

## COVID-19 Update From EKA – March 20, 2020

As the global effect of Coronavirus (COVID-19) continues to develop, EKA continues to monitor local, state and federal lawmakers efforts to soften the economic blow. Below are some of the significant government-related developments over the past 24 hours.

### Stay-At-Home Orders

Los Angeles County, Los Angeles City, Long Beach and the Governor have all issued similar orders for people to remain in their homes — with lawful exceptions made for critical tasks such as securing food and health, safety and medical necessities, as well as caring for children, elder adults, family, friends and people with disabilities. It is important to note that there are some minor differences in the mandatory orders and various exemptions. The state order exempts workers in 16 federal critical infrastructure sectors. Many establishments not covered in previous orders, including clothing and some other retail stores, are ordered to cease operations that require in-person attendance by workers at a workplace.

All the orders took effect Thursday, March 19, 2020, at 11:59 p.m. In the LA County and City orders, there is an exemption until Friday, March 20, 2020, at 11:59 p.m. allowing employees and business owners to access their workplaces to gather belongings or address other administrative needs, so long as social distancing requirements are followed. Such workplaces shall remain closed to the public in accordance with the order.

- To read the LA County Safer at Home” order, [click here](#). To read the FAQ, [click here](#).
- To read the City of Los Angeles order, which is very similar to the County order, [click here](#).
- California Governor Gavin Newsom stay-at-home order, effective immediately includes all 40 million California residents. [Click here](#) to read the Governor’s Executive Order.
- The California State Public Health Officer and Director of the California Department of Public Health have created a FAQ document to explain the state order. To read the FAQ, [click here](#).
- Long Beach is implementing a Safer at Home health order. This new order will continue until Tuesday, April 19. You can read the full order [here](#).
- The State’s directory of local information for affected California counties can be found [here](#).
- In Ventura County, the Health Officer has ordered people 75 or older to shelter in place through April 1. The order also applies to people 70 and older with chronic disease. You can read the full order [here](#).

### Critical Workers

The Department of Homeland Security has issued guidance on industries and workers critical to fighting the coronavirus. The Cybersecurity and Infrastructure Security Agency (CISA) which puts together the list for the Secretary of Homeland Security has created a list of workers and industries deemed critical. The list is not a federal directive, but guidance to the state, local and

tribal and territorial governments implementing response to the virus in their communities. [Click here](#) to view the guide CISA is using to define “Essential” Critical Infrastructure Workers.

**Note:** EKA’s media, government, public relations and crisis support services will continue. EKA provides important media services to our clients. EKA will be fully operational with no impact on our virtual communications and operational capabilities. We are fully operational and can buy equipment and services as needed to resolve any client issues. EKA is not a law firm and the information contained in our daily update is intended for general information purposes only and should not be considered legal advice.

### **County of Los Angeles**

- Los Angeles County property owners affected by the COVID-19 virus may have late penalties canceled if they are unable to pay their property taxes by the April 10 deadline. The County has no authority to extend the April 10 deadline, as outlined by State Law. However, beginning on April 11, the day after property taxes are due, people unable to pay on time for reasons related to COVID-19 may submit a request for penalty cancellation online. The department has set up a special team to process these requests for those who demonstrate they were affected by the outbreak. [Click here](#) to see the FAQ.
- The LA Small Business Development Center has created a COVID-19 Response Guide for small business owners to stay informed, plan, and respond to the impact of COVID-19. To view the guide, [click here](#).
- Los Angeles County is enacting an emergency moratorium against all residential and commercial evictions through May 31 due to the ongoing coronavirus pandemic.
- [H.R. 6201 – The Families First Coronavirus Response Act](#) contains Los Angeles County supported provisions: a temporary increase of the Emergency Federal Medicaid Assistance Percentage (FMAP) by 6.2%; increased funding for the Senior Nutrition Program for additional home-delivered and pre-packaged meals to low-income seniors; a suspension of work and training requirements for Supplemental Nutrition Assistance Program (SNAP) recipients; and other provisions that provide flexibility related to the SNAP program. The bill would also establish the Emergency Paid Sick Leave Act to require government employers to provide employees two weeks of paid sick leave and expands the Family and Medical Leave Act (FMLA) to provide up to 12 weeks of job-protected leave for employees who must care for a child due to a school closing (including care facilities or childcare programs) due to COVID-19.

### **City of Los Angeles**

The City Council has adopted several motions and sent others to Committee for review. A few of the motions of interest include:

- Special I (Special One) - Provides salary and benefits continuation for City employees

- Special 2 (Procurement) - Allows the Mayor to transfer funds (up \$1 million) beyond his normal authority. It also allows Departments to avoid normal competitive bid and proposal requirements.
- Special 3 (City Operations) - Confirms the local emergency and requires all City departments to continue operating
- 72-00 (\$20 M Appropriation) - Appropriates \$20 million from the Emergency Reserve Fund to General City Purposes (COVID-19 Emergency Response Line) to be spent at the direction of the Mayor with daily reports to the Council President and Chair of Budget and Finance
- 72-J - (Worker Retention) - Creates a citywide worker retention policy
- 72-SS (Cancel Contracts) - Directs City staff to report back on the feasibility of canceling nonessential contracts for projects and services
- 72-HH (Emergency Leave) - Supports Federal and State actions to support emergency medical leave.
- The next Council meeting is set for Tuesday, March 24. While initially the Council was set to meet again on March 31, it is likely that the meeting will be canceled.
- All of the motions that were heard and acted on March 17 have since been superseded by the Mayor, and the balance of the items will not likely be heard in the near term.
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### **City of Long Beach**

- The City of Long Beach facilities and operations are operating under temporarily modified conditions. Details about City modified operations are available [here](#).
- The City announced a [Disaster Relief Fund](#) for COVID-19 response.
- The City Council voted to establish an [Economic Relief Package](#) for the City.

### **Sacramento**

- Governor Gavin Newsom [yesterday signed an executive order](#) to ease restrictions on commercial drivers supporting emergency relief efforts, and suspend certain existing laws for employers directly affected by COVID-19. The order aims to address dwindling supplies of essential medical and sanitary items, and sudden changes in workforce needs that are affecting businesses across all industries.
- In a [letter to President Trump](#) requesting federal help in fighting the coronavirus pandemic, Gov. Gavin Newsom estimated that 25 million Californians — more than half the state’s population — could be infected with the virus in the coming eight weeks. That startling estimate comes as Newsom asked congressional leaders for \$1 billion in short-term federal aid for the state.
- California Attorney General Xavier Becerra joined a coalition of 18 attorneys general calling on Acting Deputy Secretary of the Department of Homeland Security Ken Cuccinelli, [for a second time](#), to halt implementation of its “Public Charge” Rule while

the COVID-19 outbreak and response are ongoing. Cuccinelli is a member of the White House coronavirus task force

- Employers throughout the state have had to close rapidly without providing their workers the advance notice required under California law, either in response to local directives or in an effort to stem the spread of the novel coronavirus. In response, yesterday's executive order suspends, starting March 4, 2020, Labor Code Sections 1402(a), 1402, and 1403 for an employer that orders a mass layoff, relocation or termination at a covered establishment on the condition that the employer:
  - Gives the written notices specified in Labor Code Section 1402(a)–(b);
  - Gives as much notice as is practicable, and, at the time notice is given, provides a brief statement of the basis for reducing the notification period;
  - Orders such a mass layoff, relocation, or termination that is caused by COVID-19-related “business circumstances that were not reasonably foreseeable as of the time that notice would have been required;” and
  - For written notice given after the date of the executive order, in addition to the other elements detailed in Labor Code Section 1401(b), such written notice must contain the following statement: “If you have lost your job or been laid off temporarily, you may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at [labor.ca.gov/coronavirus2019](http://labor.ca.gov/coronavirus2019).”
  - The [Labor and Workforce Development Agency](#) is expected to provide further guidance in the coming days.
- [Hundreds of Californians](#) are calling on Governor Newsom to use his Emergency Powers to suspend Assembly Bill 5's restrictions on independent contracting during the COVID-19 crisis. These calls followed a [letter sent to Governor Newsom](#) laying out the legal authority, under the California Emergency Services Act, for the Governor to suspend the recently enacted law in order to allow more Californians to work remotely and to enable greater provision of care by a host of healthcare professions.
- The California Department of Motor Vehicles is suspending walk-in visits and immediately canceling all behind-the-wheel driving tests for the next 30 days as part of its response to the coronavirus pandemic.

## **National**

- The U.S. Treasury Secretary announced that the IRS will allow a 90-day payment extension until July 15, 2020 for taxpayers and small businesses that traditionally face an April 15 tax deadline. All U.S. taxpayers qualify for this extension and do not have to file any special paperwork or extension requests, as the payment deadline will be automatically extended. Taxpayers owing up to \$1 million in taxes can delay payment until July 15, as can corporate filers with tax debts up to \$10 million. We are waiting to hear if there will be an extension for quarterly estimated payments normally due on April 15. The tax return filing deadline is still April 15, for now, the IRS has only extended the deadline to pay the tax.

- Due to the extraordinary circumstances related to the COVID-19 pandemic, the National Labor Relations Board approved the suspension of all representation elections, including mail ballot elections, effective immediately, through and including April 3, 2020.
- The economy already has entered a recession expected to continue through September, according to a [UCLA Anderson report](#).
- In conjunction with the Federal Motor Carrier Safety Administration's emergency waiver announced [last week](#) to ensure the free flow of critical supplies and equipment, yesterday's executive order exempts interstate motor carriers that have an active U.S. Department of Transportation number and interstate operating authority from the requirement to hold an active Motor Carrier Property Permit pursuant to California Vehicle Code section 34620, while conducting intrastate transportation within California in support of emergency relief efforts. In addition, drivers may be permitted or required to exceed the hours-of-service limits (California Vehicle Code Section 34501.2; California Code of Regulations, Title 14, Section 1212.5) while operating a vehicle engaged in interstate or intrastate transportation, in support of emergency relief efforts. This includes, but is not limited to, transportation to meet immediate needs for:
  - Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19
  - Supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19, such as masks, gloves, hand sanitizer, soap and disinfectants
  - Food for emergency restocking of stores; equipment, supplies and persons necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19
  - Persons designated by federal, state or local authorities for medical, isolation or quarantine purposes
  - Persons necessary to provide other medical or emergency services, the supply of which may be affected by the COVID-19 response
  - The Governor's full executive order can be found [here](#)
- An employer may send an employee home (voluntarily or involuntarily) who has or is exhibiting symptoms of COVID-19. In response to the novel coronavirus outbreak, the [EEOC has cited](#) to its [guidance](#) regarding the 2009 pandemic H1N1 flu guidance, which states that advising workers with symptoms to go home either (a) is not a disability-related action if the illness is akin to seasonal influenza or (b) is permitted under the Americans with Disabilities Act if the illness is serious enough to pose a direct threat to the employee or coworkers. The CDC's guidance likewise advises that employees with symptoms of acute respiratory illness and a fever should stay home. Employers should apply this type of policy uniformly and in a non-discriminatory manner. All information about an employee's illness should be maintained as a confidential medical record in compliance with the ADA.
- An employer may also send an asymptomatic employee home, or require the employee to work from home, if the employee has been in close contact with someone who has

COVID-19. [CDC guidance](#) suggests sending asymptomatic employees home to self-quarantine for 14 days if they: (1) have close contact with a symptomatic individual or someone who has tested positive for the virus, (2) sat on an aircraft within 6 feet (two airline seats) of a symptomatic individual or someone who has tested positive for the virus, or (3) lives in the same household as, is an intimate partner of, or is caring for a symptomatic individual, or someone who has tested positive for the virus, at home. In addition, nonessential businesses have been closed in certain areas of the country pursuant to government order.

- An employer may also send an asymptomatic employee home, or require the employee to work from home, if the employee has recently returned from travel to certain areas with “widespread sustained” transmission (denoted by a [Level 3 Travel Health Notice](#)).
- As long as an employee’s duties allow telework, an employer may require an asymptomatic individual with no known exposure to work from home for a certain period of time as a preventative or precautionary measure. The Department of Labor [recently reiterated](#) that requiring or encouraging employees to work remotely can be a useful infection-control strategy and can also be appropriate as an ADA accommodation. Employers considering a telework or remote work policy should ensure that employees are not being selected for telework or to continue reporting to the workplace on any basis prohibited by EEOC laws.