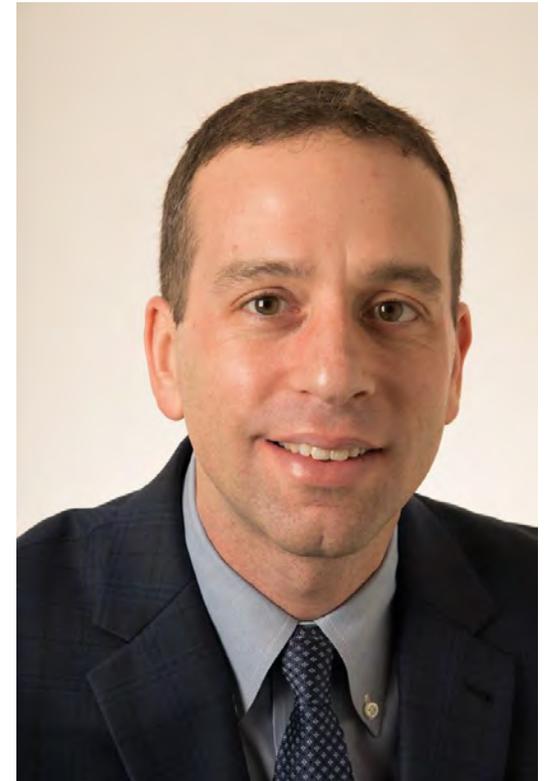


- Will schools be open or closed this Fall – how does that affect childcare and return to work?
- Will there be local or regional stay at home orders reinstated?
- Case rates are rising faster than ever – 60,000 new cases on July 7, 2020
- Will people go back to work unless they absolutely have to?
- State and Local Governments will be looking for revenue – sales and withholding significantly impacted
- Property taxes?
- NCA State Legislative Response Manual

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Keith Pabian

**Founding Partner
Pabian Law, LLC**



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Understanding President Trump's Proclamation that Limited Immigration

The Current and Future Immigration
Outlook for Clubs

Today's Speakers

Keith Pabian
Founding Partner
Pabian Law, LLC



Joe Trauger
Vice President of Government
Relations
National Club Association



President Trump's Immigration Proclamation

- ▶ Based on national emergency (COVID-19 & high unemployment)
- ▶ Effective June 24th
- ▶ Suspended entry, through December 31st, of foreign nationals seeking to enter USA on following visas:
 - ▶ H-2B
 - ▶ J-1 (includes summer work & travel, intern, trainees, and camp counselors)
 - ▶ H-1B
 - ▶ L-1
 - ▶ Spouses and children of the above visa classifications
- ▶ Consular green card application suspension extended



Exceptions

- ▶ Workers that are:
 - ▶ Critical to the U.S. food supply chain
 - ▶ National security
 - ▶ Medical care for COVID patients
 - ▶ Medical research on COVID
 - ▶ Others critical to the national interest
- ▶ People who already had valid visa in their passport
- ▶ Canadian citizens



What was not included in the Proclamation

- ▶ B visas
- ▶ F visas (including CPT and OPT)
- ▶ O visas
- ▶ P visas
- ▶ Treaty-based visas
 - ▶ E, TN, E-3, and H-1B1
- ▶ Green cards processed in the USA (Adjustment of Status applications)
- ▶ Visa extensions and transfers (ex. H-2B transfers, H-1B transfers, and J-1 change of status applications)

What about those already in the USA?

- ▶ The President of the USA is limited in his/her power
 - ▶ Cannot:
 - ▶ Unilaterally change immigration laws
 - ▶ Can't indefinitely suspend immigration
 - ▶ Make regulations governing those already in USA
 - ▶ Those already in USA are safe from further restrictions, barring a change in laws/regulations
 - ▶ Shut down immigration agencies
 - ▶ U.S. Department of Labor and U.S. Citizenship & Immigration Services (USCIS) continue to operate and approve petitions



The Politics behind the Proclamation



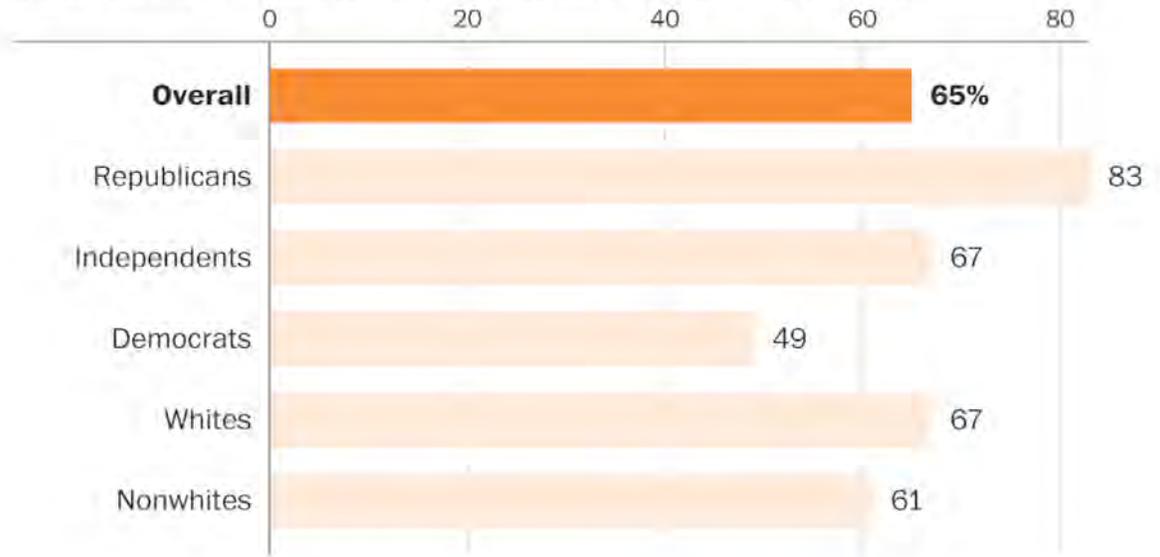
Conflicting Immigration Views in the White House

- ▶ Jared Kushner
 - ▶ Represents the side of “President Trump uses foreign nationals. Why would he make changes?” (able to see visas as helpful to businesses)
 - ▶ H-2B seasonal visas
 - ▶ H-1B professional year-round visas
 - ▶ EB-5 investment green cards
- ▶ Stephen Miller
 - ▶ Anti-immigration
 - ▶ “Turn it off”
 - ▶ Against “chain migration”



Broad support for temporarily blocking nearly all immigration to the U.S. during the coronavirus outbreak

Q: Would you support or oppose temporarily blocking nearly all immigration into the United States during the coronavirus outbreak? (Percent who support)

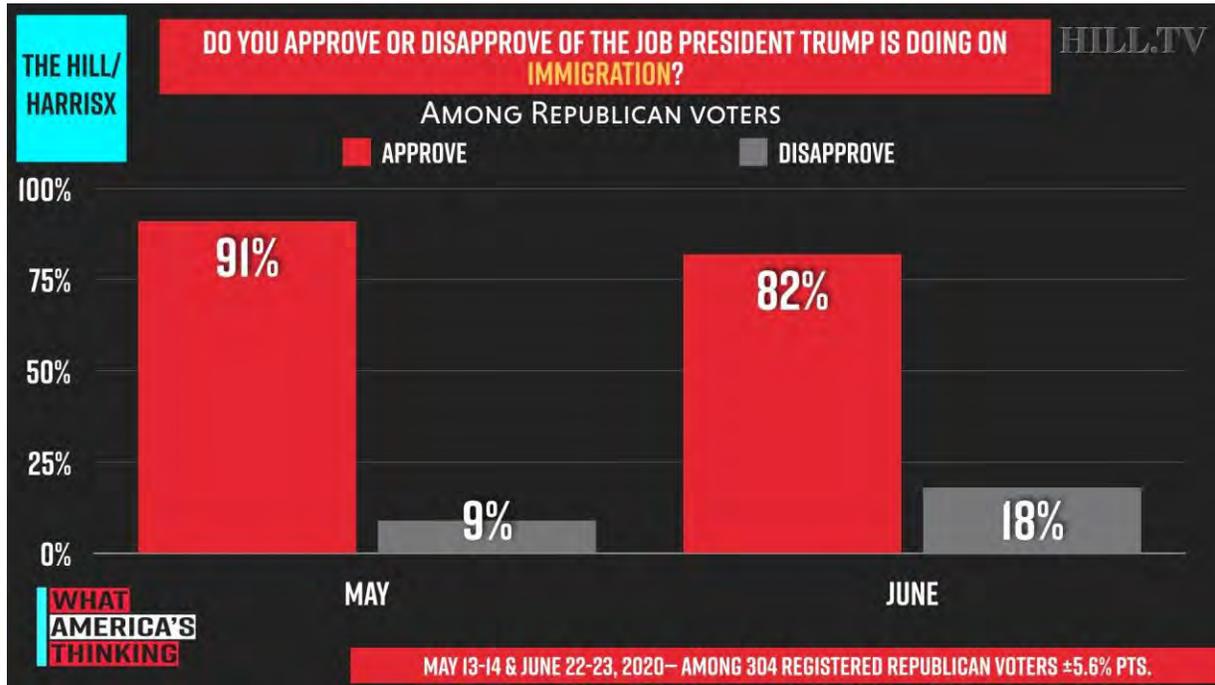


Source: April 21-26, 2020, Post-U. Md. poll of 1,008 adults with error margin of +/- 3.5 percentage points overall. Error margins larger among subgroups.

EMILY GUSKIN/THE WASHINGTON POST

Why include H-2B and J-1 visas?

- ▶ H-2B visas
 - ▶ Only type of visa included in Proclamation that requires a test of the U.S. labor market
 - ▶ U.S. Department of Homeland Security has expanded number of available H-2B visas in last 3 years
 - ▶ The numerical cap has been reached for both summer and winter seasons annually for past several years
- ▶ J-1 visas
 - ▶ A target of the President Trump, even on campaign trail pre-presidency
 - ▶ Intern visa - “substantive work” is technically not allowed



BUT, did the Administration go too far with the latest restrictions?

How does the Proclamation Impact your Club?



Impacts on summer 2020 season

- ▶ No impacts, unless:
 - ▶ Waiting for H-2B or J-1 workers who have not entered country and have not been issued summer-season H-2B visas
- ▶ If workers already were issued visas as of June 24th, able to travel to USA - even after Proclamation in effect
- ▶ For workers already in USA, we strongly recommend they not leave during season
 - ▶ But, they can if they are returning to work for same employer, have visa in their passport, and visa will still be valid upon return to USA
- ▶ J-1 summer work and travel, interns, and trainees are included in suspension
- ▶ Changes/lifting of restrictions unlikely before end of summer



Note: Due to Proclamation,
winter-season organizations will
now be VERY interested in
partnering for in-country transfers



Looking ahead to 2021 summer season

- ▶ Proclamation scheduled to end on December 31st
 - ▶ Should be over WELL in advance of start of 2021 season
- ▶ Opportunities for in-country transfers
- ▶ Will H-2B cap be less competitive with less organizations filing (ex. Restaurants, urban organizations, etc.)?
- ▶ Will vaccine arrive before 2021 season?
- ▶ We are hearing that summer-season organizations are already starting to plan for normal year in 2021
- ▶ NOTE: we start work on petition in mid-September 2020



Impacts on Winter Season 2020-2021

- ▶ H-2B visas
 - ▶ In-country transfers?
 - ▶ Wait until January 1st and hope that changes come sooner?
 - ▶ Split your petition into in and out-of-country?
 - ▶ Bring some early in season as in-country transfers
 - ▶ Bring rest on January 1st
 - ▶ Recruiting considerations
- ▶ J-1 visas
 - ▶ Will suspension be limited?
 - ▶ Are more changes coming?
 - ▶ Do you increase H-2B numbers in case J-1 visas are forever changed?
 - ▶ Do you consider J-1 to H-2B change of status petitions?



Understanding in-country transfers

- ▶ How does it work?
- ▶ Tips to be successful
- ▶ 3-year limit issues
- ▶ How do you find workers?
- ▶ Do you consider changing J-1 visa holders to H-2B status?



Impacts on Year-round organizations

- ▶ H-1B visas
 - ▶ Subject to suspension
 - ▶ More changes could be coming to this type of visa
- ▶ Green card applications
- ▶ J-1 visas
 - ▶ Will more changes be coming to the J-1 visa program?
- ▶ H-2B visas
 - ▶ Does your organization qualify even if you are open year-round?
- ▶ O visas are not covered by suspension
 - ▶ Could be option for senior club managers and chefs
- ▶ Country-specific visas are not subject to suspension
 - ▶ Australia, Chile, Singapore, Canada, Mexico
 - ▶ All require a showing that the foreign national has the equivalent of a Bachelor's degree and that the job requires a Bachelor's degree as a minimum qualification



Travel considerations for foreign nationals

- ▶ Domestic travel is fine
- ▶ International travel
 - ▶ Foreign nationals can travel if have approved visa in passport and it will still be valid when they seek to reenter
 - ▶ Need to reenter to work for same employer that sponsored them for visa
 - ▶ If visa was approved prior to June 24th, but foreign national had not yet entered USA, can travel to USA
 - ▶ More guidance will hopefully be coming
- ▶ BUT, be very, very careful surrounding COVID-19 travel restrictions
 - ▶ Big trap: connecting flights through countries under suspensions, bans, mandatory quarantines due to coronavirus
- ▶ Handling quarantine obligations once workers arrive in USA



Potential for Changes



Changes alluded to in Proclamation

- ▶ Within 30 days, and every 60 days thereafter, government is required to review and recommend potential changes
 - ▶ Visas could be removed from suspension
 - ▶ Other exceptions could be included
- ▶ Further restrictions/new regulations limiting and changing J-1 visas?



Be careful - there are other immigration considerations beyond the Proclamation

So, so many COVID-19 issues and restrictions impacting international travel and U.S. entry (ex. Embassy/consulate closures, quarantine mandates, banned countries, etc.)

Outlining lobbying & litigation efforts

Understanding the National Club
Association's involvement & how you can
advocate



Questions?

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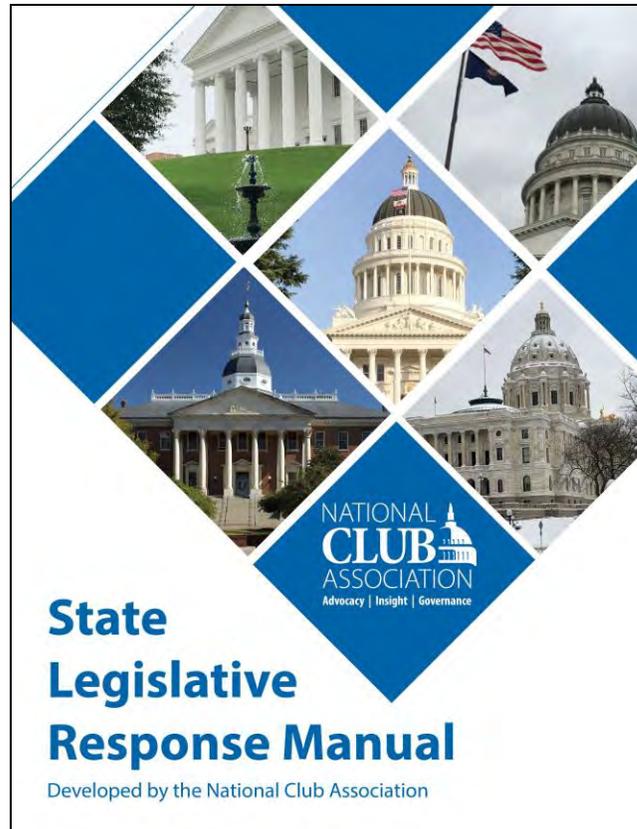
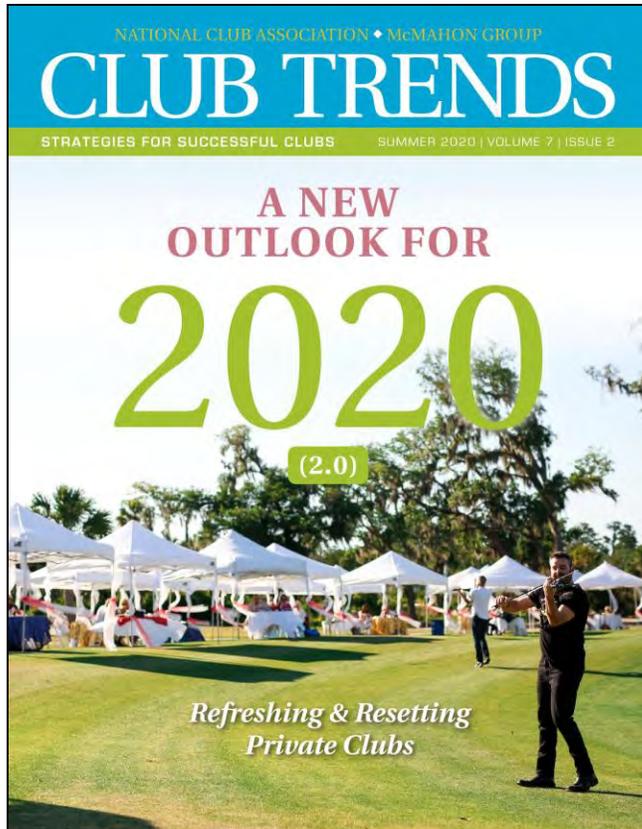
The logo for the National Club Association. It features the word "NATIONAL" in a light blue sans-serif font, "CLUB" in a large, bold, dark blue serif font, and "ASSOCIATION" in a light blue sans-serif font. To the right of "CLUB" is a dark blue silhouette of a building with a dome and columns. Below the main text is the tagline "Advocacy | Insight | Governance" in a smaller, dark blue sans-serif font.

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Additional NCA-Member Resources



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"I need to do my part in supporting NCA the way you are supporting everyone else."