

EMPLOYMENT LAW UPDATE

Relationship-Driven Results

March 20, 2020

California Shelter in Place Order

On the evening of March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, which takes effect immediately and will remain in place until further notice, ordering Californians to begin sheltering in place at their homes (or places of residence). Exceptions to this order exist only for individuals employed in specified industries previously deemed by the federal government as essential to critical infrastructure.

As previously defined by Presidential Policy Directive 21, the following 16 sectors are deemed critical infrastructures.

- Chemical
- Commercial Facilities
- Communications
- Critical Manufacturing
- Dams
- Defense Industrial Base
- Emergency Services
- Energy
- Financial Services
- Food and Agriculture
- Government Facilities
- Healthcare and Public Health
- Information Technology
- Nuclear Reactors, Materials, and Waste
- Transportation Systems
- Water and Wastewater Systems

Additional information regarding the intended scope of the above exemptions can be found at: <https://www.cisa.gov/critical-infrastructure-sectors> and <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.

Notably, the Governor's Order encourages and notes the importance of maintaining operations in the specified sectors, and specifically references President Trump's updated Coronavirus Guidance for America, which states, in part:

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“If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule.”

Employers in industries that do not fall under applicable exemptions should instruct employees to begin working from home immediately, if such steps have not already been taken. Efforts should also be made to determine the extent to which employees are capable of performing remote work. Where employees hold roles in which remote work is not feasible, employers will need to determine the extent to which alternate arrangements for continued employment and/or compensation can be made. Where no arrangements are financially or logistically feasible, employers should consider removals from schedule, furloughs, or lay-offs, and should direct affected individuals to various local, state, and federal benefit programs.

The Governor’s Order, while broad in its applicability, lacks clarity on precise instructions regarding the exact scope of restrictions placed on California residents. Employers and employees alike must therefore continue to monitor subsequent orders and instructions as they are communicated. As has been the case throughout the past several weeks, changes to policy on this subject are frequent and often abrupt. Updates will continue to be prepared as additional information comes available.

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This is Pettit Kohn Ingrassia Lutz & Dolin PC’s monthly employment update publication. If you would like more information regarding our firm, please contact Tom Ingrassia, Jennifer Lutz, Ryan Nell, Shannon Finley, Jennifer Suberlak, Blake Woodhall, Carol Shieh, Shelby Harris, Brittney Slack, or Rio Schwarting at (858) 755-8500; or Grant Waterkotte, Tristan Mullis, Andrew Chung, Jennifer Weidinger, Rachel Albert, or Mihret Getabicha at (310) 649-5772.