



## New COVID-19 Related Orders for Los Angeles City Employers

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On April 7, 2020, the Mayor of Los Angeles issued three Orders affecting employers operating within the boundaries of the City of Los Angeles: (1) [Supplemental Paid Sick Leave Due to COVID-19](#); (2) [Worker Protection Order](#); and (3) [Grocery, Drug Retail and Food Delivery Worker Protection](#). If you employ workers within the geographical boundaries of Los Angeles, continue reading below for need-to-know information on these developments.

### **Supplemental Paid Sick Leave Due To COVID-19**

Previously, on March 27, 2020, the Los Angeles City Council passed a [Supplemental Paid Sick Leave Ordinance \(Ordinance No. 186590\)](#) ("PSL Ordinance"). The PSL Ordinance required employers with 500 or more employees to provide supplemental paid sick leave to employees for certain covered reasons. The PSL Ordinance imposed similar requirements as the federal Family First Coronavirus Response Act (applicable to employers with fewer than 500 employees).

On April 7, 2020, Mayor Garcetti issued an order suspending the PSL Ordinance and replacing it with a narrower Supplemental Paid Sick Leave requirement ("SPSL"). SPSL takes effect April 10, 2020, and lasts until December 31, 2020, unless extended.

- Who Must Provide SPSL? A "Covered Employer" is one who directly or indirectly employs any Employee (as defined), and has either: (i) 500 or more employees within the City of Los Angeles; or (ii) 2,000 or more employees nationwide. No information is provided regarding the time period over which an employer must count its employees.
- Who Is An Eligible Employee? To be eligible, an employee must: (i) have been employed with the same Covered Employer from February 3, 2020 through March 4, 2020; (ii) be unable to telework; and (iii) work within the City of Los Angeles.
- What Reasons Qualify for SPSL? A Covered Employer must provide paid sick leave to an Employee who needs time off of work due to:



1. A COVID-19 infection, or because a public health official or healthcare provider requires or recommends self-quarantine;
2. Employee's advanced age (65 years or older) or health condition (including heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system);
3. The need to care for a family member who is not sick, but who has been required or recommended to self-quarantine by public health officials or healthcare providers; or
4. The need to care for a family member whose senior care provider, school, or child care ceases operations in response to public officials' recommendation, and the employee is unable to secure a reasonable alternative caregiver.

Covered Employers may not require a doctor's note or other documentation.

How Much SPSL Is Available? A full-time Employee is entitled to 80 hours of paid sick leave.<sup>1</sup> Employees who work less than 40 hours per week are entitled to an amount no greater than their average pay for two weeks of work between February 3, 2020 through March 4, 2020. In all cases, the paid sick leave is capped at \$511 per day and \$5,111 in the aggregate. These obligations are reduced for each hour of paid leave an Employer allowed an Employee to take after March 4 that meets or exceeds the requirement of the PSL Ordinance, for any of the reasons listed above. However, "previously accrued hours" are not part of the offset calculation.

Exemptions? There are several exemptions from the PSL Ordinance:

- Emergency and health services personnel, including first responders, gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law enforcement personnel, and certain health care workers.
- Global Parcel Delivery service providers.
- Businesses (other than construction and film producers) that already provide a minimum of 160 hours of paid leave annually.
- New businesses that started in or relocated to the City between September 4, 2019 and March 4, 2020.
- Government agencies and public service employers.

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<sup>1</sup> The supplemental paid sick leave shall be calculated based on the employee's average two week pay over the period of February 3, 2020 through March 4, 2020.



- Businesses that already closed for 14 or more days due to a city official's emergency pandemic order.
- Collective bargaining agreements may supersede the Ordinance in certain circumstances.

Additional Guidance? The Office of Wage Standards and the Bureau of Contract Administration have been tasked to promulgate rules and regulations, which will be posted online ([WagesLA.lacity.org](http://WagesLA.lacity.org)).

### **Worker Protection Order**

Mayor Garcetti also issued a [Worker Protection Order](#) ("WPO"), which implemented safety requirements such as requiring the use of face coverings by some employees. The WPO takes effect April 10, 2020, and remains in effect until the local emergency period is lifted.

Covered Employees. The WPO applies to workers identified in certain subsections of Paragraph 5(vii) of the [City of Los Angeles Safer At Home Emergency Order](#), as summarized below:

- b) Grocery stores, supermarkets, convenience stores, and other business retailing food, dry goods, fresh produce, pet food, any other household consumer products.
- d) Organizations providing food, shelter, and social services, and other necessities of life for the needy.
- h) Hardware and building supply stores, day labor centers, and nurseries.
- i) Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, day laborers, landscapers, gardeners, property managers and leasing agents, private security personnel.
- l) Laundromats, dry cleaners, and laundry service providers.
- m) Restaurants and food facilities (delivery service, pick up, or drive-thru only).
- p) Businesses that ship or deliver groceries, food, and/or goods directly to consumers.
- q) Private transportation services (including taxis, ride sharing, etc.);
- v) Hotels, motels, shared rental units and similar facilities.



Face Masks for Covered Employees. The WPO requires covered employees to wear non-medical grade face coverings while working. Those using reusable face coverings must frequently wash the covering; single-use face coverings must be properly disposed of.

Employer Obligations. Subject employers must provide face coverings for use by their workers. Employers must also permit workers to wash their hands or use hand sanitizer at least once every 30 minutes, and ensure access to clean, sanitary restrooms with adequate sanitizing agents. These employers must also implement six-foot social distancing measures for customers, visitors, and employees, to the extent possible.

Customers And Visitor Requirements. Customers and visitors must also wear face coverings, although the employer need not provide them. Employers may offer them for sale to customers, subject to price gouging rules.

Enforcement. Non-compliance with the WPO will be enforced by the LAPD, and constitutes a misdemeanor punishable by fines or even imprisonment.

### **Grocery, Drug Retail and Food Delivery Worker Protection Order**

Finally, Mayor Garcetti signed the [Grocery, Drug Retail and Food Delivery Worker Protection](#), which relaxed certain requirements for Food Delivery Platform employees. Originally, the LA City Council ordered ([Council File-20-0147-S44](#)) grocery, drug retail, and food delivery businesses to grant certain COVID-19-related work schedule change requests, and to offer hours to other existing employees before hiring new workers. This Order carved out “Food Delivery Workers” from these requirements. The Order also requires employers of Food Delivery Workers to offer a “no-contact” delivery method, and to provide written, detailed instructions for carrying out such a delivery. These changes take effect April 10, 2020, and remains in effect until the local emergency period is lifted.

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Clients with questions about this e-Alert or related issues are welcome to contact the article authors, or the Rutan & Tucker attorney with whom you are regularly in contact.

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