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NAVIGATING THE NEXT.

**Biweekly Webinar Series: Returning to Work
in California: Highlights of Major State and
Local Orders**

Daryl Landy, Lauren Nikkhah, and Karen Cho
February 10, 2021

Presenters



Daryl Landy



Lauren Nikkhah



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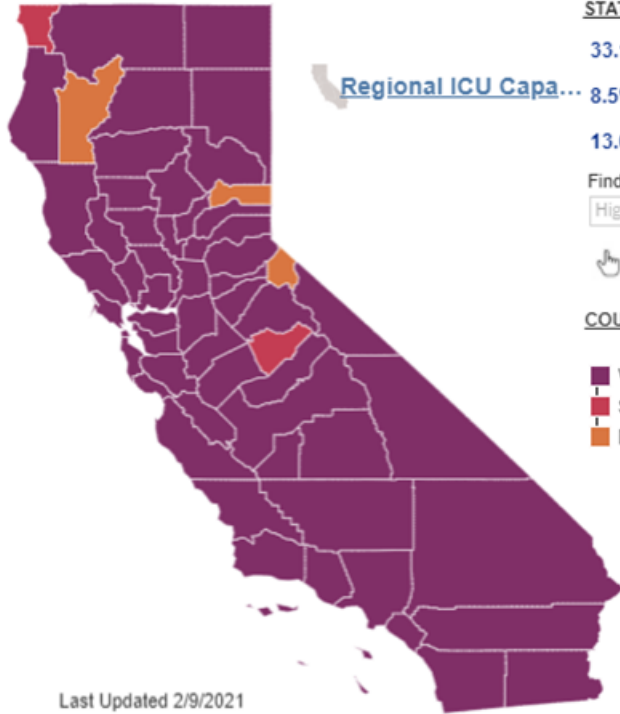
Return to Blueprint for a Safer Economy & County Tier Assignments

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California's Tier System

County risk level	New cases	Positive tests
WIDESPREAD Many non-essential indoor business operations are closed	More than 7 Daily new cases (per 100k)	More than 8% Positive tests
SUBSTANTIAL Some non-essential indoor business operations are closed	4-7 Daily new cases (per 100k)	5 – 8% Positive tests
MODERATE Some indoor business operations are open with modifications	1 – 3.9 Daily new cases (per 100k)	2 – 4.9% Positive tests
MINIMAL Most indoor business operations are open with modifications	Less than 1 Daily new cases (per 100k)	Less than 2% Positive tests

California's Tier System



STATEWIDE METRICS

33.1 New COVID-19 positive cases per day per 100K

8.5% Positivity rate (7-day average)

13.6% ICU availability

Find a county

Click on the map for updated metrics

COUNTY RISK LEVELS

	Counties	Population	
Widespread	53	40,066,221	99.8%
Substantial	2	45,353	0.1%
Moderate	3	17,586	0.0%

Last Updated 2/9/2021

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Location	Tier assignment on 11/10/20	Tier Assessment	FINAL TIER FOR 11/16
Alameda*	3	2	1
Alpine	4	4	4
Amador	2	3	2
Butte*	3	1	1
Calaveras	4	3	3
Colusa	3	2	2
Contra Costa	2	1	1
Del Norte	3	2	2
El Dorado*	3	1	1
Fresno*	2	1	1
Glenn*	2	1	1
Humboldt	4	2	2
Imperial	1	1	1
Inyo	3	3	3
Kern*	2	1	1
Kings*	2	1	1
Lake	2	2	2
Lassen	3	3	3
Los Angeles	1	1	1
Madera	1	1	1

California's Tier System – Permissible Activity

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Restaurants	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> Max 25% capacity or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> Max 50% capacity or 200 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> Max 50% capacity
Wineries	Outdoor Only with modifications	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> Max 25% capacity indoors, or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> Max 50% capacity or 200 people indoors, whichever is fewer
Bars, Breweries, and Distilleries (where no meal provided) (follow restaurants where meal is provided)	Closed	Closed	Open Outdoors with modifications	Open indoors with modifications <ul style="list-style-type: none"> Max 50% capacity
Family Entertainment Centers	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> Kart Racing Mini Golf Batting Cages 	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> Kart Racing Mini Golf Batting Cages 	Open Indoors for naturally distanced activities with modifications <ul style="list-style-type: none"> Max 25% capacity Bowling Alleys Climbing Walls 	Open indoors for activities with increased risk of proximity and mixing with modifications <ul style="list-style-type: none"> Max 50% capacity Arcade Games Ice and roller skating Indoor playgrounds

California's Tier System – Searching for Status of Activity in Each County

Find the status of activities in your county

County Activity

San Francisco Q Clear Enter a business or activity

GET LATEST RISK LEVELS

San Francisco

MINIMAL

Most indoor business operations are open with modifications. [Understand the data.](#)

Counties can restrict further. Check your [county's website](#).

Office workspaces

Tier status:

Widespread (purple): Remote work

Substantial (red): Remote work

Moderate (orange): Indoor with modifications, encourage telework

Minimal (yellow): Indoor with modifications, encourage telework

Follow this [guidance for office workspaces](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for office workspaces](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

Faith-based office workspaces can reopen within the following parameters:

1. Faith-based facilities are considered "offices" only for those employed by the organization and where the facility is their regular place of work.
2. The employer should implement state guidance relating to offices before reopening the facility for employees.
3. This designation does not permit gatherings of non-employees, such as the organization's congregation.

California Hazard ("Hero") Pay

The background of the slide is a composite image. At the top, there is a dark blue space scene filled with stars and a bright, glowing light source on the horizon. Below this, a cityscape is visible at night, with buildings and streets illuminated. Overlaid on the cityscape is a network of glowing lines and nodes, resembling a data network or a globe's grid. The lines are primarily blue and orange, connecting various points across the city and extending towards the horizon.

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California Hazard Pay – What Is It?

- Also known as “Hero Pay”
- Typically additional hourly pay for lower wage, frontline workers
- Several California cities and counties introduced emergency hazard pay ordinances, particularly for large grocery and drugstore workers.
- If the local ordinance is passed, the law mandates employers to provide employees with additional pay, typically \$4-\$5 per hour, on top of their base pay.

California Hazard Pay – Who Has Adopted or is Considering It?

- **Cities with Hazard Pay:**
 - Long Beach
 - Montebello
 - Oakland
- **Cities considering it:**
 - Berkeley
 - Los Angeles
 - San Jose
 - Santa Ana
 - San Francisco
 - Santa Monica
 - West Hollywood
- **Counties considering it:**
 - Los Angeles
 - San Francisco
 - Santa Clara

California Hazard Pay – Key Requirements and Developments

- Employer additional requirements:
 - Prohibited from reducing employee hours and compensation
 - Must inform employees of their rights under the ordinance with a written notice
 - Must retain records that document compliance for a period of 2 years
- Expansion of hazard pay to other sectors
- Lawsuits in Long Beach, Montebello, and Oakland

California's New Pay Data Reporting Requirements

The background of the slide is a composite image. At the top, a dark blue space filled with stars and a bright, glowing horizon line, possibly representing the sun or a distant star, sets a futuristic tone. Below this, a night view of a city is shown, with its lights and buildings visible. Overlaid on the city is a network of glowing lines and nodes, resembling a data network or a digital map. The nodes are small, bright circles in various colors (orange, blue, purple), and the lines are thin, connecting them in a complex web. The overall color palette is dominated by blues, oranges, and purples, creating a high-tech, digital atmosphere.

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SB 973: Equal Pay – Data Reporting Requirements

- Covered Employers Must Submit Pay Data Report to DFEH
 - Applies where employers have more than 100 employees
 - Reporting year is calendar year
 - Choose single “snapshot” pay period Oct.-Dec.
 - First report due by March 31, 2021
 - Searchable format
- Report Contents
 - Number of employees categorized by race, ethnicity and sex
 - Categorized in each of the EEO-1 defined job types
 - Include previous year W-2 earnings and hours worked
 - Categorize pay in bands used by US Bureau of Labor Statistics
 - Required for each establishment and consolidated report that includes all employees

SB 973: Pay Data Reporting Requirements, cont.

- Confidentiality and Retention
 - State and agencies required to keep unique employer data confidential
 - Information considered confidential under California Public Records Act
 - State may report and publish aggregated data
 - Agency must retain data for 10 years
- Enforcement
 - DFEH required to make reports available to DLSE upon request
 - EDD required to provide DFEH upon request names and addresses of all covered businesses
 - DFEH can use the list to determine compliance with reporting
 - DFEH may seek an order compelling compliance by employers and recover costs

SB 973: Pay Data Reporting Requirements, cont.

- Employers Should Plan Now for Compliance
 - DFEH has published a **template** and **User Guide**:
<https://www.dfeh.ca.gov/paydatareporting/>
 - May submit EEO-1 report if it contains the same or *substantially similar* pay data
 - Note, most EEO-1 reports will not technically comply with SB 973 because the federal government discontinued collection of pay band data categorized by race, ethnicity, and sex
 - May change under Biden administration
 - Adjust systems to ensure that data will be available in the format required
 - While the report is submitted to the DFEH, employers should keep communication regarding the data behind it privileged.
 - Prepare the report with the assistance and at the direction of counsel to ensure communications regarding the report, including the results and any impact that the report will have to the company, are privileged.
 - Consider proactive pay equity analysis to address any areas of concern

Upcoming Events

- **Thursday, February 18 - *New Cal-OSHA COVID-19 Regulations***
[Register here](#)


Return to Work Resources for Employers

View a list of the [return to work resources](#) that we have developed to support employers' efforts in safely returning to work.

Get more information on our [Return to Work – Stay in the Safe Zone](#) training program.

Access our [workplace reopening checklist](#).

[Questions on Vaccines?](#)



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NOW. NORMAL.
NEXT.

RETURN TO WORK RESOURCES

Category	Work Product
Essential Business and/or Reopening Guidance	State and Local Orders, Ordinances, and Regulations Regarding Shelter in Place, Business Restrictions, and Business Reopening Chart <ul style="list-style-type: none">We can also provide weekly updates
	We can also create customized charts of specific orders or just reopening orders. Examples: <ul style="list-style-type: none">Requirements Regarding Temperature Screens and Symptom ScreensRequirements for PPE or Face Coverings
Workplace Screening, Social Distancing, PPE, and Sanitization Policies and Procedures	Social Distancing Policy Template, Customization Guidance, and Face Covering Policy Template
	Active Screening Protocol with Temperature/Symptom Screening Policy Template
	FAQs on COVID-19 Molecular and Serology Testing
	Infection Control Protocols for the Workplace
	<i>Policies and procedures can be customized for the company.</i>
Training	Webinar Training Program on Social Distancing and Safety Measures for Return to Work
Unions	Labor Management Return To Work Memorandum of Understanding Template

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Coronavirus COVID-19 Resources

We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

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To help keep you on top of developments as they unfold, we also have launched a resource page on our website at

[www.morganlewis.com/
topics/coronavirus-
covid-19](http://www.morganlewis.com/topics/coronavirus-covid-19)

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to [subscribe](#) using the purple “Stay Up to Date” button.

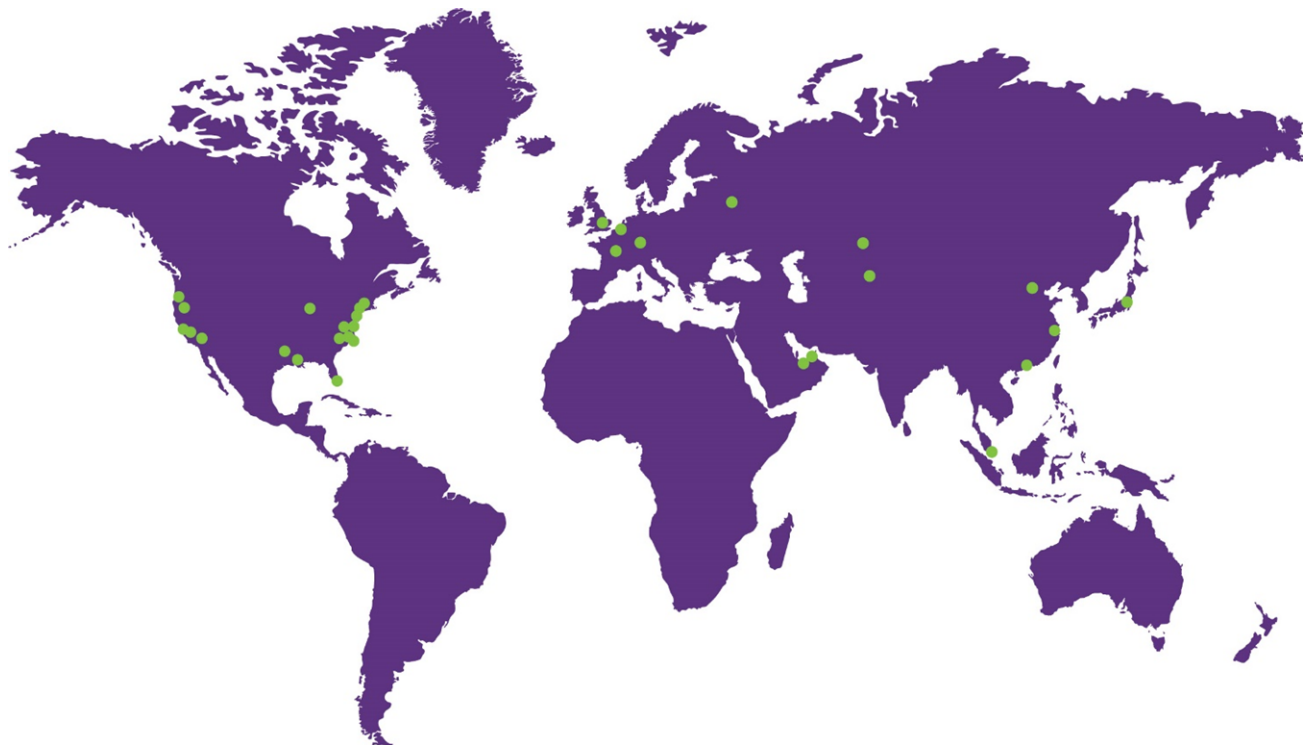


Our Global Reach

Africa
Asia Pacific
Europe
Latin America
Middle East
North America

Our Locations

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Almaty
Beijing*
Boston
Brussels
Century City
Chicago
Dallas
Dubai
Frankfurt
Hartford
Hong Kong*
Houston
London
Los Angeles
Miami
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