

## **Weekly COVID-19 Update From EKA December 30, 2020**

According to the Centers for Disease Control and Prevention, more than 2 million people have received the first shot, and fewer than 12 million doses have been distributed. According to data from Johns Hopkins University, December has been the deadliest month for COVID-19 in the U.S., which has reported over 19.3 million cases and 335,000 deaths as of Tuesday. Worldwide, there have been over 81.4 million cases and nearly 1.8 million deaths. The [Safer at Home](#) order has been in place in Los Angeles since March 19, 2020.

### **Previous EKA COVID-19 updates**

Our previous COVID-19 updates can be found [here](#). Feel free to share our updates with friends and colleagues. We hope you find the information in the EKA updates and the questions they raise to be informative. If you have any COVID-19 government or communications questions, please reach out to any EKA team members.

### **Southern California Stay-at-Home Order Extended**

As expected, a regional stay-at-home order in effect across Southern California due to surging COVID-19 hospitalizations was formally extended yesterday, continuing a ban on all gatherings of people from different households and in-person dining and setting strict capacity limits at many businesses. The state's regional Order, which covers an 11-county Southern California area, took effect at 11:59 p.m. December 6 and was set to expire Monday. But with the region's intensive-care unit capacity at hospitals still effectively listed at 0%, Gov. Gavin Newsom said Monday the Order was all but certain to be extended. The state's Health and Human Services Secretary, Dr. Mark Ghaly, made it official Tuesday, saying incoming COVID-19 patients are expected to continue exceeding hospital intensive-care unit capacity in the region over the next four weeks. The Order was not extended for any specific timeframe. Ghaly said the four-week projections are evaluated daily, and the region can emerge from the stay-at-home Order when the projection indicates its ICU capacity will rise above 15%.

## **NATIONAL**

### **Second Stimulus Package**

President Donald Trump signed on Sunday evening a \$900 billion pandemic relief bill into law that includes enhanced unemployment benefits and direct cash payments. The measure is the second-largest federal stimulus package after the \$2 trillion CARES Act that Congress approved in March. Lawmakers passed the bill last Monday, just in time to get something done before the end of December, when several aid programs in the CARES Act were set to expire, including key pandemic jobless assistance measures and eviction protections. As detailed by CNN, here's what's in it:

- **Stimulus checks**

The package sends direct stimulus payments of \$600 to individuals, half the amount provided in the first round of checks, which went out in the spring. Eligible families will receive an additional \$600 per child -- which is \$100 more than Congress gave families in the first round of relief last spring. The payments start phasing out for individuals with adjusted gross incomes of more than \$75,000, and those making more than \$99,000 will not receive anything. The income thresholds are doubled for couples. The amounts will be based on 2019 incomes. Those who filed their 2019 tax returns will receive their money automatically, as well as Social Security recipients and those who uploaded their bank account information using the IRS's online portal to receive their first payments. Undocumented immigrants who don't have Social Security numbers remain ineligible for the payments. But in a change from the first round, their spouses and children are now eligible as long as they have Social Security numbers.

- **Unemployment benefits**

The jobless will receive a \$300 weekly federal enhancement in benefits through March 14. The amount is half of the earlier federal boost, which ran out at the end of July. Because Trump waited until Sunday to sign the legislation, many out-of-work Americans may only get 10 weeks of augmented payments, instead of 11 weeks. Also, the package extends by 11 weeks two other [pandemic unemployment programs](#) that were created in the CARES Act in March and were set to expire at year's end. The Pandemic Unemployment Assistance program initially expanded jobless benefits to gig workers, freelancers, independent contractors, the self-employed and certain people affected by the coronavirus for up to 39 weeks. The Pandemic Emergency Unemployment Compensation program provided an additional 13 weeks of payments to those who exhaust their regular state benefits. Both programs will now close to new applicants on March 14, but continue through April 5 for existing claimants who have not yet reached the maximum number of weeks. Also, the measure provides a federally funded \$100 per week additional benefit to those who have at least \$5,000 in annual self-employment income but are disqualified from receiving Pandemic Unemployment Assistance because they are eligible for regular state unemployment benefits. In addition, the package gives states the authority to waive overpayments in cases where the claimant is not at fault. The final agreement is less generous than the original bipartisan deal that was released earlier this month. It would have provided 16 weeks of enhanced payments and pandemic benefits. The package also continues full federal financing of extended benefits through mid-March, providing up to 20 additional weeks of payments depending on a state's unemployment rate. Typically, states and the federal government split the tab. Fewer than two dozen states now offer extended benefits because of the improving economy.

- **Small business loans**

The package reopens the [Paycheck Protection Program](#) so that some of the hardest-hit small businesses can apply for a second loan. The program stopped taking applications for the first round of loans in August. The second loans will be limited to those with fewer than 300 employees that have seen drops of at least 25% of their revenue during

the first, second or third quarter of 2020. It also reduces the amount a borrower can receive from \$10 million to \$2 million, gives businesses more flexibility on how they spend the money and simplifies the forgiveness process for loans under \$150,000. It carves out \$12 billion for minority-owned businesses. It also expands eligibility to more nonprofits as well as local newspapers, T.V. and radio broadcasters. The package creates a \$15 billion grant program for live venues, theaters and museum operators that have lost at least 25% of their revenues. The initial grant can total up to \$10 million per eligible business. A second grant, worth half the amount of the first, may also be available. The money will be for specified expenses such as payroll costs, rent, utilities and personal protective equipment. During the first 14 days of the program's implementation, grants will be awarded to those who have faced 90% revenue losses. Then, those who have experienced at least 70% revenue losses will be eligible during the next two weeks. After the first month of the program, any other eligible businesses can receive grants.

- **Funding for schools and child care**

It provides \$82 billion in aid for K-12 schools and colleges. [Earlier proposals](#) from Republicans and Democrats called for at least \$100 billion in aid for schools. An additional \$10 billion is included to support child care providers that have struggled because of the pandemic.

- **Rental assistance**

It extends until January 31 the eviction protection set to expire at the end of the year. It also provides \$25 billion in rental assistance for individuals who lost their sources of income during the pandemic.

- **Nutrition assistance**

The package raises SNAP benefits by 15% for six months but does not expand eligibility. This is more generous than the original bipartisan agreement from earlier in December, which called for a four-month increase. Democrats have advocated for augmenting the Supplemental Nutrition Assistance Program, or SNAP, as food stamps are formally known, since the pandemic began, but the provision never made it into prior relief packages. It also expands the [Pandemic-EBT program](#) to families with children under age 6 who receive food stamps, deeming them "enrolled" in child care and eligible for benefits. The program now provides money to low-income families with school-age children in lieu of the free and reduced-price meals they would have received in school. The package sends \$400 million to food banks and food pantries through The Emergency Food Assistance Program. It also provides \$175 million for nutrition services for seniors, such as Meals on Wheels, and \$13 million for the Commodity Supplemental Food Program, which serves more than 700,000 older Americans monthly.

- **Vaccine and hospital funding**

It provides \$20 billion for the purchase of vaccines so they can be available at no charge for those who need it, as well as another \$8 billion for vaccine distribution. It also gives

states \$20 billion to assist with testing. And it adds \$3 billion to the \$175 billion fund for hospitals and health care providers for reimbursement of health care-related expenses or lost revenue resulting from the pandemic. The original agreement would have given them another \$35 billion.

- **Payroll tax repayment**

Employers who are deferring their workers' payroll taxes under Trump's executive action from August now have until the end of 2021 to increase their employees' withholding to pay back the taxes owed. Originally, the deferred amount had to be repaid by April 30. Many federal workers were [required to participate in this program](#), though their unions protested.

- **What's not included -- state and local government funding**

The package does not contain any direct aid to [state and local governments](#) -- dropping an initial call for \$160 billion in assistance as the basis for good faith negotiations. The provision had been among the most contentious of the negotiations. House Democrats had provided \$875 billion in the relief bill that passed the chamber in May to help states and local governments struggling with lower tax revenues due to the pandemic. But Republicans resisted allocating additional aid beyond the \$150 billion provided in Congress' \$2 trillion relief bill in March, which could only be used for coronavirus-related expenses. GOP lawmakers said they don't want to bail out states that have mismanaged their finances. The bill also extends the deadline for spending down the \$150 billion in coronavirus relief funds by a year. [State and local governments](#) have been racing to use all the money by the current deadline of December 30, with many providing assistance to residents.

## LOS ANGELES COUNTY

### **Revised L.A. County Temporary Targeted Safer at Home Order**

A Revised Temporary Targeted Safer at Home Health Officer Order for Control of COVID-19: Tier 1, Substantial Surge Updated Response (Order) was Issued December 27, 2020, and can be found [here](#). The Order was revised to extend its duration for as long as the State Health Officer's Regional Stay At Home Order remains in effect in the Southern California Region. In addition, Protocols for Shopping Center Operators: Appendix E was updated on 12/27/2020 to clarify the requirements for both indoor and outdoor seating at shopping centers. A copy of the revised protocol with details on the changes can be found [here](#).

### **Public Health Officials Require All Travelers To Quarantine Upon Return To L.A. County**

For those who traveled outside of L.A. County and recently returned, the County requires that you quarantine for 10 days. If you start to experience any symptoms or have a positive test, isolate for 10 days and until you are fever-free for 24 hours. The best way to safely quarantine is to not leave your home or allow any visitors to your home, and to find others who can help you buy groceries and other essential necessities. If you need help during your self-quarantine,

such as finding assistance to help get groceries, there are resources available by calling 211 or visiting the Public Health [website](#).

### **Dining Ban To Remain In Place Until At Least February**

Los Angeles County can keep its outdoor dining ban in place until at least early February if it chooses, regardless of state rules, under an order issued by the California 2nd District Court of Appeal.

A three-judge panel for the appeals court paused a Los Angeles County Superior Court judge's ruling that would have required county public health officials to conduct a risk-benefit analysis of the temporary ban enacted in late November in Order for it to remain in effect. A hearing on the matter will be held February 10.

### **L.A. County Officials Ask Hollywood To Pause Production Due To Covid-19 Crisis**

Los Angeles County public health officials are asking the film and television industry to voluntarily pause production because of the surge of coronavirus cases. FilmLA, the nonprofit group which serves as the official film office for both the city and County of L.A., reported Monday that public health officials have reached out to the film industry asking them to temporarily halt production. FilmLA has been allowed to continue issuing permits for film, scripted television, unscripted television, commercial and music video shoots despite the regional stay-at-home Order. The L.A. County Department of Public Health sent an email on Christmas Eve to several people in the film industry asking them "to strongly consider pausing work for a few weeks during this catastrophic surge in COVID cases. Identify and delay higher risk activities, and focus on lower-risk work for now, if at all possible."

### **Moderna Vaccine**

The County began distribution of the Moderna vaccine to skilled nursing facilities at the end of last week right before the holiday and continued through the weekend. As of Saturday, 1,748 doses had been administered at skilled nursing facilities. County, City, and curative teams are working together to accelerate vaccinations at skilled nursing facilities over the next two weeks. Vaccinations at other long-term care facilities will happen through the federal pharmacy partnership with Walgreens and CVS and are likely to begin in early January. As L.A. County completes Tier 1 of Phase 1a, we will begin vaccinations for healthcare workers in Tier 2. This week and next, home health care workers and healthcare workers at primary care clinics, urgent care clinics and private practices will be invited to register for appointments through a secure web-based portal. All healthcare workers will need to show verification prior to vaccination. Please go to the [COVID-19 Healthcare Provider Information Hub](#) on our website for additional information. Every week, as the County receives additional doses of vaccine, additional health care workers in Tiers 2 and 3 of Phase 1A will be offered vaccines. These include healthcare personnel engaging in fieldwork, working at specialty clinics, laboratory workers, dental and other oral health clinics, pharmacy staff (not in higher-tier settings) and vaccinators.

### **County, City Of L.A To Vaccinate Residents And Staff At Nursing Homes**

Los Angeles County launched a partnership with the City of Los Angeles and public health service startup [Curative](#) to deliver and administer the COVID-19 Moderna vaccines to staff and residents of Skilled Nursing Facilities (SNFs) in Los Angeles County. This partnership is the first of additional partnerships that the County is establishing to facilitate the vaccine rollout to SNFs. Although the majority of SNFs in Los Angeles County indicated that they were capable of receiving and administering vaccines to their staff and residents, the Los Angeles County Department of Public Health in partnership with the City and Curative have activated mobile teams to support SNFs with vaccination assistance.

## **SACRAMENTO**

### **California Small Business Covid-19 Relief Grant Program**

The Governor announced the creation of a \$500 million COVID-19 Relief Grant administered by the California Office of the Small Business Advocate (CalOSBA) at the Governor's Office of Business and Economic Development for small businesses that have been impacted by COVID-19 and the health and safety restrictions. Funds will be awarded to selected intermediaries with established networks of Community Development Financial Institutions to distribute relief through grants of up to \$25,000 to underserved micro and small businesses throughout the state. Cultural institutions and non-profits are also eligible for these grants. This grant program is NOT first-come, first-served. Please take the time to prepare all necessary documentation and carefully review your application. One complete application will qualify you to be considered for both rounds, please only apply once. First Application Window Opens December 30, 2020 at 6:00 am and Closes January 8, 2021 at 11:59 pm

### **Eligibility**

A small business or small nonprofit must satisfy the following criteria to be eligible to receive a grant award:

- Must meet the definition of an "eligible small business". An "eligible small business" means (i) a "small business" (sole proprietor, independent contractor, 1099 work, and or registered "for-profit" business entity (e.g., C-corporation, S-corporation, limited liability company, partnership) that has yearly gross revenue of \$2.5 million or less (but at least \$1,000 in yearly gross revenue) based on most recently filed tax return) or (ii) a "small nonprofit" (registered 501(c)(3) or 501(c)(6) nonprofit entity having yearly gross revenue of \$2.5 million or less (but at least \$1,000 in yearly gross revenue) based on most recently filed Form 990);
- Active businesses or nonprofits operating since at least June 1, 2019;
- Businesses must currently be operating or have a clear plan to re-open once the State of California permits re-opening of the business;
- Business must be impacted by COVID-19 and the health and safety restrictions such as business interruptions or business closures incurred as a result of the COVID-19 pandemic;
- Business must be able to provide organizing documents including 2018 or 2019 tax returns or Form 990s, copy of official filing with the California Secretary of State, if applicable, or local municipality for the business such as one of the following: Articles of Incorporation, Certificate of Organization, Fictitious Name of Registration or Government-Issued Business License;
- Business must be able to provide acceptable form of government-issued photo I.D.; and
- Applicants with multiple business entities, franchises, locations, etc. are not eligible for

multiple grants and are only allowed to apply once using their eligible small business with the highest revenue

### **Funds May be Used For**

Eligible costs are only those costs incurred due to the COVID-19 pandemic and the health and safety restrictions such as business interruptions or business closures incurred as a result of the COVID-19 pandemic. The following are the eligible uses of grant funds:

- All employee expenses including payroll costs, health care benefits, paid sick, medical, or family leave, and insurance premiums;
- Working capital, overhead (including rent, utilities, mortgage principal and interest payments (excluding mortgage prepayments)), debt payments (principal and interest) incurred before March 1, 2020;
- Costs associated with re-opening business operations after being fully or partially closed due to state-mandated COVID-19 health and safety restrictions and business closures;
- Costs associated with complying with COVID-19 federal, state or local guidelines for reopening with required safety protocols, including but not limited to equipment, plexiglass barriers, outdoor dining, PPE supplies, testing, and employee training expenses; or
- Any other COVID-19 related expenses not already covered through grants, forgivable loans or other relief through federal, state, County or city programs To register for an upcoming information webinar, click [Here](#). For all updates, further information and guidance on where to apply, click [Here](#).

### **Cal/OSHA Issues Citations**

Cal/OSHA has cited eight employers for not protecting workers from COVID-19 during inspections at meat processing facilities across the state. The inspections were opened upon learning of a COVID-19 fatality and several illnesses, and after receiving complaints. The employers cited failed to take required steps to prevent COVID-19 infection in the workplace such as safe physical distancing procedures or proper face covering usage for workers in production areas. To see the complete list, click [here](#).

### **New CAL/OSHA Covid-19 Requirements For Employers**

As a reminder, last month the California Department of Industrial Relations (DIR) Office of Administrative Law approved new Cal/OSHA emergency temporary standards (ETS) for COVID-19, effective November 30. Many of the ETS are already required by existing employer workplace injury and illness prevention programs (IIPP-see Injury and [Illness Prevention Program](#)), or will be required under AB 685 (the new COVID-19 employee safety and reporting law effective January 1, 2021), but some requirements are new and must be complied with immediately.

All California employers, regardless of size, must comply with the new ETS, with the following exceptions:

- Workplaces where there is only one employee who does not have contact with other people;
- Employees who are working from home; and
- Employees who are covered by the [Aerosol Transmissible Diseases](#) regulation.

Under the ETS, employers must develop a written COVID-19 Prevention Program or ensure its elements are included in an existing IIPP, and implement the following in their written program:

- Communication to employees about the employer's COVID-19 prevention procedures
- Identify, evaluate, and correct COVID-19 hazards
- Physical distancing of at least six feet unless it is not possible
- Use of face coverings
- Use engineering controls, administrative controls and personal protective equipment as required to reduce transmission risk
- Procedures to investigate and respond to COVID-19 cases in the workplace
- Provide COVID-19 training to employees
- Provide testing to employees who are exposed to a COVID-19 case, and in the case of multiple infections or a major outbreak, implement regular workplace testing for employees in the exposed work areas
- Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk
- Maintain records of COVID-19 cases and report serious illnesses and multiple cases to Cal/OSHA and the local health department, as required

Employers are also required continue providing pay and benefits to employees excluded from work due to COVID-19 under some circumstances. Cal/OSHA has a [Model COVID-19 Prevention Program](#) for employers to use. For more information, see the DIR's [FAQ](#) on the new ETS and the DIR's COVID-19 Prevention Emergency Temporary Standards webpage [HERE](#).

## **WEST HOLLYWOOD**

### **Grocery Stores Must Station Employee at Entrances to Enforce Mask Wearing**

West Hollywood grocery stores must station an employee at front entrances to assure customers entering the store are wearing masks and social distancing, while landlords must post notices about COVID-19 health and safety guidelines after the West Hollywood City Council enacted a new grocery store law. Grocery stores in West Hollywood not in compliance can be cited for code violations.

### **Landlords Must Post COVID Notices**

Landlords in West Hollywood are required to print and post two notices in the building for residents to see: [Health and Safety Guidelines](#) & [Ban on Private Gatherings](#). Landlords and residents can also visit the city website for more information: [www.weho.org/coverthatface](http://www.weho.org/coverthatface). That website also has the same fliers that are linked above.

## **LEGAL DEVELOPMENTS**

**Riverside, San Bernardino County Pastors Ask Supreme Court To Reverse Calif. COVID-19 Rules**

Attorneys for pastors in Riverside County on Monday filed an emergency bid with the U.S. Supreme Court to overturn Gov. Gavin Newsom's COVID-19 guidelines on indoor worship. The writ for an emergency injunction filed on behalf of James Moffatt of Church Unlimited in Indio and Brenda Wood of Word of Life Ministries International Inc. in Riverside — and pastors in San Bernardino County — comes a week after a federal appeals court rejected a similar bid by a Pasadena ministry that was previously reviewed by the Supreme Court. The Center for American Liberty's writ argues that California "treats houses of worship with a harsher hand than secular businesses. With most of California under the strictest of lockdowns, many businesses are permitted to operate at reduced capacity and some without any limitations at all. Houses of worship, though, must remain closed for in-person services." Referencing the Supreme Court's previous refusal to overturn Newsom's Order, the writ states that allowing California to "continue discriminating on the basis of religion will cause an inequality nationwide, where the First Amendment applies in some states and circuit court jurisdictions, but not in others, such as the Ninth Circuit or the state of California."

## **EMPLOYER REMINDERS**

### **COVID-19 Employment Law Update: EEOC and Cal/OSHA Developments**

The COVID-19 vaccine rollout prompted EEOC to update guidance regarding mandatory vaccinations in the workplace. The [Fenwick law firm](#) put together a very informative bulletin.

The rollout of the Pfizer and Moderna vaccines in the United States has triggered extensive discussion around the law concerning mandatory vaccine policies in the workplace. This discussion will almost certainly evolve over the coming months, as more becomes known about vaccine availability at the time of widespread office reopening, side effects and other considerations. In the meantime, on December 16, 2020, the U.S. Equal Employment Opportunity Commission (EEOC) updated its [pandemic-related guidance and FAQs](#), principally with respect to the interplay between workplace vaccine mandates and federal anti-discrimination laws. Consistent with prior EEOC guidance regarding flu and other vaccinations, the EEOC reaffirmed that, in general, employers may lawfully impose a vaccine mandate as a condition to return to the workplace, and, more specifically, as a lawful qualification standard to address a direct threat to the health or safety of personnel. However, employers must reasonably accommodate employees who cannot comply with the mandate because of a disability and/or sincerely held religious belief, so long as such accommodation does not constitute an undue hardship to the business. Employers should consult legal counsel as they consider and prepare to implement mandatory, as well as voluntary, vaccine programs, and any such program should be conveyed in a clear written personnel policy.

### **California Division of Occupational Safety and Health Administration's Emergency Temporary Standards on COVID-19 Impose New Requirements on Employers**

California's Office of Administrative Law (OAL) approved California Division of Occupational Safety and Health Administration's (Cal/OSHA) proposed emergency regulations on COVID-19 prevention on November 30, 2020. [The Emergency Temporary Standards](#) (ETS) took effect immediately and require California employers to implement strict workplace safety measures

to reduce the risk and transmission of COVID-19. Emergency regulations generally remain in effect for 180 days unless the OAL approves a re-adoption of the regulations during that time period. Many of the ETS provisions were previously mandated by state or local government orders, yet the ETS impose several new requirements on employers, particularly in the event of COVID-19 cases in the workplace. The key provisions of the ETS are described in the following alert.

### **Which Employers Must Comply**

The ETS apply to all California employers and workplaces except: (1) workplaces with only one employee who does not have contact with others; (2) employees working from home; and (3) employees covered by the [Aerosol Transmissible Diseases regulation](#).

### **COVID-19 Prevention Program**

The ETS compel all covered employers to implement a written COVID-19 Prevention Program ("CPP"). A detailed list of what must be included in a CPP can be found in these [FAQs](#), but at a high level, the CPP must (1) identify, evaluate and correct COVID-19 hazards in the workplace; (2) require safety precautions such as physical distancing, providing and requiring face coverings and other controls aimed at reducing transmission risk; (3) provide training on COVID-19 and communicate about the employer's prevention procedures to employees; (4) keep a record tracking all COVID-19 cases in the workplace, keeping any medical information confidential. This recordkeeping must be made available to employees and their authorized representatives (e.g., unions) upon request, with personal identifying information removed. The CPP must also include the employer's obligations in the event of a COVID-19 case in the workplace, which are described in more detail below. Cal/OSHA has provided a [Model COVID-19 Prevention Program](#) to assist employers in developing their own effective COVID-19 Prevention Program.

### **Employer Obligations in the Event of a COVID-19 Case in the Workplace**

In the event of a COVID-19 case in the workplace—i.e., someone who has a positive COVID-19 test, who is subject to a COVID-19-related order to isolate by a public health official, or who died due to COVID-19—the employer must take the following actions while maintaining employee confidentiality:

- Establish when the COVID-19 case was in the workplace and to the extent possible, the dates of the diagnosis and/or the onset of symptoms.
- Determine which employees were potentially exposed to COVID-19.
- Within one business day, notify employees and employers of subcontracted employees of any potential exposure.
- Investigate whether workplace conditions contributed to the risk of exposure and corrections that would reduce exposure.
- Offer information on and access to COVID-19 testing.
  - Employers must provide information to all employees on how they can obtain a test for COVID-19.

- Employers must offer testing at no cost, during working hours, to all employees who were potentially exposed to COVID-19 in the workplace. A COVID-19 exposure is defined as being within six feet of a COVID-19 case for at least 15 minutes in any 24-hour period during the "high-risk exposure period"—two days before until ten days after a positive test or the onset of symptoms.
- Exclude COVID-19 cases and potentially exposed employees from the workplace until certain criteria are met.
  - A COVID-19 case with symptoms may not return to work until (1) at least 24-hours have passed since a fever of 100.4 or higher has resolved without fever-reducing medications; (2) COVID-19 symptoms have improved; and (3) it has been at least 10 days since symptoms first appeared. A COVID-19 case need not produce a negative test to return to work.
  - A COVID-19 case who tested positive but never developed symptoms may not return to work until at least 10 days since the date they took their first positive test.
  - Employees exposed to COVID-19 in the workplace may not return to work for 14 days after the last known exposure.
  - If an employee must be excluded from the workplace under these standards, but is otherwise able and available to work, the employer must maintain the employee's earnings, benefits, seniority and job protection during the quarantine period.
    - Employers may require employees to exhaust their paid sick leave benefits before providing exclusion pay during quarantine and may offset payments by the amount employees receive from other benefits.
    - The obligations to provide earnings and benefits during quarantine do not apply if (1) the employer can demonstrate that the COVID-19 exposure was not work related; or (2) the employee is unable to work for reasons other than the need to protect the workplace from possible COVID-19 transmission.
- Report any COVID-19 serious illness (requiring inpatient hospitalization) or death to Cal/OSHA immediately.

### **Additional Requirements for COVID-19 Outbreaks in the Workplace**

In the event of a COVID-19 outbreak in the workplace, (currently defined by the State Department of Public Health as three or more laboratory-confirmed cases of COVID-19 among employees who live in different households within a two-week period), or a major outbreak (currently defined by the State Department of Public Health as 20 or more laboratory-confirmed cases within a 30-day period), in addition to a covered employer's obligations described above in response to a COVID-19 case, it must also (1) notify its local health department immediately (within 48 hours at the latest); and (2) provide more extensive testing. For outbreaks, the employer must provide free initial testing and follow-up testing after one week to all employees during working hours. There must be continued testing weekly until there are no new cases in a two-week period. If an employer has a major outbreak, it must provide testing twice per week until there are no new cases in a two-week period.

Covered employers should review their existing COVID-19 exposure response plans to ensure compliance with the ETS. The California Department of Industrial Relations (DIR) [acknowledged](#) that employers will need time to fully implement these standards, but underscored that eliminating COVID-19 hazards and adhering to the new testing requirements are essential. The DIR has published [FAQs](#) and a [fact sheet](#) to help employers meet the ETS requirements.

### **New Laws**

[Farella Braun + Martell](#) has put together an excellent article, "California Employers Face Various New Laws in January 2021." The California Legislature passed and Governor Newsom signed several new laws covering topics ranging from COVID-19 to leaves of absence to data reporting. Most of these laws take effect January 1, so now is a good time for employers to evaluate their personnel rules and practices to ensure they keep pace with these changes.

### **Potential Exposure Notification (Effective January 1, 2021)**

AB 685 requires employers to promptly notify employees of potential COVID-19 exposure upon notice that any person at the worksite has received a laboratory-confirmed COVID-19 case, medical diagnosis, or isolation order. Within one business day of learning about potential exposure, the employer must provide written notification to potentially infected employees about the potential exposure, COVID-19-related benefits and protections, and the company's disinfection and safety plans. AB 685 also requires employers to notify local public health agencies within 48 hours of becoming aware of a COVID-19 outbreak, defined as three or more laboratory-confirmed COVID-19 cases among employees who live in different households within a two-week period. Lastly, AB 685 temporarily gives Cal/OSHA increased authority to shut down a worksite if it determines there is an imminent hazard. These sections expire on January 1, 2023.

### **Workers' Compensation Presumption (Effective September 17, 2020)**

SB 1159 modifies and extends Governor Newsom's Executive Order N-62-20, creating a rebuttable presumption that for certain "critical workers" or employees who test positive during a COVID-19 "outbreak" at the workplace, illness related to COVID-19 is an occupational injury and therefore eligible for specified workers' compensation benefits. Employers have 30 days to accept or deny claims by employees falling under the "critical worker" presumption, and 45 days to accept or deny claims by employees falling under the "outbreak" presumption. Evidence to controvert the presumption may include:

1. Measures in place to reduce potential transmission of COVID-19 in the employee's place of employment.
2. The employee's non-occupational risks of COVID-19 infection.
3. Any other evidence normally used to dispute a work-related injury. The law requires that employers report to their claims administrators specified information about the positive test and number of potentially exposed employees within three business days.

SB 1159 establishes a civil penalty of up to \$10,000 for an employer that fails to report or submits false or misleading information. The law expires January 1, 2023.

#### **Expansion of Family and Medical Leave to Small Employers (Effective January 1, 2021)**

SB 1383 expands California's Family Rights Act provisions to employers with as few as five employees. Any such employer is required to provide up to 12 workweeks of unpaid, job-protected leave for an employee's own serious health condition or that of a qualifying family member, for the birth or adoption of a child, or for a qualifying exigency related to a qualifying family member's active duty in the U.S. Armed Services. Only employees who have worked for the employer for more than 12 months, and for more than 1,250 hours during the previous 12-month period are eligible for such leaves. Upon completion of the leave, the employee is entitled to return to the same or a comparable position. SB 1383 expands the family members for whom a qualified employee may take leave to grandparents, grandchildren, and siblings. In addition, the law requires an employer that employs both parents of a child to grant 12 workweeks' leave to each employee; previously an employer was only required to grant both employees a combined total of 12 workweeks.

#### **New Minimum Wage Increase**

As of January 1, 2021, California's minimum wage increases to \$14.00 per hour for employers with 26 or more employees and \$13.00 per hour for employers with 25 or fewer employees. Local ordinances may impose further increases to the minimum wage. Employers should review base salaries for all employees exempt from receiving overtime pay to ensure they still satisfy the requirement under California Labor Code § 515(a) that exempt employees be paid "a monthly salary equivalent to no less than two times the state minimum wage for full-time employment." This determination is made according to the California state minimum wage, regardless of any locally mandated, higher minimum wage. So, as of January 1, 2021, employees working for employers with 25 or fewer employees must earn at least \$54,080 per year to be exempt, and employees working for employers with 26 or more employees must earn at least \$58,240 per year to be exempt.

#### **Sick Leave for Kin Care at the Employee's Sole Discretion (Effective November 18, 2020)**

Existing law requires employers to permit employees to use accrued sick leave to attend to the illness of a family member and prohibits employers from denying employees the right to use sick leave or from taking discriminatory action against an employee for exercising the right to use sick leave. As of November 18, 2020, AB 2017 amends Cal. Lab. Code § 233 to provide that the designation of sick leave to care for a family member is at the sole discretion of the employee.

## **WHAT WE'RE READING**

#### **Trump Relents, Signs COVID Relief, Averts Federal Shutdown**

President Donald Trump has signed a \$900 billion pandemic relief package, ending days of drama over his refusal to accept the bipartisan deal that will deliver long-sought cash to

businesses and individuals and avert a federal government shutdown. [The deal also provides \\$1.4 trillion](#) to fund government agencies through September and contains other end-of-session priorities such as an increase in food stamp benefits. To read the full story, click [here](#).

### **Researchers Find Correlation Between Consistent Mask-Wearing And Improved Well-Being**

Since the emergence of the coronavirus disease 2019 (COVID-19), caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), universal masking has been implemented in many countries. Wearing face masks or coverings can help reduce the risk of SARS-CoV-2 transmission by preventing infectious respiratory droplets from COVID-19 positive individuals from spreading to others when they sneeze, cough, talk, or breathe. To read the full story, click [here](#).

### **Who Will California Vaccinate Next? Bay Area Teachers, Grocery Store Workers Could Be Next In Line**

Who will California vaccinate next? Bay Area teachers, grocery store workers could be next in line -- California teachers, firefighters, grocery store and restaurant employees could be next in line to receive coronavirus vaccines under a plan state vaccine advisers are slated to consider Wednesday. To read the full story, click [here](#).

### **Big Bear Still Open Despite Regional Stay-At-Home Orders**

Popular ski and snowboard town Big Bear Lake was bustling with people eating on restaurant balconies Tuesday amid regional stay-at-home orders from Gov. Gavin Newsom. Despite a 32-degree night in the tourist town, many customers came out to support local businesses. "It's a personal choice coming out to a restaurant when everything is supposed to be closed," said one visitor, who only wanted to be identified as "Tony." To read the full story, click [here](#).

### **Mostly Maskless Carolers Protest Likely Extension Of LA County Stay-At-Home Order**

A large group of mostly maskless people gathered Tuesday evening to protest a likely extension of Los Angeles County's stay-at-home Order, [CBS Los Angeles reports](#). A group of more than 150 people gathered in the parking lot of the Oaks Mall in Thousand Oaks at around 5:30 p.m. local time. Most weren't wearing masks or adhering to social distancing guidelines, despite California's raging [COVID-19](#) surge. To read the full story, click [here](#).

### **Newsom's restrictions on indoor religious services ruled valid by federal judge**

A federal judge says Gov. Gavin Newsom's shutdown of indoor worship services in most of California is a valid measure to protect public health and protects religious freedom by allowing outdoor services, unlike the New York restrictions struck down by the U.S. Supreme Court. Harvest Rock Church of Pasadena and Harvest International Ministry, affiliated with 162 California churches, argued that Newsom's orders violated the constitutional standards set by the high court in its November 25 ruling on the New York case. To read the full story, click [here](#).

**California working on who will be next in line for the coronavirus vaccine**

With vaccinations under way in California for frontline healthcare workers and long-term care residents, a state advisory panel is trying to determine who will be next in line when the next wave of the vaccines become available. To read the full story, [click here](#).

### **Give COVID Vaccine To Teachers And These Other Key Workers Next, California Panel Proposes**

Essential workers at risk of exposure to the coronavirus at their job such as teachers, child care workers, grocery store clerks, farmworkers, first responders and those 75 and older should be next in line to be vaccinated, according to a proposal put forth Wednesday by a key California panel. To read the full story, click [here](#).

### **In California: Safety Concerns Grow As Some Tribal Casinos Remain Open**

In Riverside County, officials have documented six separate outbreaks, of three or more cases each, at area casinos between June and November. Those outbreaks took place at six of the County's 10 casinos, and include 57 associated cases. County officials said the total number of potential exposures that could be linked to casinos — not just outbreaks — was not available. To read the full story, click [here](#).

### **Your Brain On Cortisol: Why Overstressed Gray Matter Is Leading Us Astray In Lockdown**

When it comes to vices during the [pandemic](#), simply put, it's been difficult to say "no." Drinking an extra glass of wine here, eating half a birthday cake in one sitting there — whatever it takes to escape the constant strain of life under lockdown. That seemed reasonable in March, anyway.

But nine months on, when experience has demonstrated that chain-smoking a pack of cigarettes doesn't compensate for human interaction, why do bad habits continue to compel us? To read the full story, click [here](#).

### **Here's Who Won't Get A Second Stimulus Check, If COVID-19 Relief Bill Signed**

The fate of the \$900 billion pandemic relief package passed by Congress remains up in the air over President Donald Trump's surprise, eleventh-hour demand for \$2,000 relief checks. But assuming Trump were to sign the current Congress-approved plan for \$600 stimulus checks per person, not everyone is eligible. To read the full story, click [here](#).

### **Are Tattoos Free Speech That Should Override Coronavirus Restrictions? California Artists Say Yes**

Unsure whether he could hold a funeral for his grandmother who succumbed to COVID-19, the man turned to Tiffany Mitchell for another way to memorialize her. He "couldn't just get the phone call and go, 'OK, she's dead' and just leave it at that and do nothing at all," said Mitchell, who owns Black Raven Tattoo in Torrance. "For a lot of people, a tattoo is one of the only outlets they have to honor somebody."

To read the full story, click [here](#).

### **L.A. Was Uniquely Vulnerable To COVID Catastrophe. Here's What Went Wrong**

Los Angeles is careening toward catastrophe. An explosion of COVID-19 patients has begun to flood hospitals and may soon [force doctors to ration care](#). The number of available beds in

intensive care units is rapidly dropping to zero, as healthcare providers plead with people not to come to emergency rooms unless it's a matter of life or death. To read the full story, click [here](#).

### **The Battle For More Covid Aid Is Far From Over. Biden, Democrats Have Plans**

Before President Donald Trump's signature on one of the largest economic aid packages in [U.S. history](#) is even dry, the battle lines for the next possible Covid-19 relief deal in the new year are being drawn.

For Democrats, at the top of the list is billions in [no-strings-attached aid to state and local governments](#) struggling with revenue shortfalls amid the pandemic. They're also eyeing additional funding for testing and vaccines, as well as larger stimulus checks and targeted help for restaurants and renters. To read the full story, click [here](#).

### **State Sends Team To Help With Overflow Coronavirus Conditions At La County Hospitals, Newsom Says**

California public health officials have dispatched a support team to Los Angeles County to assist with management of overflow conditions at hospitals, Gov. Gavin Newsom said in a public address on Monday, December 28. Roughly 96% of hospitals in the County were diverting emergency patients at some point on Saturday due to overcrowding in emergency rooms, Newsom said, adding that hospitals on average were on diversion for 16 hours that day, unable to find room for new emergency patients. To read the full story, click [here](#).

### **Can We Save Restaurants in 2021?**

These three resilient, relentlessly optimistic restaurateurs certainly think so. But they also believe it will take bold, urgent action from the government to make it happen. To read the full story, click [here](#).

### **Employee Retention Tax Credit Extended By COVID-19 Stimulus Package**

The Coronavirus Disease 2019 (COVID-19) stimulus package signed into law by President Trump on December 27 contains significant enhancements to the employee retention tax credit enacted under the CARES Act. The credit initially provided a 50% tax credit, which is refundable and easily monetized, for companies that continue paying their employees, even though the business might be closed due to a COVID-19 lockdown or suffering a significant decline in gross receipts due to loss of business. This G.T. Alert provides highlights of the changes. To read the full story, click [here](#).

### **Support Team To Be Sent To LA County As Hospitals Struggle With COVID-19 Surge, Newsom Announces**

Gov. Gavin Newsom said Monday the state has dispatched a support team to Los Angeles County to help with managing overflow conditions at hospitals as COVID-19 continues to run rampant in the area. He says 96% of hospitals in the County were diverting emergency patients at some point over the weekend due to overcrowding in emergency rooms, adding hospitals on average were on diversion for 16 hours a day -- unable to find room for new emergency

patients. To read the full story, click [here](#).

### **Is My Stimulus Check Taxable Income? Will It Reduce My Tax Return? Burning Questions About The Second COVID-19 Stimulus**

The second round of direct checks authorized in the almost \$900 billion coronavirus relief package are not a carbon copy of the first checks, starting with the halved, \$600 payout size. But many rules about stimulus checks 2.0 remain the same — and that means some theories about the government money that were untrue in the spring are just as untrue now. Those are canards like some supposed obligation to pay back the money (wrong) or the capacity of some random cold-caller to get your money quicker (that's a scam). To read the full story, click [here](#).

### **COVID-19: Mandatory Vaccinations: New EEOC Publication Provides Timely Guidance For Employers**

As additional COVID-19 vaccines receive emergency use authorization from the Food and Drug Administration<sup>1</sup>, more employers are weighing the risks of implementing mandatory vaccination programs for employees. Up until very recently, and as discussed in K&L Gates LLP's November 24 2020 COVID-19 vaccination-related Legal Alert<sup>2</sup> on this topic, there was limited federal agency guidance on this issue as it relates to COVID-19. To read the full story, click [here](#).

**Note:** While EKA monitors governmental announcements, guidelines and recommendations, our updates are prepared for informational purposes and are compiled from publicly available sources. Our updates should not be considered health, medical, legal, or tax advice. Always consult a qualified professional regarding any specific questions you may have. All hyperlinks are live and will bring you to the information mentioned. If you are not interested in receiving future emails from us, then please reply with a "Remove" in the subject line and note the email addresses to be removed.