

A Grand Reopening

How Do California Restaurants Fit In As the State Comes Out of COVID-19 Shutdown



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RELIEF

RESTART

RECOVER

REIMAGINE





RESTART PLAN OF ACTION FOR RESTAURANTS

- > Designate COVID-19 response team
- > Reimagine processes
- > Protocols, procedures and policies
- > Evaluate local and state shutdown orders





RESTART PLAN OF ACTION FOR RESTAURANTS

- > Finances (PPP Forgiveness)
- > Supplies, goods and materials necessary to operate
- > PPE supplies
- > Disinfection protocols
- > Protocol for health screening of employees, vendors, visitors, customers
- > Transportation
- > Training of managers, supervisors and employees
- > Signage



Legal Alert

PDF

Fisher Phillips State-by-State Restaurant Guide to Reopening

5.8.20

The restaurant industry has been severely impacted by state shutdown orders. As states start reopening businesses, it is vital to know the applicable rules that apply to your location or locations. Whether you operate a single location or are a multi-unit operator, compliance will include assessing business operations, bringing employees back to work, and ensuring a safe operation for customers and employees. In an effort to assist the restaurant industry, our Hospitality Practice Group has prepared a comprehensive state-by-state chart that addresses your most commonly asked questions. For each state, we provide information regarding dine-in restrictions, face mask requirements, employee temperature-taking, customer health checks, sanitation, paid sick leave, and much more. Download the chart, find your state, and get ready to reopen!

Click here to download the chart *(last updated May 12, 2020).*

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ATTORNEYS

- > Catharine Morisset
- > Alden Parker
- > Erin Price

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FMLA App



California's Requirements to Reopen

- > Type of Face Coverings
- > Required or Recommended
- > Employer provided or not
- > Employee Screening
- > Employee temperature check
- > Customer Health Screening
- > Sanitation
- > Permitted Occupancy Limits
- > Signage
- > Other limitations





California's Requirements to Reopen

> Occupancy Limits -

- > Likely limit tables to not more than 10 people.
- > Likely required to have 6 feet between tables.
- > Likely to have no more than a certain % of normal capacity (25%/33%/50%).





California's Requirements to Reopen

- > **Type of Face Coverings** – Likely masks for those that interact with the public and when unable to social distance with other employees (think BOH).
- > **Required or Recommended?** – Likely required.
- > **Employer provided or not?** – Likely required to be provided by employer.





California's Requirements to Reopen

> Employee Screening –

- > Likely required to ensure employees told not to come to work if sick.
- > Likely to be required to perform health survey with every employee before the beginning of each shift.

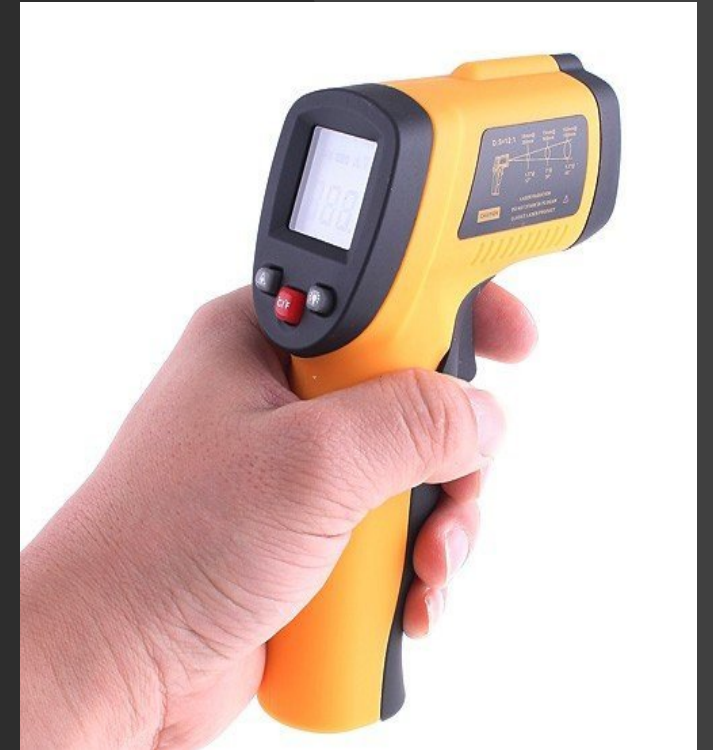




California's Requirements to Reopen

> Employee temperature check? –

- > Likely yes. Thermal or temperature scans of employees prior to the beginning of each shift.
- > Looking for 100.4 degrees.





California's Requirements to Reopen

- › **Customer Health Screening** - ? TN requires restaurants screen customers. So far not that common.





California's Requirements to Reopen

> Likely Sanitation Requirements

- > Mandatory hand washing every 30 minutes.
- > Hand sanitizer in bathrooms and at the entrance.
- > No condiments or place settings on the table as the customer arrives.
- > High contact surfaces regularly sanitized.
- > Tables, chairs, booths, cleaned every time it turns.
- > Menus must be single use or sanitized after each use.
- > Restrooms must be sanitized every hour.
- > Mandatory sign posting at front of restaurant about social distancing, washing hands, sanitizer.
- > Face Coverings required by public when not seated at their table.



California's Requirements to Reopen

> Likely other limitations

- > No buffets or salad bars.
- > No bars open.
- > No self service soda machines, etc.
- > No arcades
- > Training on all new policies and procedures for each employee/manager.





WORKPLACE SAFETY FOR RESTAURANTS

Common Questions

- › What potentially happens if I refuse to follow the State/County/City public health order and requirements?
- › What happens if an employee refuses to return?
- › What do I do if an employee tests positive?
- › If an employee or customer gets sick, can the restaurant be liable?
- › Can I have everyone sign a liability waiver?



COMMITMENT THROUGH COMMUNICATIONS

Connect and
Retain

- › Strategy
- › Schedule
- › Audience
- › Messenger
- › Methods
- › Messages





COMMITMENT THROUGH COMMUNICATIONS

Messages – Common Themes

- › *Care and Concern*
- › *Business Plans*
- › *Policies and Programs*
- › *Resources*
- › *Communicate with active employees,
those on LOA, customers.*





Best Practices For Returning Employees to Your Restaurant

- › Re-scheduling furloughed employees
- › Re-hiring terminated employees
- › Arbitration agreements



FAMILIES FIRST RESPONSE ACT FOR YOUR RESTAURANT EMPLOYEES



- › Emergency Paid Sick Leave
- › Emergency Family And Medical Leave Act



EMERGENCY PAID SICK LEAVE FOR YOUR RESTAURANT EMPLOYEES

Qualifying Reasons

Must provide paid sick time "to the extent the employee is unable to work (or telework) due to a need for leave because:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. The employee is caring for an **individual** who is subject to an order or self-quarantine as described above
5. The employee is caring for a son or daughter if school or child care is closed/unavailable
6. The employee is experiencing "any other substantially similar condition" specified by HHS (catch all)



EMERGENCY FAMILY AND MEDICAL LEAVE

Qualifying Reasons

12 weeks of job protected leave when:

- "The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency"
- Likely FMLA definition of "son or daughter" will apply



EMPLOYEE'S REQUEST FOR LEAVE OF ABSENCE FORM

[Company Name]

Employee's Request for Leave of Absence

This form is intended for use by employees requesting a Leave of Absence pursuant to the Families First COVID-19 Response Act. Employees applying for leave must complete this form and return it to _____ as soon as practicable. Please consult the Company's Emergency Paid Sick Leave Policy and Emergency FMLA Policy [previously sent to employees/posted on _____] for more information regarding your possible entitlement to emergency leave. Additional documentation may be required before leave is approved.

Employee's Name: _____ Date of Request: _____

Start date of requested leave: _____

Date Employee expects to return: _____

Address: _____

Telephone Number: _____

Email Address: _____

LEAVE REQUESTED

A. EMERGENCY PAID SICK LEAVE - UNABLE TO WORK OR TELEWORK (work from home): *select reason below:*

- (1) ___ I am subject to a Federal, State, or local quarantine or isolation order related to COVID-19. I understand that I must provide documentation accompanying this request to support this requested leave, such as a copy of the Federal, State or local quarantine or isolation



WAGE AND HOUR ISSUES FOR THE RESTAURANT INDUSTRY DURING A TIME OF RECOVERY

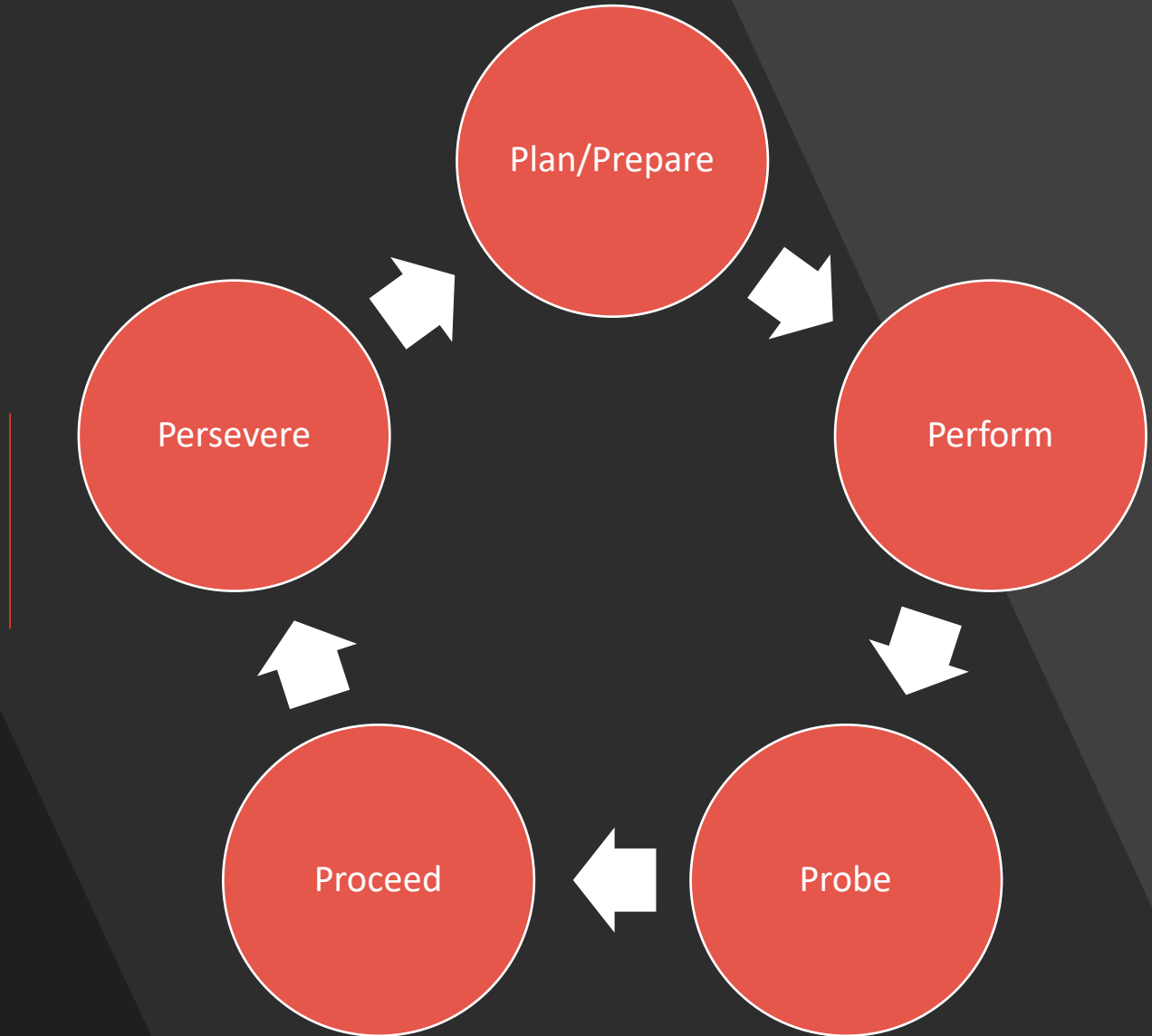
Compliance



- › California Labor Code
- › Bonuses
- › Reporting Time Pay
- › Pay adjustments
- › Maintaining exempt status



IN CLOSING



Visit **FISHER PHILLIPS** **RESOURCE CENTER** for **Employers**

Post-Pandemic Back-To-Business FAQs For Employers

Comprehensive set of FAQs that will be continually updated throughout the recovery period. not only do we go deeper on all these topics, but we also have detailed information about:

- SBA Loans
- Paid Sick Leave and E-FMLA
- Benefits
- Unemployment
- I-9s and Immigration Issues
- International Workplaces
- Trade Secrets Concerns
- ...and more

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Final Questions

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