

COVID-19 Update From EKA – March 19, 2020

As the global effect of Coronavirus (COVID-19) continues to evolve, EKA is closely monitoring the changing situation at the local, state and national levels. Below are some of the significant government-related developments over the past 24 hours.

County of Los Angeles

- The Los Angeles County Consumer and Business Affairs Department has [created a website](#) to help consumers and businesses with COVID-19 issues. For a complete list of emergency resources for small businesses, [click here](#).
- Presiding Judge Kevin Brazile has ordered that all civil and criminal trials are suspended through April 16. Some courts will remain open for emergency matters. All traffic and non-traffic infraction hearings in Los Angeles County Superior Court scheduled between March 17 and April 16 will be delayed for at least 30 days.
- Metrolink is relaxing its Monthly Pass cancellation policy. Riders who did not at all use their monthly pass in March will receive a full refund. If riders used their pass for part of the month, Metro will provide users with a prorated credit for future use. If a passenger would like a credit or a refund, [click here](#).
- The American Red Cross said they're now facing a severe blood shortage as blood drives continue to be canceled. People who would like to donate blood should [click here](#).
- The Los Angeles Community College District issued a Resolution regarding COVID-19 emergency plans. [Click here](#) to review the Resolution.
- All-mail elections, are a possibility for two Southern California elections scheduled for May 12. Registrars are trying to decide whether to go that route, a call that elections officials around the country must make as the pandemic spreads.

City of Los Angeles

- The City Council met to pass emergency legislation including an [eviction moratorium](#) for both residential and commercial properties, asking grocery stores to open early for seniors as well my motion to figure out a way to have the City offer a week of food at a time to seniors.
- Mayor Eric Garcetti announced an \$11 million economic relief package for small businesses impacted by the (COVID-19). As part of the program, which was approved by the Los Angeles City Council, the Economic and Workforce Development Department will provide \$11 million in no-fee microloans of \$5,000 to \$20,000 — which may be used to cover working capital. The microloan program is being paired with a Small Business Resilience Toolkit, which is being distributed as a digital guidebook and includes vital information covering Federal, State, County, and City emergency policies and programs impacting small businesses. To apply for a microloan or view the toolkit, [click here](#).
- Mayor Garcetti opened some of the buildings at Recreation and Park facilities to provide temporary emergency shelter for those experiencing homelessness. Under the Mayor's declaration of a state of emergency, these newly formed shelters will serve as rescue and

disaster sites for those who do not show symptoms of Covid-19.

City of Long Beach

- The Long Beach City Council voted to establish an Economic Relief Package for the City. [Click here](#) for details.
- Businesses and workers in Long Beach impacted by the economic emergency should call (562) 570-4BIZ or [click here](#) to access existing small business loans, receive technical assistance, and unemployment benefits insurance programs provided by the City.
- The Long Beach Animal Care Services is now operating by appointment only. To make an appointment to adopt or foster a pet, contact AnimalRescue@longbeach.gov
- Long Beach City residents are strongly encouraged to sign up for [Alert Long Beach](#) to receive emergency notifications to their mobile phone and/or email address.
- The City of Long Beach, in partnership with the Long Beach Community Foundation created a Long Beach Coronavirus Relief Fund. Financial contributions can be made to assist members of the local community who have been critically impacted as a result of the current public health crisis. Text "SupportLB" to 501-55 and follow the prompts to donate. Use PayPal online or the smartphone application to [@SupportLB](#) or visit longbeachcf.org to fill out the secure online form.

Sacramento

- Governor Newsom issued Executive Order [Executive Order N-29-20](#), which waives eligibility re-determinations for 90 days for Californians who participate in safety net services; and provides additional guidance on the Brown Act.
- Governor Newsom issued Executive Order [Executive Order N-31-20](#), which eases restrictions on commercial drivers; and suspends labor law that governs employer notice requirements related to relocations, terminations, and mass layoffs.
- Governor Newsom issued [Executive Order N-29-20](#), which waives eligibility re-determinations for 90 days for Californians who participate in: Medi-Cal, CalFresh, CalWORKS, Cash Assistance for Immigrants, and In-Home Supportive Services. The executive order also waives certain provisions of the Bagley-Keene Act and the Brown Act, including requirements which expressly or impliedly require the physical presence of members, the clerk or other personnel, or the public; and specifying requirements for providing notice, teleconferencing and resolving requests for reasonable accommodations. These provisions supersede provisions from a previous Executive Order ([N-25-20](#)).
- Governor Newsom issued [Executive Order N-31-20](#), which eases restrictions on commercial drivers engaged in support of emergency relief efforts. The executive order also suspends existing labor law that governs employer notice requirements related to relocations, terminations, and mass layoffs, beginning March 4, 2020, through the end of this emergency, for employers directly impacted by COVID-19, provided that certain conditions are met. It also directs the Labor and Workforce Development Agency to provide guidance to impacted employees.

National

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- The Centers for Disease Control and Prevention have updated their Interim Guidance for Business and Employers. [Click here](#) to view the guidance.
- The U.S. Small Business Administration issued revised criteria for states or territories seeking an economic injury declaration related to Coronavirus (COVID-19). For more information, [click here](#).

The U.S. Senate passed the [Families First Coronavirus Response Act](#) that was passed by the House earlier this week. President Trump signed the 100 bill into law. Employers will be required to post an approved notice regarding the Act once the Secretary of Labor makes it available. Here are the important aspects for employers:

- Paid Sick Leave: Under the new law, employers with fewer than 500 employees (yes, this is a strange limitation) must provide employees with two weeks (10 days) of emergency paid sick leave benefits to be used for Coronavirus-related absences. For full-time employees, this means 80 hours of paid sick leave. For part-time employees, this means the number of hours the employee works on average over a two-week period. There is no minimum tenure of employment for an employee to be eligible for this paid sick leave benefit. The full benefits must be available for immediate use and do not accrue over time based on hours worked. Importantly, an employer cannot require employees to exhaust other forms of paid leave before using this new Coronavirus paid leave. Additionally, the Coronavirus paid leave is in addition to any paid leave the employer already provides. It does not appear that an employer with an existing paid sick leave policy (e.g., in California) is excused in whole or in part from compliance with the new law. The law is only in place until December 31, 2020.

An employee may use paid sick leave if the employee is unable to work for any of the following reasons:

- The employee is subject to a federal, state, or local quarantine or isolation order for Coronavirus;
- The employee is advised by a health care provider to self-quarantine due to Coronavirus concerns;
- The employee is experiencing symptoms of Coronavirus and seeking a medical diagnosis;
- The employee is caring for an individual who is under a quarantine or isolation order or has been advised to self-quarantine;
- The employee is caring for a child whose school or child care has been closed due to Coronavirus;
- The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Employees using paid sick leave for purposes (1)-(3) above must be paid their "regular rate of pay" (as defined for purposes of calculating overtime compensation), which cannot be less than the minimum wage in the state or locality where the employee works. Employees using leave

for reasons (4)-(6) must be paid 2/3 of these amounts. However, an employer's obligation to provide paid sick leave is subject to the following "caps:" (A) An employee using paid sick leave for reasons (1)-(3) above need not be paid more than \$511 per day and/or \$5,110 in the aggregate; and (B) An employee using paid sick leave for reasons (4)-(6) above need not be paid more than \$200 per day and/or \$2,000 in the aggregate. If an employee does not have a set schedule of hours, paid sick leave is based on the average number of hours the employee was scheduled per day over the six-month period prior to the use of the leave. For what it is worth, the Secretary of Labor is supposed to issue guidelines on calculating paid sick leave pay within 15 days.

- The employee's ability to use paid sick leave for these purposes ceases upon the termination of the qualifying event. Paid leave provided under this law does not carry over year to year and any unused leave does not need to be paid out on termination of employment.
- The Secretary of Labor can issue regulations to exempt health care providers, emergency responders, and employers with fewer than 50 employees from this paid sick leave law. There is no built in exemption, however.
- Employers are required to post a notice in the workplace of paid sick leave rights under the new law. The Secretary of Labor is supposed to publish this notice for employers to use within 7 days.
- Failure to comply with the paid sick leave law will be deemed a failure to pay minimum wages under the FLSA, and subject an employer to various penalties.

Expanded Family and Medical Leave

- The new law also includes a temporary expansion of the Family and Medical Leave Act ("FMLA") through December 31, 2020 to allow FMLA leave (up to 12 weeks) to be used for a qualifying need related to a public health emergency concerning Coronavirus, as declared by federal, state, or local authorities. A "qualifying need" is limited to circumstances where the employee is unable to work or telework due to the need to care for a child under 18 if the child's school or childcare is closed due to a Coronavirus-related public health emergency. Employees are eligible for the leave if they have worked for the employer for at least 30 calendar days. (This is a much broader than the usual eligibility rules for existing forms of FMLA leave.)
- Importantly, the expanded FMLA leave entitlement only applies to employers with fewer than 500 employees (again, bizarre). The Secretary of Labor has authority to issue regulations to exempt small business with less than 50 employees, but they are not yet exempt.
- The rules for when this Coronavirus-related FMLA leave is paid versus unpaid differ greatly from existing forms of FMLA leaves, all of which are unpaid. If an employee takes leave to care for a child due to a Coronavirus-related school closure, the first 10 days of the leave may be unpaid. The employee may elect (but may not be required) to use accrued vacation or sick leave during this time. After this first 10 days, the employer must provide PAID leave of no less than two-thirds of the employee's regular rate of pay (as that term is defined by the FLSA for purposes of calculating overtime compensation), not to exceed \$200 per day and \$10,000 aggregate.

- An employee who uses this FMLA leave is entitled to reinstatement to the same or equivalent position UNLESS the employer has fewer than 25 employees, the position held by the employee at the time the leave started no longer exists due to economic conditions or other operating condition caused by the public health emergency, and the employer has tried to restore the employee to an equivalent position. If there is no position available, the employer still must make a reasonable effort for one year to contact the employee if an equivalent position becomes available.
- Employers of health care providers and emergency responders may elect to exclude such employees from the provisions of this law. The expanded FMLA law takes effect "no later than" 15 days from the date of its enactment.

Payroll Tax Credits for Employers Providing the Paid Leave

- The new law provides payroll tax credits for employers who provide paid sick leave or paid family leave to employees for Coronavirus purposes set forth in the law. Specifically, an employer is entitled to a payroll tax credit for each calendar quarter in an amount equal to 100% of the qualified paid sick leave wages paid by the employer in the quarter, and the amount of qualified family leave wages paid by the employer, not to exceed \$200 per day and \$10,000 aggregate per employee.

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