

Insights, News & Events

LOS ANGELES COUNTY IMPLEMENTS VACCINE VERIFICATION AND WORKPLACE MANDATE RULES FOR MANY HOSPITALITY BUSINESSES

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Not long after West Hollywood issued an [Emergency Order](#) requiring vaccine verification and a vaccine mandate for certain businesses, Los Angeles County followed suit with its own vaccine mandate for many hospitality workplaces and large events. The County just issued an updated [Health Officer Order](#) – with most requirements taking effect October 7 – with new vaccine or proof of negative test requirements for outdoor mega events and a vaccine verification and vaccine mandate for bars, breweries, wineries, distilleries, nightclubs, and lounges. It also strongly recommends that restaurants and food facilities reserve and prioritize indoor seating and services for those who are fully vaccinated against COVID-19. Here's what you need to know about this new Los Angeles County Order.

(Editor's Note: On October 6, 2021, The City of Los Angeles passed an [ordinance](#) that requires patrons to show proof of COVID-19 vaccination before entering many indoor locations in the City, including food and drink establishments, gyms and fitness venues, entertainment and recreation venues, personal care establishments, and City government buildings. The ordinance also requires patrons at large outdoor events to show proof of vaccination or a negative COVID-19 test. Unlike many of the other vaccine verification ordinance, this ordinance only applies to patrons and does not impose requirements on employees. The ordinance is set to go into effect 31 days after the passage of the ordinance; however, this conflicts with language in the ordinance which requires a posting by October 21, 2021 and compliance by November

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4, 2021. The ordinance states the City will post related Rules and Regulations, which will hopefully help clarify these inconsistencies.)

Who is Affected by the Changes?

The Order impacts operators of:

1. Outdoor Mega Events
2. Bars, wineries, distilleries, nightclubs, and lounges for indoor services
3. Restaurants and food facilities

The requirements differ for each of these three sectors and the Order only includes strong recommendations for restaurants and food facilities.

Outdoor Mega Events: Proof of Full Vaccination or Negative Test for Attendees

“Mega events” are defined as events that have greater than 1,000 indoor or 10,000 outdoor attendees. This includes conventions, conferences, expos, concerts, shows, nightclubs, sporting events, live events and entertainment, fairs, festivals, parades, theme parks, amusement parks, water parks, large private events or gatherings, marathons or endurance races, and car shows.

Extending the requirements that apply to Indoor Mega Events, beginning **October 7, 2021**, operators of Outdoor Mega Events that are ticketed or held in a defined space with controlled points of entry, for all attendees ages 12 or older, are required to either:

- Verify the full vaccination status; or
- Obtain a pre-entry negative COVID-19 viral test result.

The vaccine verification or negative test will be required prior to entry to the event. In addition, attendees are required to wear face masks at all times, except when eating or drinking.

Outdoor Mega Event operators are required to prominently place information on all communications, including reservation and ticketing systems, informing attendees of the Order’s requirements that all attendees either be fully

vaccinated or obtain a negative COVID-19 test result prior to attending the event and the requirement of wearing a face mask while in attendance.

Vaccination Verification and Proof of Negative Test Requirements for Outdoor Mega Events

The Order contains specific instructions on what is acceptable proof of vaccination status and negative test results for Outdoor Mega Events.

Acceptable proof of full vaccination status is a photo identification of the attendee, **and** one of the following:

- Vaccination card
 - Including name of person vaccinated, type of COVID-19 vaccine provided and date of last dose administered
- A photo of the vaccination card as a separate document
- A photo of the attendee's vaccine card stored on a phone or electronic device
- Documentation of the person's full vaccination from a healthcare provider

Beginning November 1, 2021, operators of Outdoor Mega Events are required to cross-check proof of full vaccination or negative COVID-19 viral test result against a photo identification for all attendees who are 18 years of age or older.

Pre-entry negative testing is testing that must be conducted within 72 hours before event start time. Results of the test must be available prior to entry into the event or venue. Acceptable proof of a negative COVID-19 test is a photo identification of the attendee, **and** one of the following:

- A printed document from the test provider or laboratory;
or
- An email or text message displayed on a phone from the test provider or laboratory.

The information should include the person's name, type of test performed, and negative test result within the prior 72 hours. Both PCR and antigen tests are acceptable.

Bars, Wineries, Distilleries, Nightclubs, and Lounges: Proof of Full Vaccination for Patrons

The Order applies to bars that have a low-risk food facility public health permit and breweries, wineries, and distilleries with a #1, #2, #4, #23, and/or #74 state alcohol license that do not possess or that are not required to have a public health permit to operate and to nightclubs and lounges that are open only to persons 18 years of age or older.

“Nightclub” is defined as a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided, and/or has its primary source of revenue as (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both. A lounge is defined as a business that operates primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge.

Effective October 7, 2021, bars, wineries, and distilleries must require patrons ages 12 and older to provide proof of their COVID-19 vaccination status for entry to their facilities to receive indoor services and nightclubs and lounges must require patrons and on-site personnel to provide proof of their COVID-19 vaccination status for entry.

The Order states that between October 7 and November 3, 2021, patrons of bars, wineries, and distilleries, nightclubs, and lounges must provide proof that they have received at least one dose of the COVID-19 vaccination for entry to receive indoor services. Beginning November 4, 2021, patrons must be required to show proof of full vaccination against COVID-19 for entry to receive indoor services.

Bars, wineries, and distilleries, nightclubs and lounges can continue to serve patrons who do not provide proof of full vaccination status in the outdoor portions of the facility. There is a limited exception allowing individuals who do not provide proof of vaccination to enter the indoor portions of the facility while wearing a well-fitted mask for the following purposes: 1) as part of their employment to make a delivery or pick-up, provide a service or repair to the facility, or for an emergency or regulatory purpose; 2) to get to the outdoor portion of the facility or to use the restroom; or 3) to order, pick-up, or pay for food or drink “to go.”

Bars, Wineries, Distilleries, Nightclubs, and Lounges: Vaccine Mandate for Employees

In addition to the vaccine verification requirements for patrons, by no later than November 4, 2021 all onsite employees of bars, wineries, and distilleries, nightclubs, and lounges must provide proof that they are fully vaccinated, subject to an employee seeking a protected exemption from the vaccine requirement.

To seek an exemption, an employee must provide their employer a declination form stating they are declining the vaccination based on a sincerely held religious belief of excused from receiving any COVID-19 vaccination due to "Qualifying Medical Reasons." To be eligible for a Qualifying Medical Reasons exemption, the employee must also provide their employer with a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the person qualifies for the exemption, without disclosing or describing the underlying medical condition or disability, and indicating the probable duration of the need for the exemption.

If an exemption is approved, the unvaccinated employee must submit to at least once weekly testing with a COVID-19 PCR or antigen test with Emergency Use Authorization by the FDA or operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services and wear a surgical mask or NIOSH- approved respirator at all times while indoor at the bar, winery, and distillery, nightclub or lounge.

Restaurants and Food Facilities: Strongly Recommends to Seat Unvaccinated Patrons Outdoors

Unlike the other venues, the Order only makes recommendations as to restaurants and food facilities and does not require that they collect vaccination status for indoor services.

Restaurants and food facilities are those that serve food or drink indoors and are required to maintain a valid public health permit to operate. The Order **strongly recommends**, but does not require, that operators of restaurants and food facilities reserve and prioritize indoor seating and service for patrons who are fully vaccinated against COVID-19. The Order recommends that restaurants verify the full vaccination status of all patrons, 12 years of age or older, who will be seated indoors for food or beverage service. Patrons who do not provide proof that they are fully

vaccinated should be served in outdoor portions of the facility.

How Do Operators Verify Vaccination Status?

As noted, Outdoor Mega Event Operators must follow certain verification requirements. For vaccine verification, operators Bars, Wineries, Distilleries, Nightclubs, Lounges, Restaurants, and Food Facilities must (or should, for restaurants and food facilities):

1. Check that the name on the vaccination record matches a photo ID, AND
2. Check proof of COVID-19 vaccination for vaccination type and date(s).
 - If the individual had the Johnson & Johnson vaccine, verify single dose with date 14 days prior to today
 - If the individual had the Pfizer or Moderna vaccine, verify two doses with dates. The most recent dose should be 14 days prior to today

The following are acceptable proof of COVID-19 vaccine:

- CDC COVID-19 vaccination record card (White Card)
- World Health Organization (WHO) vaccine record card (Yellow Card)
- Documentation of vaccination from the healthcare provider or entity that provided the COVID-19 vaccine
- California Immunization Registry (CAIR2) vaccination record
- Digital vaccination record issued by:
 - California Department of Public Health, or
 - Download [the free SMART Health Card verified app](#) to read the QR code
 - An approved company such as Healthvana or Carbon Health.

For any of the vaccine record cards or health records, individuals are permitted to show the actual card, a photo of

the card as a separate document, or a photo of the card stored on a phone or electronic device.

Operators should reference the [Verifying Proof of COVID-19 Vaccination](#) and [Verifying Proof of a Negative COVID-19 Test](#) guidance from LA County for more information and examples.

What Should You Do?

Outdoor Mega Events operators will need to put in place an updated plan to incorporate the new requirements for applicable events beginning October 7, 2021.

Operators of bars, wineries, distilleries, nightclubs, and lounges should carefully review the requirements applicable to them and put a plan in place to begin verifying vaccination status for patrons that will be receiving indoor services (and on-site personnel of nightclubs and lounges) beginning October 7, 2021. Operators of these venues should also put a plan in place to collect proof of full vaccination status from their employees by no later than November 4, 2021, including how to deal with medical and religious exemptions to the requirement for employees and the costs associated with accommodations, including costs related to testing, time spent testing, etc.

Operators of restaurants and food facilities should consider whether to follow the strong recommendations made within the Order.

Additionally, employers with operations or employees in Los Angeles should keep a close eye on additional vaccine verification and mandates, as more extensive requirements may be forthcoming in the very near future.

We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. Please be sure to contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#) should you have any questions.