



June 7, 2021

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: URGENT Request for Executive Order to Conform Workplace Regulations with CDC and CDPH Guidelines

Governor Newsom:

Since the beginning of the COVID-19, you and your administration have led the state through the pandemic with a “science first” approach. The business community supported this approach, investing hundreds of millions of dollars to create the safest and healthiest environments for our employees and customers and/or rapidly transitioning entire workforces to telework.

Now that there are multiple safe and effective vaccine options available to Californians, we have seen COVID-19 case rates plummet. All along, you have said that vaccinations were the cornerstone of reopening the economy, and now, we are just a few days away from that being a reality.

When the Centers for Disease Control issued its updated guidance stating fully vaccinated individuals no longer need to wear masks in indoor settings, we fully expected the state to once again conform to federal guidelines.

Despite additional confusion, we understood CDPH's decision to align with CDC guidelines on June 15. Businesses of all sizes began making hiring and reopening plans based on this announcement. However, the recently passed Cal/OSHA Emergency Temporary Standard (ETS) undermines the critical work you and we have done to safely reopen on June 15.

As long as the ETS remains in place as written, the economy will not fully reopen on June 15. Businesses will not bring employees back with the level of confusion and uncertainty created by the ETS and the mixed messages coming from state and local leaders. The business community is extremely compliance driven, but even you yourself stated that the ETS created a lot of "open-ended questions." These questions are expensive liabilities for businesses of all sizes, but especially for small businesses who may not have the legal expertise to navigate the confusing and contradictory statements and regulations coming from various levels of government.

That is why we are asking you to issue an IMMEDIATE Executive Order conforming workplace guidelines with the CDC and CDPH guidelines. We ask you to continue the state's "science first" approach and stand by both the safety and efficacy of the COVID-19 vaccine and the opinions of the nation's top health experts. We believe an Executive Order should:

1. Align the Cal/OSHA masking guidelines with the CDC
2. Align the physical distance guidelines with the state's June 15 "reopening"
3. Provide safe harbor from Cal/OSHA violations, fines and penalties for good-actor businesses attempting to navigate the constantly evolving recommendations from the CDC and state and local public health officials
4. Remove the requirement for stockpiling of N95 respirators, the use of which are discouraged by the CDC for non-healthcare personnel¹

An Executive Order will create a faster and more equitable recovery. Conformity and consistency will help reassure small and large businesses that they can bring their employees back safely and in compliance with clear guidelines and accountability. Businesses are making reopening and rehiring decisions now and need clarity immediately. We cannot wait weeks—or months—for Cal/OSHA to act. Moreover, as you have repeatedly stated, communities of color still lag behind in their vaccination rates, whether due to lack of access in their communities, or vaccine hesitancy. The ETS sets up a standard in which an employer may feel pressured to only hire fully vaccinated individuals, which would further slow the recovery of those already disproportionately affected by the health and economic impacts of the pandemic.

¹ Per the CDC, N95 masks should be reserved for healthcare professionals.
<https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-mask/art-20485449>

At a time when businesses are already struggling to hire employees, mandating that fully vaccinated individuals wear a mask indoors will create yet another barrier to rehiring and reopening. We need to be providing incentives to bring people back into the workplace, not create more barriers, frustration and confusion. Additionally, once in the workplace, there is considerable concern that the ETS could lead to workplace hostility against unvaccinated co-workers, again creating a powerful disincentive for individuals to re-enter the workforce.

The Cal/OSHA ETS may lead to vaccine hesitancy or reduce vaccination rates. As doctor Monica Gandhi, an infectious disease expert at UCSF, stated, “The problem with Cal/OSHA's decision is that *they’ve failed to embrace the effectiveness of vaccines*...The CDC is an extremely cautious organization, but their recommendation that immunity from a vaccine is far more powerful than protection from a mask is sound².” The ETS undermines the science confirming that the COVID-19 vaccines are safe and effective. This could have a negative impact on the public’s confidence in the vaccine and desire to be fully vaccinated. Now, more than ever, the state must stand with the science and show residents—customers and employees alike—that the COVID-19 vaccine is safe, effective and necessary.

We are proud of the progress the state has made to significantly reduce COVID-19 cases and hospitalizations. We recognize that the COVID-19 emergency is not over and remain committed to doing our part to keep employees and customers safe. We have been a partner with you throughout the pandemic and are now asking for you to provide us with the certainty and clarity we need to bring well-paying jobs back in quickly, safely and equitably.

Thank you in advance for your consideration of our urgent request and we look forward to hearing from you and your administration shortly.

Sincerely,

California Business Roundtable
California Retailers Association
California Restaurant Association
CalAsian Chamber of Commerce
National Federation of Independent Business, California
Western Growers
California African American Chamber of Commerce
California Hotel & Lodging Association
California Manufacturers & Technology Association
Los Angeles BizFed
Orange County Business Council
California Attractions and Parks Association

² <https://www.sfgate.com/politics/article/California-mask-mandate-workplaces-Gavin-Newsom-CA-16225143.php>