



Bay Area Essential Businesses Are Ordered To Implement Social Distancing Protocols By April 2

Insights

4.01.20

Six Bay Area counties and the city of Berkeley just implemented new expanded Shelter-in-Place Orders, extending the restrictions to May 3, 2020 and including additional requirements on Essential Businesses maintaining operations in each locality. The biggest change requires operating Essential Businesses to prepare, implement, and post Social Distancing Protocols at each of their facilities.

Who Must Comply?

All Essential Businesses as defined by the Orders with facilities operating in Santa Clara County, San Mateo County, Alameda County, Contra Costa County, Marin County, San Francisco County, and the city of Berkeley.

When Must Essential Businesses Comply By?

All Essential Businesses must implement their Social Distancing Protocol by **April 2, 2020 at 11:59 PM** and be prepared to provide evidence of its implementation to any enforcement authority upon demand.

What Are The General Social Distancing Requirements?

- Individuals who are not a part of the same household must maintain at least a six-foot distance from each other;
- Frequently wash hands with soap and water for at least 20 seconds and/or use hand sanitizer;
- Cover coughs and sneezes with a tissue or fabric, or, if not possible, into the sleeve or elbow (but not in the hands); and
- Avoid all social interactions outside the household when sick with a fever or cough.

What Information Must Essential Businesses Include In Their Social Distancing Protocols?

Social Distancing Protocols should include measures to protect employee health; prevent crowds from gathering; keep people at least six feet apart; prevent unnecessary contact; and increase sanitization.

The new Orders have made clear Social Distancing Protocols must include and implement the following at a minimum.

1. Post signage at the entrance of facility instructing all individuals to:

- avoid entering the facility if they have a cough or fever,
 - maintain a six-foot distance from one another;
 - cough or sneeze into one's elbow; and
 - not shake hands or engage in any unnecessary physical conduct;
2. Limit the number of people who can enter their facility at one time;
 3. Ensure people can easily maintain a minimum six-foot distance from one another except when required to complete the Essential Business Activity;
 4. If lines form at the Essential Business, mark at least six-foot increments to establish and control where individuals are standing;
 5. Provide adequate hand sanitizers near the entrance of facilities and in other appropriate high touch areas (i.e. entrances and cashiers);
 6. If feasible, implement and provide contactless payment systems or at least provide accessible sanitizers so all payment portals, pens, and styluses can be disinfected;
 7. Implement regular disinfecting procedures for cleaning high-touch services; and
 8. Any other additional social distancing measures being implemented.

Counties have also provided a Social Distancing Protocol to guide employers. A copy of the template may be accessed [here](#).

Where Must The Social Distancing Protocol Be Posted?

The protocol must be posted at or near the entrance of each facility so it is easily viewable by the public and employees. It also must be provided to each employee performing work at each facility.

Other Additional Limitations

The Orders also made a change by indicating that certain operations are no longer Essential Businesses. They include businesses supplying products needed by people working from home, which must cease operations of their storefront sales. Further, most construction must also cease operations. There are exceptions, which include health care projects directly related to addressing the pandemic, construction to shelter the homeless, affordable housing, and multi-unit or mixed-use developments containing at least 10% income-restricted units.

Finally, Essential Businesses must also re-evaluate what part of their workforce is permitted to work at their facilities. They are ordered to maximize the number of employees working from home. Employees who can perform their duties from home must be instructed to stay home and work remotely. Only employees who cannot perform their job duties from their home should be working allowed at facilities. Essential Businesses that also have any non-essential components at their facilities must, to the extent feasible, scale down their operations to the Essential Business component only.

Conclusion

We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our [San Francisco office](#), or [any member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

This Legal Alert provides an overview of specific local laws. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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