



Summary of California's Phase 2 Business Re-Opening Plan Effective May 8, 2020

By: *Jennifer Farrell*

As Governor Newsom announced on Tuesday, low-risk Phase 2 businesses will be allowed to re-open Friday May 8, 2020 (subject to county and city restrictions), so long as they comply with the certain state guidelines. It is important to note that the State issued some general guidelines on its website which are applicable to all industries, as well as industry-specific guidelines for each sector that is able to re-open at this point in time. A link to the guidelines is provided here: <https://covid19.ca.gov/roadmap/>.

What Businesses Are Allowed to Re-Open?

- Only low-risk Phase 2 businesses
- This includes:
 - Curbside retail, including but not limited to: Bookstores, jewelry stores, toy stores, clothing stores, shoe stores, home and furnishing stores, sporting goods stores, antique stores, music stores, florists. Note: this will be phased in, starting first with curbside pickup and delivery only until further notice
 - Supply chains supporting the above businesses, in manufacturing, warehousing and logistic sectors
 - Businesses in industries such as [construction](#), [auto dealers](#), and [real estate](#) are allowed to remain open, subject to updated guidance

What Businesses Are Not Allowed to Open?

- Destination retail, including shopping malls and swap meets
- Personal services, limited to: car washes, pet grooming, tanning facilities, and landscape gardening
- Office-based businesses (telework remains strongly encouraged)
- Dine-in restaurants (other facility amenities, like bars or gaming areas, are not permitted)
- Schools and childcare facilities
- Outdoor museums and open gallery spaces

Which Higher Risk Work Places Are Not Allowed To Open At This Time?

- Personal services such as nail salons, tattoo parlors, gyms and fitness studios
- Hospitality services, such as bars and lounges
- Entertainment venues, such as movie theaters, gaming facilities, and pro sports
- Indoor museums, kids museums and gallery spaces, zoos, and libraries
- Community centers, including public pools, playgrounds, and picnic areas
- Religious services and cultural ceremonies
- Nightclubs
- Concert venues
- Festivals
- Theme parks
- Hotels/lodging for leisure and tourism

Before Re-Opening, What Should a Business Do?

- Perform a detailed risk assessment and implement a site-specific protection plan (Note: there are not details at this time on what this plan looks like, but Newsom recommends posting this plan in the workplace)
- Train employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them
- Implement individual control measures and screenings
- Implement disinfecting protocols
- Implement physical distancing guidelines

What Other General Protocols Should the Re-Opened Business Follow?

- Consider installing hands free devices for payment and hand sanitization
- Consider eliminating the break room and providing for an outdoor breakroom outside with socially distanced seating
- No changes to recommendations regarding masks, or the more general recommendations for hand washing, gloves, staying home if sick, etc.

In addition to announcing guidelines for the opening of the low-risk Phase 2 businesses (Phase 2a), Newsom also laid out a plan for counties to proceed in latter part of Phase 2 (Phase 2b). More details will be released on Tuesday, but these are the general criteria that counties will be required to attest to in order to proceed to Phase 2b and open additional businesses:

- Epidemiological stability
 - No more than 1/10,000 new infections over the course of 14 days
 - No COVID deaths in 14 days
- Protection of essential workers
 - Ability to provide protective gear and support the sick
- Adequate Testing
 - 1.5 tests/1000 residents
- Containment
 - 15 traces/100,000 residents
 - 15% homeless housed
- Hospital Capacity
 - 35% surge capacity
 - Plan to protect workers
- Vulnerable Populations
 - Skilled nursing: more than 14 days PPE on hand, with ability to secure additional supplies from non-state suppliers
- Triggers for adjusting modifications if infection/death rates increase

Counties will be able to self-certify or attest that the above criteria are met, subject to review by the State. Additional guidance relating to counties' abilities to move to Phase 2b will be posted on the California Department of Public Health website. The link can be found here: cdph.ca.gov/covid19.

* * * *

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

This e-Alert is published periodically by Rutan & Tucker, LLP and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only.



Jennifer Farrell specializes in a wide range of litigation and transactional matters relating to municipal governments and special districts. She currently serves as Assistant City Attorney for the cities of Dana Point and Twentynine Palms, and Assistant General Counsel for the Morongo Basin Transit Authority. Jennifer has successfully handled numerous complex litigation matters on behalf of government entities. These cases include litigation relating to election challenges, land use and zoning laws, medical marijuana dispensaries, the scope and jurisdiction of the California Coastal Commission, the dissolution of redevelopment agencies post AB 1x26, housing element law, and property tax allocations.

JFarrell@rutan.com | (714) 338-1884