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Superior Court of California
County of Fresno
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF FRESNO

GHOST GOLF, INC., DARYN
COLEMAN, SOL Y LUNA MEXICAN
CUISINE, and NIEVES RUBIO

Plaintiffs,

v.

GAVIN NEWSOM, in his official
capacity as Governor of California,
XAVIER BECERRA, in his official
capacity as Attorney General of
California, SANDRA SHEWRY, in her
official capacity as Acting Director of
the California Department of Public
Health, ERICA S. PAN, in her official
capacity as Acting State Public Health
Officer,

Defendants.

Case No. 20CECG03170

**COMPLAINT FOR
DECLARATORY JUDGMENT
AND PERMANENT AND
PRELIMINARY INJUNCTIVE
RELIEF**

INTRODUCTION

COVID-19 represents both a public health and an economic crisis. Together the pandemic and the resulting economic chaos raise difficult questions and fundamental policy issues for the State—*i.e.*, questions about how best to balance public health concerns with the need for ensuring that Californians can continue to provide for their families. The California Constitution requires that such weighty decisions be made by elected lawmakers who are listening to the concerns of their constituents. But, while the Legislature has enacted numerous bills since the onset of the pandemic, the Assembly and the Senate have been silent on Governor Newsom’s continuing assertions of an unprecedented power to shut-down entire industries and to impose various restrictions as he, in his sole discretion, deems appropriate. Now, after more than seven months, the Governor and the California Department of Public Health (CDPH) continue to pronounce new, complex and ever-shifting rules, causing financial hardship and uncertainty for businesses across California.

On August 28, 2020, Governor Newsom announced his “Blueprint for a Safer Economy,” a system of rules that assigns different colors to California Counties and corresponding restrictions for all sectors of the economy. This color-coded Blueprint is complex in its mechanics and sweeping in its implications for businesses throughout the State. Business owners were left without a represented voice, as the Governor decided fundamental public policy for the State. Under the Governor’s continuing orders Plaintiff Ghost Golf Inc. remains closed and Plaintiff Sol y Luna is struggling to survive with restrictions on in-door operations. And there is no end in sight for them. Governor Newsom has stressed that his Blueprint regime does not include a “green” category because he is going to continue managing the economy on an indefinite basis going forward.

This continuing exercise of one-man rule violates separation of powers because only the Legislature is allowed to make these kinds of fundamental policy determinations under the California Constitution. Governor Newsom and CDPH’s

1 actions exceed their statutory authority. And if Defendants have truly been given the
2 kind of unchecked authority that they claim, then this grant of authority would violate
3 the non-delegation doctrine and the California Constitution.

4 **JURISDICTION AND VENUE**

5 1. This Court has jurisdiction as a Court of general jurisdiction over this
6 matter since all Defendants reside in California. Cal. Code of Civ. Proc. § 410.10. This
7 case is not classified as a limited civil case because the type of relief being sought
8 (declaratory relief and a permanent injunction) is not available in a limited civil case.
9 Cal. Code. of Civ. Proc. § 580(b)(2), (4); Cal. Code. of Civ. Proc. §§ 85, 88.

10 2. Venue is proper in the county in which “the cause, or some part of the
11 cause, arose,” for a suit against a public officer’s act. Cal. Code of Civ. Proc. § 393(b).
12 A cause arises where the plaintiff or petitioner is injured by the state action
13 complained of.

14 3. Plaintiff Coleman and his business, Ghost Golf Inc., are located in Fresno
15 County and are injured by the orders of the Governor and CDPH. Venue is accordingly
16 proper because a substantial part of the events or omissions giving rise to the claims
17 occurred in this judicial district.

18 **PARTIES**

19 4. Ghost Golf Inc. is a miniature golf and family entertainment center in
20 Fresno, California.

21 5. Daryn Coleman is the owner of Ghost Golf Inc.

22 6. Sol y Luna Mexican Cuisine is a Mexican restaurant in Bakersfield,
23 California.

24 7. Nieves Rubio is the owner of Sol y Luna Mexican Cuisine.

25 8. Gavin Newsom is the Governor of California and is sued in his official
26 capacity. Governor Newsom is responsible for issuing Executive Orders requiring
27 industry closures and other general restrictions on business in response to COVID-19.

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1 He is responsible for the creation of the Blueprint for a Safer Economy, which has led
2 to the continued shutdown and or imposition of restrictions on Plaintiffs businesses.

3 9. Xavier Becerra is the Attorney General of the State of California. He is
4 responsible for the enforcement of Governor Newsom's Blueprint for a Safer Economy.

5 10. Sandra Shewry is the Acting Director of CDPH. She is responsible for
6 the creation of the Blueprint regime and its various restrictions on Plaintiffs.

7 11. Erica S. Pan is the Acting State Public Health Officer. She is responsible
8 for the creation of the Blueprint regime and its various restrictions on Plaintiffs.

9 **FACTUAL ALLEGATIONS**

10 *Initial Industry Closures and the Halted Reopening: March-July 2020*

11 12. In response to the novel coronavirus, Governor Newsom declared a state
12 of emergency in California on March 4, 2020. Governor Newsom's executive order is
13 attached as Exhibit 1.

14 13. He then issued a general stay-at-home order on March 19, 2020, which
15 indefinitely prohibited "non-essential businesses" from operating. E.O. N-33-20. The
16 stay-at-home order is attached as Exhibit 2.

17 14. All non-essential businesses remained closed until May 4, 2020, when
18 Governor Newsom issued E.O. N-60-20, which allowed the State to begin re-opening
19 non-essential businesses in phases. The reopening order is attached as Exhibit 3.

20 15. E.O. N-60-20 delegated authority to the State Public Health Officer to
21 decide many crucial issues—including determinations as to which businesses would
22 be permitted to open, and under what conditions. The Order gives the Public Health
23 Officer authority "to take any action she deems necessary to protect public health in
24 the face of the threat posed by COVID-19."

25 16. Acting pursuant to the Governor's orders, CDPH imposed certain
26 conditions on the re-opening of businesses. Among other imposed requirements and/or
27 restrictions, businesses were required to submit written health and safety plans to
28 local public health authorities.

1 17. Restaurants were not permitted to reopen in any county until after the
2 Governor released industry guidelines on May 12, 2020; however, CDPH still required
3 county-specific clearance thereafter. Family entertainment centers were not
4 permitted to begin reopening in any county until June 12, 2020. Some counties further
5 delayed or restricted reopening.

6 18. On July 1, 2020, Governor Newsom backtracked on reopening. Citing an
7 uptick in COVID-19 cases, the Governor ordered many businesses, including family
8 entertainment centers and dine-in restaurants, to cease indoor operations in counties
9 that were on the State's County Monitoring List, including Fresno and Kern Counties.
10 CDPH issued a guidance implementing these policies which is attached as Exhibit 4.

11 19. On July 13, 2020, Governor Newsom and CDPH required closure of in-
12 door operations for family entertainment centers and dine-in restaurants statewide.

13 20. Additionally, on July 13, 2020, the Governor and CDPH required the
14 closure of in-door operations for other industries in counties on the State's County
15 Monitoring List. The Governor's July 13, 2020 order is attached as Exhibit 5.

16 *Continuing Emergency Orders: August 2020 and Onward*

17 21. On August 28, 2020, Governor Newsom and CDPH announced a revised
18 regulatory regime for businesses in California known as the Blueprint for a Safer
19 Economy. This new Blueprint replaced the old County Monitoring List.

20 22. The Blueprint regime assigns each county a color (purple, red, orange or
21 yellow) depending on its assessed risk level for COVID-19 transmission—based on the
22 7-day average of positivity percentages and the 7-day case average rates per 100,000
23 people; varying rules are assigned for different industry sectors depending on each
24 county's color-coding. The current requirements and assignments at the time of filing
25 are attached as Exhibit 6.

26 23. Governor Newsom and CDPH did not submit their plans for their
27 Blueprint to the State Assembly or the State Senate.

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1 24. Neither legislative chamber debated nor voted on the criteria the
2 Governor and CDPH pronounced for classifying California counties and or the
3 corresponding regulatory impositions assigned to various industries under this complex
4 regime.

5 25. The Legislature has had since January 2020 to enact legislation in
6 response to the COVID-19 pandemic. As of August 28, 2020, the Legislature had
7 enacted numerous bills addressing the COVID-19 pandemic and related issues of
8 importance to Californians.¹ A news story from the Los Angeles Times describing
9 some of these bills is attached as Exhibit 7.

10 26. Governor Newsom emphasized in his August 28, 2020 announcement
11 that he would not assign a “green” category because we would not be returning to
12 normalcy for a very long time. The Governor said that the State of California would
13 have to “adapt” to the new reality under his Blueprint regime and that he would
14 continue to regulate by emergency order until there is a vaccine for COVID-19. A
15 transcript of Governor Newsom’s remarks is attached as Exhibit 8.

16 27. Since pronouncing the Blueprint as the state’s continuing governance
17 plan, the Governor has continued to make changes in fundamental policy without
18 legislative involvement. For example, on September 22, 2020, the Governor decided
19 he would allow nail salons to re-open in-doors, but without lifting restrictions on other
20 personal care industry professionals like estheticians and piercing studios. More
21 recently, on October 20, 2020, the Governor lifted restrictions on in-door operations
22 for the personal care industry, while leaving in place similar restrictions on other
23 industries. A news article describing the October 20, 2020 policy shift is attached as
24 Exhibit 9.

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27 ¹ Melody Gutierrez, California Legislators Cap Off Session with Several COVID-19
28 Protection Bills, Los Angeles Times (Aug. 31, 2020), <https://www.latimes.com/california/story/2020-08-31/california-legislative-session-covid-19-bills>.

1 28. On September 30, 2020, the Governor revised his criteria for assigning
2 colors to the counties. Under the Governor’s new directives the CDPH must look not
3 just to health data figures for the county as a whole, but must specifically consider infection
4 rates in disadvantaged communities.

5 29. Under the Blueprint regime, counties deemed to have a “widespread
6 risk” of COVID-19 transmission are categorized as “purple.” In purple counties family
7 entertainment centers and restaurants are prohibited from operating in-doors. Other
8 restrictions apply to various industries.

9 30. Under the Blueprint regime, counties deemed to have a “substantial
10 risk” of COVID-19 transmission are categorized as “red.” In red counties family
11 entertainment centers are prohibited from operating in-doors. Restaurants in red
12 counties are prohibited from operating in-doors at more than 25% capacity and they
13 may not seat more than 100 people. Other restrictions apply to various industries.

14 31. Under the Blueprint regime, counties deemed to have a “moderate risk”
15 of COVID-19 transmission are categorized as “orange.” In orange counties family
16 entertainment centers must remain closed in-doors except for “naturally distanced
17 activities, with modification.” For those permitted to be open in-doors, they are limited
18 to operating at 25% capacity. Restaurants in orange counties are prohibited from
19 operating in-doors at more than 50% capacity and they may not seat more than 200
20 people. Other restrictions apply to various industries.

21 32. Under the Blueprint regime, counties deemed to have a “moderate risk”
22 of COVID-19 transmission are categorized as “yellow.” In yellow counties family
23 entertainment centers are prohibited from operating at more than 50% capacity.
24 Likewise, restaurants are prohibited from operating in-doors at more than 50%
25 capacity in yellow counties. Other restrictions apply to various industries.

26 33. Since pronouncing the Blueprint regime numerous counties have been
27 reclassified based on changing COVID-19 infection rates. Some counties have been

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1 reclassified into higher risk level categories—*i.e.*, moving from red to purple. Others
2 have been moved to lower risk-level categories—*i.e.*, moving from purple to red.

3 34. A business that is currently closed for in-door operations might be
4 permitted to re-open if the county's COVID-19 risk assessment improves under the
5 Blueprint regime.

6 35. By that same measure, a business that is permitted to resume in-door
7 operations faces an imminent threat of being forced to close in-door operations again
8 if the county is reclassified—*i.e.*, moving from red to purple or from orange to red.

9 36. Likewise, a business that is currently permitted to operate at reduced
10 capacity in-doors faces an imminent threat of being forced to further reduce capacity
11 or to close in-door operations entirely if the county is reclassified—*i.e.*, moving from
12 red to purple or from orange to red.

13 37. Governor Newsom has stated that he will continue to make changes to
14 the Blueprint regime as he deems appropriate. This means that the Governor or
15 CDPH might make further changes to govern how and when a County will be
16 reclassified from one color-coding to the next. It also means that the Governor or
17 CDPH might change the applicable restrictions for any given industry within any
18 color-coded county at any time.

19 *Impact of Continuing Emergency Orders on the Plaintiffs*

20 Daryn Coleman and Ghost Golf Inc.

21 38. Daryn Coleman owns and operates Ghost Golf Inc., along with his wife.

22 39. A decade ago Coleman left a job in the telecommunications industry to
23 pursue his dream of starting a business that would bring joy to others.

24 40. Coleman and his wife invested their life savings to start Ghost Golf Inc.,
25 a unique indoor miniature golf venue.

26 41. Coleman used his skill with animatronics and robotics to custom design
27 a miniature golf venue themed like a haunted house.

28 42. Coleman's business was started in the Bay Area ten years ago.

1 43. In 2018 Coleman and his wife relocated their business to Fresno.

2 44. In Fresno, Coleman expanded Ghost Golf to include a full 18-hole golf
3 course as well as arcade games and a “mummy shooting range.”

4 45. Before Ghost Golf was forced to shut down, it was a thriving and growing
5 business. Coleman had plans to further expand Ghost Golf to include an escape room
6 or laser tag.

7 46. Ghost Golf was shut down by Governor Newsom’s order on March 19,
8 2020.

9 47. Ghost Golf has been shut down entirely since March 19, with exception
10 of only four days.

11 48. In June Ghost Golf was permitted to open upon submitting a written
12 health and safety plan to the Fresno County Department of Health. Ghost Golf opened
13 on June 26, 2020. But, on July 1, 2020 Ghost Golf was shut-down again under
14 directives from the Governor and/or CDPH.

15 49. To prepare to reopen in July, Coleman had spent approximately a
16 thousand dollars purchasing supplies such as plastic dividers and hand sanitizing
17 stations.

18 50. For those four days that Golf Ghost was allowed to open in June,
19 Coleman implemented numerous health and safety measures for his customers.

20 51. Ghost Golf operated at only 25% capacity during its temporary re-
21 opening.

22 52. Ghost Golf rolled out a reservation system and limited patrons to groups
23 of no more than four individuals.

24 53. To ensure social-distancing, Ghost Golf would not permit a group to begin
25 on the first hole until the proceeding group was on the fourth hole.

26 54. To minimize risks to its patrons, Ghost Golf eliminated physical
27 scorecards by switching to a digital phone app.

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55. If Coleman is allowed to reopen Ghost Golf, he plans to maintain all of these health and safety precautions.

56. Ghost Golf remains closed on an indefinite basis under the Governor's Blueprint regime because Fresno County remains categorized as a "red county."

57. Because of its theming, Ghost Golf's peak season is Halloween. In October, 2019, Ghost Golf had \$23,435.76 in sales. By comparison, Golf Ghost has had *no revenue* for October, 2020.

58. For that matter, Ghost Golf has had no revenue since March, with the exception of just those four days it was allowed to reopen in late June. But Ghost Golf spent more in preparing for its stunted reopening than it made in those four days.

59. For every month that Ghost Golf remains closed it is suffering \$23,000-\$24,000 in lost revenue.

60. In addition to lost revenue, Ghost Golf is affirmatively losing money each month because it has fixed overhead expenses. For one, Ghost Golf is obligated to pay monthly rent on its commercial lease.

61. In response to the pandemic, Ghost Golf's landlord agreed to a 50% reduction in its monthly rent. This brought Ghost Golf's rent down from \$10,000 to \$5,000 per month. But Ghost Golf is unable to even pay that without any cash flow.

62. Ghost Golf's landlord has thus far allowed a deferment of these required payments, with an understanding that Ghost Golf will pay back-rent once allowed to resume operations.

63. If Ghost Golf is not allowed to reopen soon it will suffer irreparable harm.

64. If Ghost Golf is not allowed to reopen soon, Ghost Golf may face eviction.

65. If Ghost Golf is not allowed to reopen soon, it may be forced to close permanently and may be forced into bankruptcy.

Nieves Rubio and Sol y Luna

66. Nieves Rubio opened Sol y Luna, a Mexican restaurant in Bakersfield, California in 2015.

1 67. Sol y Luna is incorporated as a C-corporation.

2 68. Bakersfield is located in Kern County.

3 69. Kern County was categorized as a “purple county” until recently under
4 the Blueprint regime. Kern County is currently categorized as a “red county,” but it
5 may be recategorized as a “purple county” under criteria established by the Governor
6 and CDPH.

7 70. On March 19, 2020, Sol y Luna was shut down by the Governor’s order.

8 71. Soy y Luna attempted to provide to-go sales for two-days before closing
9 entirely. It was apparent that to-go sales would not be profitable.

10 72. Soy y Luna laid-off its entire staff during this closure.

11 73. The restaurant was able to open again on June 1, 2020. But beginning
12 on July 1, 2020, Sol y Luna was required to close indoor-dining again under orders
13 from the Governor and CDPH.

14 74. As a result of the July 1, 2020 order, Soy y Luna was forced to operate
15 outdoors on its patio; however, those restrictions limited Soy y Luna to operating at
16 only 1/4 its prior capacity.

17 75. Because of the Governor’s continuing orders Sol y Luna has not been able
18 to rehire all of its prior staff. It continues to work with a skeleton crew.

19 76. To maintain operations consistent with continuing orders from the
20 Governor and CDPH, Sol y Luna implemented social distancing measures consistent
21 with best industry practices.

22 77. Sol y Luna has implemented other changes intended to keep customers
23 and employees safe. For example, Sol y Luna now places hand sanitizer bottles at
24 every table. Staff and guests receive regular temperature checks. Food is covered by
25 domes until delivery to the customer to avoid contamination.

26 78. Sol y Luna also implemented touchless payment systems to minimize
27 contact between employees and customers.

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1 79. Sol y Luna is spending approximately \$650 each month on personal
2 protective equipment like masks and gloves.

3 80. To facilitate outdoor dining Sol y Luna invested in patio furniture at a
4 cost of \$25,000 and a mist system at a cost of approximately \$5,000. Sol y Luna may
5 also have to make further investments to facilitate outdoor dining during the winter
6 months because of the Blueprint regime.

7 81. Despite Sol y Luna's best efforts to attract customers, it found it
8 unprofitable to operate without in-door dining.

9 82. Sol y Luna originally anticipated that it would only be required to shut
10 down its in-door dining for a relatively short time; however, these restrictions
11 continued into October.

12 83. Sol y Luna is now permitted to operate at 25% occupancy in-doors;
13 however, Rubio believes that Sol y Luna cannot be profitable with these restrictions
14 in place.

15 84. Even if Sol y Luna were permitted to operate at 50% occupancy in-doors,
16 Rubio doubts that Sol y Luna can be profitable with continuing restrictions under the
17 Blueprint regime.

18 85. Sol y Luna is reasonably concerned that it may be required to shut down
19 in-door operations again—either because Kern County may be reclassified as a
20 “purple county” or because the Governor or CDPH may choose to revise the orders
21 affecting the restaurant industry at any point.

22 86. Rubio is unsure how long Sol y Luna can remain open if it is limited to
23 operating at 25% occupancy.

24 87. If Sol y Luna is once again relegated to offering only outdoor dining,
25 Rubio believes that she will be forced to permanently close Sol y Luna. Given her
26 experience over the past several months, Rubio believes that she will only be able to
27 cover overhead and labor costs for a few months if forced to close in-door dining again.

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1 88. Sol y Luna has survived so far only because it was able to secure a
2 Paycheck Protection Program (PPP) loan to cover payroll expenses and rent; however,
3 those funds will run dry in early November.

4 89. Sol y Luna also took out an Economic Injury Disaster Loan (EIDL), which
5 it can draw from once it runs out of PPP loan money. But Rubio is concerned about
6 relying on EIDL loan money because that loan must be repaid with interest.

7 90. If Sol y Luna continues to operate at a loss, as it had over the past few
8 months, Rubio believes that the company will run through its EIDL reserves in
9 January 2021. At that point Sol y Luna will be forced to close permanently if it cannot
10 begin turning a profit.

11 91. Accordingly, Sol y Luna will suffer irreparable harm if the Blueprint
12 regime remains in place much longer.

13 **DECLARATORY RELIEF ALLEGATIONS**

14 **(Cal. Civ. Proc. Code § 1060)**

15 92. Defendants have promulgated orders and are enforcing them in a
16 manner that interferes with Plaintiffs' rights and violates the California Constitution.

17 93. An actual and substantial controversy exists between Plaintiffs and
18 Defendants as to the parties' respective rights and responsibilities. A judicial
19 determination of the parties' rights and the constitutionality of the Blueprint regime,
20 as applied to the Plaintiffs, will give relief from the uncertainty and insecurity giving
21 rise to this controversy.

22 94. No factual development is necessary to resolve this case. Plaintiffs raise
23 a pure legal challenge. They seek only a determination as to whether the Governor's
24 Blueprint regime violates the California Constitution.

25 95. Plaintiffs also contest the constitutionality of any subsequent
26 modifications that the Governor or CDPH might make to the Blueprint regime.

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1 101. Under the California Emergency Services Act, a Governor may declare a
2 State of Emergency upon declaring that conditions exist presenting “extreme peril to
3 the safety of persons and property within the state...” Cal. Gov’t Code § 8558.

4 102. A Governor’s State of Emergency Declaration may continue so long as
5 conditions threatening public health or private property exist. The Act imposes no
6 time-limit on the duration of an Emergency Declaration. Cal. Gov’t Code § 8626. But
7 the Governor is urged to terminate the state of emergency “at the earliest possible
8 date that conditions warrant” and the Legislature may terminate an emergency
9 through a concurrent resolution. Cal. Gov’t Code § 8629.

10 103. The California Legislature has granted the Governor specific emergency
11 powers during a declared State of Emergency; however, this grant of authority is not
12 limitless.

13 104. During a declared State of Emergency, the Governor may direct state
14 personnel and resources in responding to the emergency. Cal. Gov’t Code § 8628. *See*
15 *also* Cal. Gov’t Code § 8628.5.

16 105. During a declared State of Emergency, the Governor may suspend
17 regulatory statutes and certain regulations. Cal. Gov’t Code § 8571. *See also* Cal. Gov’t
18 Code § 8627.5.

19 106. During a declared State of Emergency, the Governor may exercise
20 “complete authority over all agencies of the state government and the right to exercise
21 within the area designated all police power vested in the state by the Constitution and
22 laws of the State of California in order to effectuate the purposes of this chapter.” Cal.
23 Gov’t Code § 8627.

24 107. In order to execute these powers, the Governor is entitled to “promulgate,
25 issue, and enforce such orders and regulations as he deems necessary.” *Id.* *See also*
26 Cal. Gov’t Code § 8567. These orders have force of law, and a violation is a
27 misdemeanor. Cal. Gov’t Code § 8665.

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1 108. Together, these provisions confer emergency powers as may be necessary
2 in directing the resources of state government in responding to an emergency—
3 including in directing state agencies to exercise police powers *properly vested* in the
4 Executive Branch.

5 109. The purpose of Cal. Gov’t Code § 8627 is not to enlarge executive powers,
6 but to consolidate executive power in the hands of the Governor, so that he can take
7 any action that is otherwise distributed to other executive agencies or officials. In
8 other words, the Emergency Services Act allows the Governor to coordinate all aspects
9 of the executive branch of the state and to exercise all powers already granted to any
10 executive agency of the state. It does not grant the Governor the authority to take
11 actions not otherwise authorized by the California Constitution or by statute.

12 110. The Emergency Services Act may authorize the Governor to direct
13 agencies to exercise independent and preexisting statutory authorities, which may
14 entail regulation of business or orders directed to a specific business where it is
15 operating in violation of lawfully established, preexisting and generally applicable
16 rules.

17 111. But the Emergency Services Act does not confer a freestanding and
18 uncabined authority for the Governor to issue industry closure orders and restrictions.

19 112. Because no other statute or constitutional provision allows the Governor
20 to order the shutdown of large portions of the state’s economy and to unilaterally
21 decide which businesses are allowed to remain open and which must close their doors
22 on an ongoing and indefinite basis, Governor Newsom’s actions are ultra vires and
23 exceed his statutory authority.

24 113. Plaintiffs have suffered and will continue to suffer substantial and
25 irreparable harm unless the Court declares that Governor Newsom’s Blueprint regime
26 is unlawful and enjoins the Defendants from enforcing continuing restrictions on in-
27 door operations against Plaintiffs.

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COUNT 2

CDPH's Continuing Industry Closure
Orders and Restrictions on In-Door Business Operations
Exceeds Statutory Authority
(Cal. Health & Safety Code § 120100, *et seq.*)

114. Plaintiffs hereby allege and re-incorporate each and every allegation contained in paragraphs 1 through 113 of their Complaint as though fully set forth herein.

115. CDPH lacked the statutory authority to adopt the Blueprint regime. And the Department of Public Health lacks authority to impose continuing industry-wide restrictions on California business operations.

116. The California Legislature has granted CDPH specific authority to respond to public health threats, including epidemiological events. However, this grant of authority is not limitless.

117. The California Health and Safety Code confers authority for the California Department of Public Health to “quarantine, isolate, inspect, and disinfect persons... [and] places... [if] the action is necessary to protect or preserve the public health.” Cal. Health & Safety Code § 120145. *See also* Cal. Health & Safety Code § 120130(d).

118. The California Health and Safety Code confers authority for CDPH to promulgate regulations concerning isolation or quarantine procedures. Cal. Health & Safety Code § 120130(c). And CDPH may establish “places for quarantine or isolation.” Cal. Health & Safety Code § 120135.

119. The California Health and Safety Code confers authority for CDPH to destroy property if it cannot be disinfected. Cal. Health & Safety Code § 120150.

120. The California Health and Safety Code confers authority for CDPH to “take measures as are necessary to ascertain the nature of the disease and prevent its

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spread” such as taking control of “the body of any living person, or the corpse of any deceased person.” Cal. Health & Safety Code § 120140.

121. Industry closure and business restriction orders under the Blueprint are not an exercise of the conferred authority to “quarantine, isolate, inspect and disinfect.”

122. Industry closure and business restriction orders under the Blueprint are not an exercise of the conferred authority to promulgate regulations concerning isolation or quarantine procedures. Nor are such orders an exercise of the conferred authority to establish “places for quarantine or isolation.”

123. Industry closure and business restriction orders under the Blueprint are not an exercise of the conferred authority to destroy property that cannot be disinfected. Nor can are they a proper exercise of the conferred authority under Cal. Health & Safety Code § 120140.

124. The California Health and Safety Code does not confer an open-ended authority for the CDPH to shutdown large portions of the state’s economy or to impose general restrictions on lawful business operations.

125. Accordingly, CDPH’s industry closure and business restriction orders under the Blueprint regime exceed the agency’s statutory authority.

126. Plaintiffs have suffered and will continue to suffer substantial and irreparable harm unless the Court declares that CDPH’s Blueprint regime is unlawful and enjoins the Defendants from enforcing continuing restrictions on in-door operations against Plaintiffs.

COUNT 3

The Governor’s Claim to Broad Emergency Power

Violates the Non-Delegation Doctrine

(Cal. Const. art. III, § 3)

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1 127. Plaintiffs hereby allege and re-incorporate each and every allegation
2 contained in paragraphs 1 through 126 of their Complaint as though fully set forth
3 herein.

4 128. In adopting his Blueprint regime, Governor Newsom has usurped the
5 Legislature's core functions in violation of the separation of powers.

6 129. The California Constitution establishes three distinct branches of
7 government: (1) Legislative power is vested in a bi-cameral Legislature; (2) Executive
8 power is vested in the Governor, and; (3) Judicial power is vested in the judiciary.

9 130. Only the Legislature may make law; the Legislature may not delegate
10 its lawmaking power.

11 131. This means that the Legislature must make fundamental policy
12 decisions for the state. The Executive Branch cannot make fundamental policy
13 decisions.

14 132. Article III, § 3 of the California Constitution declares that "[t]he powers
15 of state government are legislative, executive, and judicial. Persons charged with the
16 exercise of one power may not exercise either of the others except as permitted by this
17 Constitution." Cal. Const. Article III, § 3.

18 133. The Governor does not have inherent authority and can only exercise the
19 authority specifically granted to him by the California Constitution or by the
20 Legislature.

21 134. The Governor has interpreted the Emergency Services Act as conferring
22 an unfettered power upon him to regulate private conduct in whatever manner he
23 deems necessary without any procedural, substantive or temporal constraints on his
24 authority.

25 135. Acting under this assumed authority the Governor has issued a series of
26 orders shutting down, reopening and otherwise restricting the right to carry-on a
27 lawful business in California.

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136. The Governor assumes the power to impose orders affecting any aspect of civil society so long as there is an asserted connection between his actions and the COVID-19 pandemic.

137. Under the Governor's interpretation of his conferred powers under the Emergency Services Act, he retains the full panoply of options that the Legislature might choose from in addressing current public health concerns.

138. The Legislature could not have conferred such broad and unfettered powers without violating California's non-delegation doctrine.

139. If the Governor's interpretation of the Emergency Services Act is correct then the Legislature failed to decide fundamental policy for the state, failed to provide required guidance as to how the Governor should exercise his conferred emergency powers, and or failed to provide safeguards against arbitrary decisions.

140. Plaintiffs have suffered and will continue to suffer substantial and irreparable harm unless the Court declares that Governor Newsom's Blueprint regime is unlawful and enjoins the Defendants from enforcing continuing restrictions on indoor operations against Plaintiffs.

COUNT 4

The Department of Public Health's Claim to Broad Emergency Power

Violates the Non-Delegation Doctrine

(Cal. Const. art. III, § 3)

141 Plaintiffs hereby allege and re-incorporate each and every allegation
contained in paragraphs 1 through 140 of their Complaint as though fully set forth
herein.

142. Executive agencies such as CDPH do not have inherent authority and can only exercise the authority specifically granted to them by the California Constitution or by the state legislature.

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143. In adopting the Blueprint regime, CDPH has usurped the Legislature's core functions in violation of the separation of powers enshrined in the California Constitution.

144. Since the start of the COVID-19 pandemic the Department of Public Health has claimed the authority to issue a series of orders shutting down or otherwise restricting lawful business operations.

145. To the extent CDPH construes the California Public Health Code as encompassing an open-ended authority to shutdown entire industries and or to impose general restrictions on lawful business operations, its construction violates the non-delegation doctrine.

146. The Legislature could not have conferred such broad and unfettered powers without violating California's non-delegation doctrine.

147. If the Legislature conferred an unfettered authority on CDPH to issue orders regulating private conduct then the Legislature failed to decide fundamental policy for the state, failed to provide required guidance as to how the Department should exercise its conferred powers, and/or failed to provide safeguards against arbitrary decisions.

148. Plaintiffs have suffered and will continue to suffer substantial and irreparable harm unless the Court declares that CDPH's Blueprint regime is unlawful and enjoins the Defendants from enforcing continuing restrictions on in-door operations against Plaintiffs.

RELIEF SOUGHT

Wherefore, Plaintiffs respectfully request the Court to enter judgment against Defendants as follows:

1. Declaring that Governor Newsom has exceeded his statutory authority in implementing his Blueprint for a Safer Economy;

2. Declaring that CDPH has exceeded its statutory authority by issuing orders shutting down or restricting in-door business operations;

1 3. Declaring that Defendants' Blueprint for a Safer Economy is unlawful
2 and null and void;

3 4. In the alternative, declaring that the Emergency Services Act, Cal. Gov't
4 Code § 8627, and/or the Public Health Act, Cal. Health & Safety Code § 120140, violate
5 the non-delegation doctrine and Article III, Section 3 of the California Constitution;

6 5. Granting an order preliminarily, and thereafter, permanently enjoining
7 Defendants and Defendants' officers, agents, affiliates, servants, successors,
8 employees, and persons from enforcing the Blueprint for a Safer Economy or other
9 shutdown orders against Plaintiffs without the requirement of paying a bond;

10 6. Entering judgment for Plaintiffs and against Defendants for deprivation
11 of Rights;

12 7. Awarding Plaintiffs nominal damages of one dollar;

13 8. Awarding Plaintiffs' costs and attorneys' fees under Section 1021.5 of the
14 Code of Civil Procedure;

15 9. Awarding such further relief as the Court deems just and proper.

16 DATED: October 26, 2020.

17 Respectfully submitted,

18 LUKE WAKE
19 DANIEL M. ORTNER
 Pacific Legal Foundation

20
21 By 
22 LUKE WAKE

23 Attorneys for Plaintiffs
24 Ghost Golf, Inc., et al.

EXHIBIT 1

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

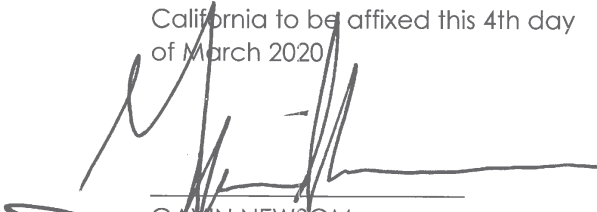
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 4th day
of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 2

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 19th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 3

EXECUTIVE ORDER N-60-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, which directed all California residents to immediately heed current State public health directives; and

WHEREAS State public health directives, available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>, have ordered all California residents stay home except for essential needs, as defined in State public health directives; and

WHEREAS COVID-19 continues to menace public health throughout California; and

WHEREAS the extent to which COVID-19 menaces public health throughout California is expected to continue to evolve, and may vary from place to place within the State; and

WHEREAS California law promotes the preservation of public health by providing for local health officers—appointed by county boards of supervisors and other local authorities—in addition to providing for statewide authority by a State Public Health Officer; and

WHEREAS these local health officers, working in consultation with county boards of supervisors and other local authorities, are well positioned to understand the local needs of their communities; and

WHEREAS local governments are encouraged to coordinate with federally recognized California tribes located within or immediately adjacent to the external geographical boundaries of such local government jurisdiction; and

WHEREAS the global COVID-19 pandemic threatens the entire State, and coordination between state and local public health officials is therefore, and will continue to be, necessary to curb the spread of COVID-19 throughout the State; and

WHEREAS State public health officials have worked, and will continue to work, in consultation with their federal, state, and tribal government partners; and

WHEREAS the State Public Health Officer has articulated a four-stage framework—which includes provisions for the reopening of lower-risk businesses and spaces ("Stage Two"), to be followed by the reopening of higher-risk businesses and spaces ("Stage Three")—to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19; and

WHEREAS the threat posed by COVID-19 is dynamic and ever-changing, and the State's response to COVID-19 (including implementation of the four-stage framework) should likewise retain the ability to be dynamic and flexible; and

WHEREAS to preserve this flexibility, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, 8627, and 8665; and also in accordance with the authority vested in the State Public Health Officer by the laws of the State of California, including but not limited to Health and Safety Code sections 120125, 120130, 120135, 120140, 120145, 120150, 120175, and 131080; do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) All residents are directed to continue to obey State public health directives, as made available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/> and elsewhere as the State Public Health Officer may provide.
- 2) As the State moves to allow reopening of lower-risk businesses and spaces ("Stage Two"), and then to allow reopening of higher-risk businesses and spaces ("Stage Three"), the State Public Health Officer is directed to establish criteria and procedures—as set forth in this Paragraph 2—to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide directives of the State Public Health Officer.

In particular, the State Public Health Officer is directed to establish criteria to determine whether and how, in light of the extent to which the public health is menaced by COVID-19 from place to place within the State, local health officers may (during the relevant stages of reopening) issue directives to establish and implement public health measures less restrictive than any public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

The State Public Health Officer is further directed to establish procedures through which local health officers may (during the relevant stages of reopening) certify that, if their respective jurisdictions are subject to proposed public health measures (which they shall specify to the extent such specification may be required by the State Public Health Officer) that are less restrictive than public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer, the public health will not be menaced. The State Public Health Officer shall additionally establish procedures to permit, in a manner consistent with public health and

safety, local health officers who submit such certifications to establish and implement such less restrictive public health measures within their respective jurisdictions.

The State Public Health Officer may, from time to time and as she deems necessary to respond to the dynamic threat posed by COVID-19, revise the criteria and procedures set forth in this Paragraph 2. Nothing related to the establishment or implementation of such criteria or procedures, or any other aspect of this Order, shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq. Nothing in this Paragraph 2 shall limit the authority of the State Public Health Officer to take any action she deems necessary to protect public health in the face of the threat posed by COVID-19, including (but not limited to) any necessary revision to the four-stage framework previously articulated by the State Public Health Officer.

- 3) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of May 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 4

State of California—Health and Human Services Agency
California Department of Public Health

July 1, 2020

TO:

All Californians

SUBJECT:

Guidance on Closure of Sectors in Response to COVID-19

Guidance on Closure of Sectors in Response to COVID-19

July 1, 2020

Summary

As COVID-19 transmission rates continue to rise, this guidance instructs counties that have been on the County Monitoring List for three consecutive days or more to close indoor operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within those sectors, those that are not able to continue their business through outdoor operations must close that portion of their business effective immediately for at least three (3) weeks, in order to further mitigate the spread of the virus. In addition, all brewpubs, breweries, bars, and pubs in these counties must close, both indoors and outdoors, unless they are offering sit down, dine-in meals as described under the actions section of the [guidance](#) issued on June 28.

Background

As part of the State's efforts to address COVID-19, the State monitors county specific data and provides technical assistance, support and interventions to counties that have concerning levels of disease transmission, hospitalizations, or insufficient testing. Counties on the County Monitoring List are under active monitoring by the state, and may receive targeted engagement and technical support from CDPH and other agencies and departments including the Business, Consumer Services and Housing Agency, the Department of Industrial Relations and the California Department of Food and Agriculture.

As of July 1, there are 19 counties on the County Monitoring List, which includes:

- Contra Costa
- Fresno

- Glenn
- Imperial
- Kern
- Kings
- Los Angeles
- Merced
- Orange
- Riverside
- Sacramento
- San Bernardino
- San Joaquin
- Santa Barbara
- Santa Clara
- Solano
- Stanislaus
- Tulare
- Ventura

To reduce disease transmission and to protect residents across the state, one strategy available to the state is to work with counties to further modify or close some or all of the sector openings currently allowed under the State order.

Proposed Action

Given current rates of disease transmission in some counties and the need to reduce gatherings where mixing with individuals outside of one's household and disease spread occur, CDPH is requiring closure, within counties on the county monitoring list for three or more consecutive days, of indoor operations, while allowing outdoor operations with appropriate modifications, including physical distancing and face coverings, for the following sectors:

- Dine-in Restaurants
- Wineries and Tasting Rooms
- Movie Theaters

- Family Entertainment Centers
- Zoos and Museums
- Cardrooms

All industry or sector guidance documents that have been issued to date, including all infectious control measures outlined in those guidance documents, apply in outdoor settings, and thus must be adhered to. In addition, all brewpubs, breweries, bars, and pubs must close indoor and outdoor operations in these counties.

Justification

The data is clear that community spread of infection is of increasing concern across the state, and in particular for those counties on the County Monitoring List. Beyond the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be catastrophic, both in terms of high rates of morbidity and mortality of individual residents, as well as through the high demand such infections would place on the hospital delivery system. We are seeing these increases already in many of the counties. Higher levels of community spread also increase the likelihood of infection among individuals at high risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual.

California's Pandemic Resiliency Roadmap for reopening is a risk-based framework that guides state and local governments on a path to re-opening industries under strict workplace modifications. Whereas other industries and establishments were permitted to open with modifications in Stage 2 or Stage 3, the above outlined sectors operating indoors operate at the highest risk of all sectors allowed to open so far. These specific sectors also create an environment that increases levels of community mixing of individuals outside of one's own household, increasing the risk of escalating the R-effective, or effective transmission rate, of COVID-19.

The sectors at issue in this document are all high risk of transmission due to a number of features of the businesses and the behaviors that occur within them. These sectors, foundationally, are settings where groups convene and may mix with others for prolonged periods of time without appropriate protective equipment, such as a face covering. For example, it is difficult to consistently wear a face covering in a restaurant. Additionally, physical movement within the establishment, duration of time spent in the establishment, and the degree of social mixing among individuals and groups outside one's household are all significant in these sectors, which substantially elevates the risk of transmission even where face coverings can be worn.

The risk is particularly high in indoor settings. Reinstating indoor closures among these sectors is not only important because of data from counties on the monitoring list, but because the science of disease transmission and from recent studies have shown that the transmission is greater in indoor settings due to the release of infectious particles into the air when someone speaks, coughs, sneezes, or sings, which is exacerbated in indoor spaces particularly when lacking appropriate ventilation. Furthermore, in some of these sectors centered on eating and drinking, compliance with face coverings is not possible for the full duration of time someone spends in these establishments. Additionally, the workforce of these sectors face higher exposure to diseases transmission because of the environment in which they work.

A recent study published by the Centers for Disease Control and Prevention, for example, demonstrates clearly the effect of a single asymptomatic carrier in a restaurant environment. The study shows that approximately 50 percent of the people at the infected person's table become sick over seven (7) days, 75 percent of the people on the adjacent table that is downwind in the interior ventilation system become infected, and even two of seven people on the upwind table become infected. (1)

Physical distancing also protects an individual with brief exposures or outdoor exposures. When distanced, there is not enough time to achieve the infectious viral load when standing six (6) feet apart or where wind and the infinite outdoor space for viral dilution reduces viral load. A study, which still needs to be peer-reviewed, suggests that the odds an infected person transmitting the virus in a closed environment was 18.7 times greater compared to an open-air environment. (2)

Alcohol consumption slows brain activity, reduces inhibition, and impairs judgment, factors which contribute to reduced compliance with recommended core personal protective measures, such as the mandatory use of face coverings and maintaining six feet of distance from people outside of one's own household, making outdoor operations for brewpubs, breweries, bars, and pubs challenging, further creating opportunities for virus transmission and thus need for closure. Additionally, there is a growing body of evidence tracing large COVID-19 outbreaks in both urban and rural states, to indoor and outdoor operations of bars.

In the setting of an increasing body of evidence demonstrating that transmission is decreased when activities are conducted outside, and risk for exposure is increased when mixing beyond those with whom one lives, in an effort to mitigate the potential spread of COVID 19, the state is requiring that settings where patrons gather to be served or participate in the businesses' primary activity be moved outdoors.

(1) Lu, J., Gu, J., Li, K., Xu, C., Su, W., Lai, Z....Yang, Z. (2020). COVID-19 Outbreak Associated with Air Conditioning in Restaurant, Guangzhou, China, 2020. *Emerging Infectious Diseases*, 26(7), 1628-1631. <https://dx.doi.org/10.3201/eid2607.200764>.

(2) Nishiura et al. (2020). Closed environments facilitate secondary transmission of coronavirus disease 2019 (COVID-19). <https://www.medrxiv.org/content/10.1101/2020.02.28.20029272v2>.

California Department of Public Health
PO Box, 997377, MS 0500, Sacramento, CA95899-7377
Department Website ([cdph.ca.gov](https://www.cdph.ca.gov))

EXHIBIT 5

State of California—Health and Human Services Agency **California Department of Public Health**

AFL 17-__

July 13, 2020

TO:

All Californians

SUBJECT:

Guidance on Closure of Sectors in Response to COVID-19

Guidance on Closure of Sectors in Response to COVID-19

July 13, 2020

Summary

COVID-19 transmission rates continue to rise across the state, including increasing numbers of cases in rural counties that had not previously experienced significant infection rates. Despite the closure of certain indoor sectors in counties on the County Monitoring list, those counties continue to demonstrate concerning levels of disease transmission that impact not only the general population but vulnerable populations in the community.

This guidance and the Statewide Public Health Officer Order, dated July 13, 2020:

- Closes, on a statewide basis, indoor operations for certain sectors, and both indoor and outdoor operations for bars and similar establishments, consistent with the June 28 and July 1 restrictions on counties on the County Monitoring List.
- Closes, for counties on the County Monitoring List for three or more consecutive days, indoor operations for additional sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within these sectors, and in the affected counties, those specified businesses that are not able to continue their business through outdoor operations must close that portion of their business effective immediately in order to further mitigate the spread of the virus.

Background

As part of the State's efforts to address COVID-19, the State monitors county specific data to determine whether and how to modify the pace of reopening. Additionally, the State provides technical assistance, support and interventions to counties that have

concerning levels of disease transmission, hospitalizations, or insufficient testing. Counties on the County Monitoring List are under active monitoring by the State, and may receive targeted engagement and technical support from CDPH and other agencies and departments including the Business, Consumer Services and Housing Agency, the Department of Industrial Relations and the California Department of Food and Agriculture.

As of July 13, there are 29 counties that have been on the County Monitoring List for three consecutive days:

- Colusa
- Contra Costa
- Fresno
- Glenn
- Imperial
- Kings
- Los Angeles
- Madera
- Marin
- Merced
- Monterey
- Napa
- Orange
- Placer
- Riverside
- Sacramento
- San Benito
- San Bernardino
- San Diego
- San Joaquin
- Santa Barbara
- Solano
- Sonoma
- Stanislaus
- Sutter
- Tulare
- Ventura
- Yolo
- Yuba

Actions Taking Effect Immediately

Given current rates of disease transmission and the increase in hospitalization and ICU utilization, CDPH is:

- Closing, on a statewide basis, consistent with the [June 28](#) and [July 1](#) restrictions on counties on the County Monitoring List, the following sectors:
 - Dine-in Restaurants (indoor)
 - Wineries and Tasting Rooms (indoor)
 - Movie Theater (indoor)
 - Family Entertainment Centers (indoor)
 - Zoos and Museums (indoor)
 - Cardrooms (indoor)
 - Brewpubs, breweries, bars, and pubs (indoor and outdoor), unless an exception below applies:
 1. Bars, pubs, brewpubs, and breweries, may operate outdoors if they are offering sit-down, outdoor, dine-in meals. Alcohol can be sold only in the same transaction as a meal. When operating outdoors, they must follow the dine-in restaurant guidance and should continue to encourage takeout and delivery service whenever possible.
 2. Bars, pubs, brewpubs, and breweries that do not provide sit-down meals themselves, but can contract with another vendor to do so, can serve dine-in meals when operating outdoors provided both businesses follow the dine-in restaurant guidance and alcohol is sold only in the same transaction as a meal.
 3. Venues that are currently authorized to provide offsale beer, wine, and spirits to be consumed offpremises and do not offer sit-down, dine-in meals must follow the guidance for retail operations and offer curbside sales only.
 4. Concert, performance, or entertainment venues must remain closed until they are allowed to resume modified or full operation through a specific reopening order or guidance. Establishments that serve full meals must discontinue this type of entertainment until these types of activities are allowed to resume modified or full operation.
- Closing, for counties on the Monitoring List for three or more consecutive days, additional **indoor** operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within those sectors, those that are not able to continue their business through outdoor operations must close that portion of their

business effective immediately in order to further mitigate the spread of the virus. This applies to the following sectors/events:

- Gyms and Fitness Centers
- Places of Worship
- Indoor Protests
- Offices for [Non-Critical Infrastructure Sectors](#)
- Personal Care Services (including nail salons, massage parlors, and tattoo parlors)
- Hair Salons and Barbershops
- Malls

These actions remain in effect until further notice.

All industry or sector guidance documents that have been issued to date, including all infectious control measures outlined in those guidance documents, including the [use of face coverings](#), which is mandated statewide apply in outdoor settings, and thus must be adhered to. Outdoor operations may be conducted under a tent, canopy, or other sun shelter, but only as long as no more than one side is closed, allowing sufficient outdoor air movement.

Justification

The data is clear that community spread of infection is of increasing concern across the state, and continues to grow in those counties on the County Monitoring List. The number of hospitalized patients with COVID has increased between 50-100% in all regions in California, with a state average increase of 77% since June 12. In that same time, the number of counties with case rates over 100 per 100,000 residents has gone from 3 counties to 31 counties, confirming state-wide increased transmission of COVID. While these counties are primarily located in the south and central valley, there are now counties on the monitoring list from all regions of California. Beyond the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be catastrophic, both in terms of high rates of morbidity and mortality of individual residents, as well as through the high demand such infections would place on the hospital delivery system. We are seeing these increases already in many of the counties. Higher levels of community spread also increase the likelihood of infection among individuals at high risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual.

California's Pandemic Resiliency Roadmap for reopening is a risk-based framework that guides state and local governments on a path to re-opening activities and industries under strict workplace modifications. The above outlined sectors operating indoors create an environment that increases levels of community mixing of individuals outside of one's own household, increasing the risk of escalating the R-effective, or effective transmission rate, of COVID-19.

As described in the June 28 [guidance](#) and July 1 [guidance](#), the sectors required to modify operations statewide under this guidance are sectors where there is increased risk of transmission due to a number of features of the business and the behaviors that occur within them. Because of noted trends in community spread statewide, well beyond those on the monitoring list, it is necessary to expand changes made to sectors in our order of June 28 and July 1 statewide.

Additionally, given the increased level of community transmission, this guidance requires additional sectors to close indoor operations in counties on the County Monitoring List for three or more consecutive days. Counties continue to be added to the county monitoring list and evidence of community transmission persists in these jurisdictions, requiring enhanced intervention through the additional sectors modifications.

The rationale for moving activities outdoors to reduce risk is anchored in the science of disease transmission and recent studies show that transmission is greater in indoor settings due to the release of infectious particles into the air when someone speaks, coughs, sneezes, or sings, which is exacerbated in indoor spaces particularly when lacking appropriate ventilation.

Physical distancing also protects an individual with brief exposures or outdoor exposures. When distanced, there is not enough time to achieve the infectious viral load when standing six (6) feet apart or where wind and the infinite outdoor space for viral dilution reduces viral load. A study, which still needs to be peer-reviewed, suggests that the odds an infected person transmitting the virus in a closed environment was 18.7 times greater compared to an open-air environment. (1)

In the setting of an increasing body of evidence demonstrating that transmission is decreased when activities are conducted outside, and risk for exposure is increased when mixing beyond those with whom one lives, in an effort to mitigate to potential spread of COVID 19, the state is requiring that additional settings where patrons gather to be served or participate in the businesses' primary activity be moved outdoors.

(1) Nishiura et al. (2020)

[Closed environments facilitate secondary transmission of coronavirus disease 2019 \(COVID-19\)](#)

<https://www.medrxiv.org/content/10.1101/2020.02.28.20029272v2>

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EXHIBIT 6

COVID-19

- [CDPH COVID-19 Home](#)
- [Blueprint for a Safer Economy](#)
- [Guidance Documents](#)
- [Vaccine Planning](#)
- [County Tier Adjudication Request](#)
- [Communications Toolkits](#)
- [Data at the County-Level](#)
- [Contact Tracing](#)
- [Multilingual Documents](#)
- [School Waiver Consultations](#)
- [Data on Racial Demographics](#)
- [Data and Case Statistics for Hospitals](#)
- [Skilled Nursing Facilities](#)
- [Find a COVID-19 Testing Site](#)
- [Visit COVID19.ca.gov](#)

Blueprint for a Safer Economy

California has a new blueprint for reducing COVID-19 in the state with revised criteria for loosening and tightening restrictions on activities. Every county in California is assigned to a tier based on its test positivity and adjusted case rate for tier assignment. Additionally, a new health equity metric took effect on October 6, 2020. In order to advance to the next less restrictive tier, each county will need to meet an equity metric or demonstrate targeted investments to eliminate disparities in levels of COVID-19 transmission, depending on its size. The California Health Equity Metric is designed to help guide counties in their continuing efforts to reduce COVID-19 cases in all communities and requires more intensive efforts to prevent and mitigate the spread of COVID-19 among Californians who have been disproportionately impacted by this pandemic.

Updates as of 10/21/2020:

- [The California Blueprint Data Chart](#) (Excel) has been updated to show county tier status, date of tier assignment, number of consecutive weeks meeting the next tier's criteria, case rates, adjusted case rate for tier assignment, testing positivity, and test rates for the weeks ending 10/04/20 and 10/10/20.
- Case rates will continue to be adjusted based on California median county testing rate.

- Small county framework for tier movement continues to be applied to counties with a population <106,000.
- The health equity metric continues to be applied to determine tier assignment to a less restrictive tier for counties with a population greater than 106,000.
- County Tier Adjudication requests and CDPH determinations have been posted under the County Tier Adjudication section.
- Health Equity metric criteria for accelerated progression and Health Equity Quartile terminology have been updated. See the [Health Equity Metric page](#).
- Health Equity Framework: Targeted Investment Plan submission due date updated. See the [Health Equity Metric page](#).
- Effective date of assigned tier status and School Re-Opening guidance has been updated.
- A new page for the Health Equity: Targeted Equity Investment Plans has been added.

Additional information about the Blueprint:

- [Find the status of activities in your county](#)
- [Understand which activities and businesses are open in the four tiers](#) (PDF)
- [Learn more about the California Health Equity Metric](#) and the [Targeted Equity Investment Plans](#) from each county
- [County Tier Adjudication Request](#)
- [Explore the complete data by county - California Blueprint Data Chart](#) (Excel)
- [Find archived California Blueprint Data Charts](#)
- [Proyecto para una economía más segura](#) | For other languages, visit our [Multilingual Documents page](#)

Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe

This guidance outlines an updated framework for a safe progression of opening more businesses and activities in light of the pandemic. The framework for this guidance is informed by increased knowledge of disease transmission vulnerabilities and risk factors and is driven by the following goals:

- 1) To progress in phases based on risk levels with appropriate time between each phase in each county so impacts of any given change can be fully evaluated.

2) To aggressively reduce case transmission to as low a rate as possible across the state so the potential burden of flu and COVID-19 in the late fall and winter does not challenge our healthcare delivery system's ability to surge with space, supplies and staff. Also, with winter weather pushing more activities indoors, low levels of transmission in the community will make large outbreaks in these riskier settings less likely.

3) To simplify the framework and lay out clear disease transmission goals for counties to work towards.

Tier Framework

This framework lays out the measures that each county must meet, based on indicators that capture disease burden, testing, and health equity. A county may be more restrictive than this framework. This framework also notes signals of concern, including impacted healthcare capacity that may lead towards a dimming intervention. This framework replaces the former County Data Monitoring metrics. As the COVID-19 pandemic continues to be an evolving situation and new evidence and understanding emerges, the California Department of Public Health (CDPH), in collaboration with other State officials, will continue to reassess metrics and thresholds.

See chart below for the framework metrics as set according to tiers based on risk of community disease transmission. Calculation of metrics is described in Appendix 1. Description of the Health Equity Metric can be found on the [Health Equity Metric page](#).

	Higher Risk → Lower Risk of Community Disease Transmission***			
	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Measure				
Adjusted Case Rate for Tier Assignment** (Rate per 100,000 population* excluding prison cases^, 7 day average with 7 day lag)	>7	4-7	1-3.9	<1
Testing Positivity^ (Excluding prison cases^, 7 day average with 7 day lag)	>8%	5-8%	2-4.9%	<2%

^Excludes state and federal inmates, ICE facility residents, and State Hospital inmates

*Population denominators from the Department of Finance: State Population Projections
- [Total Population by County- Table P-1](#)

**Case rate will be determined using cases confirmed by PCR

*** Counties are assigned a tier based on two metrics: test positivity and case rate. Large counties with populations greater than approximately 106,000 must also meet the health equity metric described on the [Health Equity Metric page](#) in order to advance to a less restrictive tier.

The case rate is adjusted based on testing volume per 100,000 population as described below. Due to variability in data, this adjustment does not apply to small counties (defined as those with a population less than 106,000 residents).

- For counties with testing volume above the state median, the factor is less than 1, decreasing in a linear manner from 1.0 to 0.6 as testing volume increases from the state median to 2x the state median. The factor remains at 0.6 if the testing volume is greater than 2x the state median.
- For counties with testing volume below the state median, the factor is greater than 1, increasing in a linear manner from 1.0 to 1.4 as testing volume decreases from the state median to zero. However, this adjustment for low testing volume will not be applied to counties with a test positivity < 3.5%.
- Metrics with values greater than or less than tier cut points by 0.05 are rounded up or down using conventional rounding rules.

California COVID-19 Case Rate Adjustment Factor

Testing Volume	Case Rate Adjustment Factor*
0	1.4
0.25* State Median	1.3
0.50* State Median	1.2
0.75* State Median	1.1
State Median	1
1.25* State Median	0.9
1.5* State Median	0.8
1.75* State Median	0.7
2.0*State Median and above	0.6

- Counties with fewer than 106,000 residents, will be exempted from case rate adjustments, and counties with test positivity $\leq 3.5\%$ will be exempted from adjustment for testing rates lower than the state median.
- If the two metrics are not the same tier, the county's tier assignment will be determined by the more restrictive of the two. For example, if a county's test positivity corresponds to tier 3 (orange, moderate), but the case rate corresponds to tier 1 (purple, widespread), the county will be assigned as tier 1.

Moving through the Tiers

Rules of the framework:

1. CDPH will assess indicators weekly on Mondays and release updated tier assignments on Tuesdays.
2. A county must remain in a tier for a minimum of three weeks before being able to advance to a less restrictive tier.
3. A county can only move forward one tier at a time, even if metrics qualify for a more advanced tier.
4. If a county's adjusted case rate for tier assignment and test positivity measure fall into two different tiers, the county will be assigned to the more restrictive tier.
5. The health equity metric is applied to jurisdictions with populations greater than 106,000. Rules of the health equity metric are described on the [Health Equity Metric page](#).
6. City local health jurisdiction (LHJ) data will be included in overall metrics, and city LHJs will be assigned the same tier as the surrounding county
7. An LHJ may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures.
8. Tier status goes into effect the Wednesday following each weekly tier assignment announcement on Tuesdays.

To advance:

1. A county must have been in the current tier for a minimum of three weeks.
2. A county must meet criteria for the next less restrictive tier for both measures for the prior **two** consecutive weeks in order to progress to the next tier.
3. In addition, the state will establish health equity measures that demonstrate a county's ability to address the most impacted communities within a county.

To move back:

1. During the weekly assessment, if a county's adjusted case rate and/or test positivity has fallen within a more restrictive tier for two consecutive weekly periods, the county must revert to the more restrictive tier.
2. Counties with a population less than 106,000 will have a small county criteria applied to it to ensure movement to a more restrictive tier is appropriate. Description of the small county framework is below.
3. Counties will have three days, beginning the Wednesday after tier assignments are announced on Tuesdays, to implement any sector changes or closures unless extreme circumstances merit immediate action.

Small County Framework

Because California's case rate metric is normalized per 100,000 population, a number of counties with small populations have experienced large swings in their daily case rate as a result of a small number of newly reported cases. For some counties, this has raised the specter of needing to move back to a more restrictive tier despite overall disease stability and a demonstrated ability to trace, follow up with, investigate and support cases.

For example, once a small county is in yellow tier, a small number of cases – as low as 1 case per week for 2 consecutive weeks – could cause it to return to a more restrictive tier. While the overall proportion of cases may be the same as a larger county, the absolute number of cases is also an important consideration in gauging county capacity to control transmission through disease investigation, contact tracing and supportive isolation.

It is not in the interest of the public health of communities to close or restrict entire business sectors on the basis of such a small number of cases, and in some situations a small swing in week over week case counts can move a county from yellow tier all the way to purple tier. Because the state wants to avoid swift shifts in tier status based on small absolute case number changes, we are creating an alternate case assessment measure to apply to small counties. Small counties are defined as having fewer than 106,000 residents.[\[1\]](#)

Alternate Case Assessment Measure. Small counties are subject to all existing Blueprint rules (test positivity thresholds, minimum duration of 3 weeks in a tier before moving to a less restrictive tier, inability to skip over a tier while moving from more restrictive to less restrictive tier designations, etc.) with the exception of the case rate thresholds as delineated below.

The alternate case assessment measure provides a small county protection against sudden tier changes as a result of small changes in cases over a two-week period.

For a small county that has test positivity that meets the threshold of that county's currently assigned tier, but is flagged for potentially moving to a more restrictive tier based on its weekly case rate assessment, the following criteria shall be applied in lieu of the Blueprint case rate thresholds.

If the county exceeds the following absolute weekly case numbers based on its population and tier for two consecutive weeks, it will be required to move to a more restrictive tier:

From Tier	To Tier	Pop \leq 35K	Pop 35K-70K	Pop 70K-106K
Yellow	Orange	7	14	21
Orange	Red	14	21	28
Red	Purple	35	42	49

[1] Twenty-two California counties have a population of less than 100,000. Sutter, which has a population of 106,000 is also included as it shares a health officer with Yuba County. Counties below this size have similar challenges and opportunities in controlling COVID-19 transmission and generally do not have major or large, densely populated cities. This distinction factors into how rapidly COVID-19 transmission can increase beyond households and the ability of the county to rapidly identify and contain outbreaks with existing contact tracing, isolation and quarantine resources.

Risk Criteria

Activities and sectors will begin to open at a [specific tier based on risk-based criteria](#) (PDF), as outlined below. Lower risk activities or sectors are permitted sooner and higher risk activities or sectors are not permitted until later phases. Many activities or sectors may increase the level of operations and capacity as a county reduces its level of transmission.

Criteria used to determine low/medium/high risk sectors

- Ability to accommodate face covering wearing at all times (e.g. eating and drinking would require removal of face covering)
- Ability to physically distance between individuals from different households
- Ability to limit the number of people per square foot
- Ability to limit duration of exposure
- Ability to limit amount of mixing of people from differing households and communities
- Ability to limit amount of physical interactions of visitors/patrons
- Ability to optimize ventilation (e.g. indoor vs outdoor, air exchange and filtration)
- Ability to limit activities that are known to cause increased spread (e.g. singing, shouting, heavy breathing; loud environs will cause people to raise voice)

Schools

Schools may reopen for in-person instruction based on equivalent criteria to the July 17 [School Re-opening Framework](#) (PDF) previously announced. That framework remains in effect except that Tier 1 is substituted for the previous County Data Monitoring List (which has equivalent case rate criteria to Tier 1). Schools in counties within Tier 1 are not permitted to reopen for in-person instruction, with an exception for waivers granted by

local health departments for TK-6 grades. Schools that are not authorized to reopen, including TK-6 schools that have not received a waiver, may provide structured, in-person supervision and services to students under the [Guidance for Small Cohorts/Groups of Children and Youth](#).

Schools are eligible for reopening at least some in-person instruction following California School Sector Specific Guidelines once the county is out of Tier 1 (and thus in Tier 2) for at least 14 days, which is similar to being off the County Data Monitoring List for at least 14 days. The first day a county is considered in Tier 2 is the Wednesday after the weekly county tier assignments are announced and posted on the CDPH website (Tuesdays). For example, if a county is assigned to Tier 2 on Tuesday, October 13, the first full day the county is in Tier 2 is Wednesday, October 14. The county will have completed 14 days in Tier 2 on Tuesday, October 27 and may reopen schools for in-person instruction on Wednesday, October 28. As noted above, an LHJ may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures.

As stated in the July 17 [School Re-opening Framework](#) (PDF), schools are not required to close if a county moves back to Tier 1, but should consider surveillance testing of staff.

County Tier Adjudication Process

For more information, visit our [County Tier Adjudication Request](#) page.

EXHIBIT 7

County	Date of Tier Assessment	Ending Date of Week of Data: 10-4-20 to 10-10-20	Updated Tier Assignment, 10-19-20 Assessment	Previous Tier Assignment, 10-12-20 Assessment	First Date in Current Tier	County Tier Assignment Based on Meeting Accelerated Health Equity Criteria
Alameda	10-19-2020	10-10-2020	3	3	10-12-2020	No
Alpine	10-19-2020	10-10-2020	4	4	08-31-2020	NA
Amador	10-19-2020	10-10-2020	3	3	09-28-2020	NA
Butte	10-19-2020	10-10-2020	3	2	10-19-2020	No
Calaveras	10-19-2020	10-10-2020	3	3	09-28-2020	NA
Colusa	10-19-2020	10-10-2020	2	2	10-12-2020	NA
Contra Costa	10-19-2020	10-10-2020	2	2	09-28-2020	No
Del Norte**	10-19-2020	10-10-2020	3	3	08-31-2020	NA
El Dorado	10-19-2020	10-10-2020	3	3	09-21-2020	No
Fresno^^	10-19-2020	10-10-2020	2	2	09-28-2020	No
Glenn	10-19-2020	10-10-2020	1	1	08-31-2020	NA
Humboldt***	10-19-2020	10-10-2020	4	4	10-05-2020	Yes
Imperial	10-19-2020	10-10-2020	1	1	08-31-2020	No
Inyo**	10-19-2020	10-10-2020	3	3	10-05-2020	NA
Kern	10-19-2020	10-10-2020	2	2	10-12-2020	No
Kings	10-19-2020	10-10-2020	2	2	10-12-2020	No
Lake**	10-19-2020	10-10-2020	2	2	08-31-2020	NA
Lassen	10-19-2020	10-10-2020	3	3	09-21-2020	NA
Los Angeles*	10-19-2020	10-10-2020	1	1	08-31-2020	No
Madera	10-19-2020	10-10-2020	1	1	08-31-2020	No
Marin	10-19-2020	10-10-2020	2	2	09-14-2020	No
Mariposa	10-19-2020	10-10-2020	4	4	09-21-2020	NA
Mendocino	10-19-2020	10-10-2020	1	1	08-31-2020	NA
Merced^^	10-19-2020	10-10-2020	2	2	10-05-2020	No
Modoc	10-19-2020	10-10-2020	4	4	08-31-2020	NA
Mono	10-19-2020	10-10-2020	3	3	08-31-2020	NA
Monterey	10-19-2020	10-10-2020	1	1	08-31-2020	No
Napa	10-19-2020	10-10-2020	3	2	10-19-2020	No
Nevada	10-19-2020	10-10-2020	3	3	09-21-2020	NA
Orange	10-19-2020	10-10-2020	2	2	09-07-2020	No
Placer	10-19-2020	10-10-2020	3	3	10-12-2020	No
Plumas	10-19-2020	10-10-2020	4	4	10-05-2020	NA
Riverside	10-19-2020	10-10-2020	1	2	10-19-2020	No
Sacramento	10-19-2020	10-10-2020	2	2	09-28-2020	No

San Benito	10-19-2020	10-10-2020	2	2	10-12-2020	NA
San Bernardino	10-19-2020	10-10-2020	1	1	08-31-2020	No
San Diego	10-19-2020	10-10-2020	2	2	08-31-2020	No
San Francisco***	10-19-2020	10-10-2020	4	3	10-19-2020	Yes
San Joaquin	10-19-2020	10-10-2020	2	2	09-28-2020	No
San Luis Obispo	10-19-2020	10-10-2020	2	2	09-21-2020	No
San Mateo*	10-19-2020	10-10-2020	2	2	09-21-2020	No
Santa Barbara	10-19-2020	10-10-2020	2	2	09-28-2020	No
Santa Clara	10-19-2020	10-10-2020	3	3	10-12-2020	No
Santa Cruz	10-19-2020	10-10-2020	2	2	09-07-2020	No
Shasta	10-19-2020	10-10-2020	1	2	10-19-2020	No
Sierra	10-19-2020	10-10-2020	4	4	10-12-2020	NA
Siskiyou	10-19-2020	10-10-2020	4	4	10-05-2020	NA
Solano	10-19-2020	10-10-2020	2	2	09-21-2020	No
Sonoma	10-19-2020	10-10-2020	1	1	08-31-2020	No
Stanislaus*	10-19-2020	10-10-2020	2	2	10-12-2020	No
Sutter	10-19-2020	10-10-2020	2	2	10-12-2020	NA
Tehama	10-19-2020	10-10-2020	1	1	10-05-2020	NA
Trinity**	10-19-2020	10-10-2020	4	4	10-05-2020	NA
Tulare	10-19-2020	10-10-2020	1	1	08-31-2020	No
Tuolumne	10-19-2020	10-10-2020	3	3	08-31-2020	NA
Ventura	10-19-2020	10-10-2020	2	2	10-05-2020	No
Yolo	10-19-2020	10-10-2020	2	2	09-28-2020	No
Yuba	10-19-2020	10-10-2020	2	2	10-05-2020	NA

* Undergoing Tier Adjudication with CDPH

**Small County: Held harmless, did not exceed case number threshold

***Accelerated Health Equity: San Francisco meets criteria for accelerated movement to a less restrictive tier. Humboldt

^Source: <http://www.dof.ca.gov/Forecasting/Demographics/Projections/>

^^Entering into supportive engagement with CDPH

	Week Counts for Tier Change as of 10-19-20			Current Data Week Tier and Metric Tiers for Data Week 10-4-20 to 10-10-20		
School Reopening Status as of 10-19-20	Number of Weeks in Current Tier	Number of Consecutive Weeks Meeting Criteria for Less Restrictive Tier	Number of Consecutive Weeks Meeting Criteria for More Restrictive Tier	Tier for Week 10-4-20 to 10-10-20, 10-19-20 Assessment	Test Positivity excl prisons (7-day, 7-day lag)	Case Rate Used for Tier Adjusted Using Linear Adjustment (7-day avg, 7-day lag)
May Reopen	1	0	0	3	1.6	2.9
May Reopen	7	NA	0	4	0.0	0.0
May Reopen	3	0	0	3	0.7	1.9
May Reopen	0	0	0	3	1.8	3.3
May Reopen	3	1	0	4	0.1	0.6
May Not Reopen	1	1	0	3	2.9	1.9
May Reopen	3	1	0	3	1.9	3.8
May Reopen	7	0	0	2	3.9	6.2
May Reopen	4	0	0	3	1.2	2.1
May Reopen	3	0	1	1	5.2	7.3
May Not Reopen	7	1	0	2	4.0	5.8
May Reopen	2	NA	0	3	0.5	1.0
May Not Reopen	7	0	NA	1	5.8	11.5
May Reopen	2	0	0	2	0.4	7.0
May Not Reopen	1	0	0	2	4.4	6.2
May Not Reopen	1	1	0	3	2.0	3.9
May Reopen	7	0	0	1	4.3	7.9
May Reopen	4	0	0	3	1.0	1.4
May Not Reopen	7	0	NA	1	3.4	7.6
May Not Reopen	7	1	0	2	3.4	4.8
May Reopen	5	1	0	3	1.6	3.1
May Reopen	4	NA	0	4	0.0	0.0
May Not Reopen	7	1	0	2	2.2	4.5
May Reopen	2	0	1	1	4.1	7.4
May Reopen	7	NA	0	4	0.0	0.0
May Reopen	7	0	0	3	0.5	1.0
May Not Reopen	7	0	NA	1	4.0	8.3
May Reopen	0	0	0	3	1.7	3.6
May Reopen	4	0	0	3	1.1	2.5
May Reopen	6	0	0	2	3.2	4.6
May Reopen	1	0	0	3	2.1	3.7
May Reopen	2	NA	0	4	0.0	0.8
May Reopen	0	0	NA	1	5.2	9.1
May Reopen	3	0	0	2	2.5	4.4

May Not Reopen	1	1	0	3	1.9	3.1
May Not Reopen	7	0	NA	1	6.2	10.9
May Reopen	7	0	0	2	3.3	7.0
May Reopen	0	NA	0	3	0.8	1.5
May Reopen	3	0	0	2	3.3	4.9
May Reopen	4	0	0	2	2.0	5.1
May Reopen	4	1	0	3	1.8	3.5
May Reopen	3	0	0	2	1.9	4.3
May Reopen	1	0	0	3	1.5	3.5
May Reopen	6	1	0	3	1.6	3.2
May Not Reopen	0	0	NA	1	5.8	15.5
May Reopen	1	NA	0	4	0.0	0.0
May Reopen	2	NA	0	4	0.6	0.7
May Reopen	4	0	0	2	3.0	6.4
May Not Reopen	7	0	NA	1	5.1	11.9
May Not Reopen	1	0	0	2	4.3	6.0
May Not Reopen	1	1	0	3	1.9	2.7
May Not Reopen	2	0	NA	1	5.2	11.7
May Reopen	2	NA	0	3	1.0	1.1
May Not Reopen	7	0	NA	1	5.1	8.9
May Reopen	7	0	0	3	0.8	1.4
May Reopen	2	0	0	2	2.4	5.1
May Reopen	3	0	0	2	2.6	5.3
May Reopen	2	0	0	2	3.3	6.3

It remains in tier to via accelerated health equity criteria.

Case Rate Adjustment Factors for Data Week 10-4-20 to 10-10-20				Small County Considerations for Data Week 10-4-20 to 10-10-20	Health Equity Framework Parameters for Data Week 10-4-20 to 10-10-20		
Unadjusted Case Rate per 100,000 excl prisons (7-day avg, 7-day lag)	Linear Adjustment Factor Applied to Case Rate (>State Avg + Pop>100K or <State Avg + TestPos>3.5 + Pop>100K)	Tests per 100,000 excl prisons, with replaced approved county data (7-day avg, 7-day lag) State Median Testing Rate=239.21	Population^	County Exceeds Minimum Number of Weekly Cases Based on Population and Current Tier	Health Equity Quartile Test Positivity Excl Prison Cases (7 day, 7 day lag)	Health Equity Quartile (Test Positivity%) Within Threshold for Less Restrictive Tier	Number of Consecutive Weeks of Health Equity Metric Towards Movement to Less Restrictive Tier
3.5	0.833	339.4	1685886	NA	2.7	No	0
0.0	-	460.4	1117	No	-	NA	NA
1.9	-	361.5	38531	No	-	NA	NA
3.5	0.921	286.2	217769	NA	1.4	Yes	0
0.6	-	217.7	44289	No	-	NA	NA
1.9	-	131.5	22593	No	-	NA	NA
4.2	0.905	295.8	1160099	NA	3.0	Yes	2
6.2	-	215.1	27558	No	-	NA	NA
2.1	-	212.3	193098	NA	1.1	Yes	1
7.0	1.041	214.6	1032227	NA	7.9	No	0
5.8	-	234.1	29348	NA	-	NA	NA
1.0	-	205.5	134098	NA	1.0	NA	NA
13.6	0.851	328.5	191649	NA	10.3	No	0
7.0	-	202.8	18453	No	-	NA	NA
5.7	1.076	194.0	927251	NA	5.5	No	0
4.6	0.851	328.3	156444	NA	1.4	Yes	1
7.9	-	268.4	64871	No	-	NA	NA
1.4	-	248.0	30065	No	-	NA	NA
10.1	0.754	386.3	10257557	NA	5.9	Yes	4
4.8	-	208.3	160089	NA	4.9	Yes	4
5.0	0.622	465.1	260800	NA	2.8	Yes	3
0.0	-	279.4	17795	No	-	NA	NA
4.5	-	250.5	88439	NA	-	NA	NA
7.1	1.042	214.0	287420	NA	3.9	Yes	2
0.0	-	73.9	9475	No	-	NA	NA
1.0	-	212.8	13961	No	-	NA	NA
9.2	0.908	294.3	448732	NA	6.9	Yes	4
4.4	0.828	342.2	139652	NA	2.1	Yes	0
2.5	-	281.2	98710	No	-	NA	NA
4.6	-	218.1	3228519	NA	5.6	No	0
3.7	-	232.7	400434	NA	2.4	No	0
0.8	-	184.2	18997	No	-	NA	NA
8.4	1.073	195.5	2468145	NA	6.9	No	0
4.4	0.993	243.5	1567975	NA	3.5	Yes	4

3.1	-	238.1	64022	No	-	NA	NA
10.8	1.009	233.6	2217398	NA	8.5	No	0
7.8	0.902	298.1	3370418	NA	5.5	No	0
2.5	0.600	596.0	892280	NA	1.5	Yes	NA
4.9	-	204.7	782545	NA	4.6	Yes	1
7.5	0.675	433.3	278862	NA	4.0	Yes	4
4.7	0.741	393.9	778001	NA	3.3	Yes	2
4.8	0.905	296.3	456373	NA	3.2	Yes	2
4.7	0.739	395.3	1967585	NA	3.3	No	0
3.6	0.893	302.9	273999	NA	4.4	Yes	3
22.9	0.676	432.7	177925	NA	2.9	Yes	0
0.0	-	220.1	3115	No	-	NA	NA
0.7	-	162.8	43956	No	-	NA	NA
6.9	0.924	284.7	444255	NA	4.1	Yes	4
13.1	0.906	295.1	496668	NA	7.5	Yes	2
5.6	1.070	197.4	562303	NA	4.7	Yes	1
2.7	-	216.1	105747	No	-	NA	NA
11.7	-	239.6	65885	NA	-	NA	NA
1.1	-	221.4	13354	No	-	NA	NA
9.1	0.980	251.4	484423	NA	6.3	Yes	4
1.4	-	295.5	52351	No	-	NA	NA
5.9	0.865	319.9	852747	NA	3.1	Yes	2
5.4	0.991	244.6	223612	NA	3.7	Yes	4
6.3	-	202.7	79290	No	-	NA	NA

ta Week 10-4-20 to 10-10-20		Notes about Tier Movement
Eligible for Accelerated Health Equity Criteria to Move to Less Restrictive Tier	Number of Consecutive Weeks Towards Movement to Less Restrictive Tier with Accelerated Healthy Equity Criteria	Notes About County's Tier Status for 10-19-20 Assessment
No	0	
NA	NA	
NA	NA	
No	0	
NA	NA	
NA	NA	
No	0	
NA	NA	Small County: Held harmless, did not exceed case number threshold.
No	0	
No	0	
NA	NA	
NA	NA	Accelerated Health Equity: Remains in tier moved to via accelerated HE criteria.
No	0	
NA	NA	Small County: Held harmless, did not exceed case number threshold.
No	0	
No	0	
NA	NA	Small County: Held harmless, did not exceed case number threshold.
NA	NA	
No	0	
No	0	
No	0	
NA	NA	
NA	NA	
No	0	
NA	NA	
NA	NA	
No	0	
No	0	
NA	NA	
No	0	
No	0	
NA	NA	
No	0	
No	0	

NA	NA	
No	0	
No	0	
Yes	NA	Accelerated Health Equity: Meets criteria for accelerated movement to a less restrictive tier.
No	0	
No	0	
No	0	
No	0	
No	0	
No	0	
No	0	
No	0	
NA	NA	
NA	NA	
No	0	
No	0	
No	0	
NA	NA	
NA	NA	
NA	NA	Small County: Held harmless, did not exceed case number threshold.
No	0	
NA	NA	
No	0	
No	0	
NA	NA	

EXHIBIT 8

California legislators cap off session with several COVID-19 protection bills

Assemblyman Kevin Kiley, right, R-Granite Bay, attends a hearing of the Assembly Transportation Committee in Sacramento, Calif.
(Rich Pedroncelli/AP)

By [MELODY GUTIERREZ](#) STAFF WRITER

AUG. 31, 2020
9:38 PM

SACRAMENTO —

California lawmakers on Monday wrapped up a legislative session largely defined by the pandemic as they approved new COVID-19 sick leave for food workers, added sweeping labor protections for laid-off hotel staff and made it easier for essential employees to file for workers' compensation.

With approval in the Senate and Assembly ahead of Monday's deadline, the bills will next head to Gov. Gavin Newsom, who will have until Sept. 30 to sign or veto the measures.

The bills made their way through the Capitol after the building itself had to be shuttered twice this year due to the coronavirus, shortening the time lawmakers had to craft and debate proposals. At least three lawmakers have been diagnosed with COVID-19 since July, and in the final days of session, 10 Republicans were forced to quarantine and vote remotely.

"We had to pivot quickly despite those disruptions to deal with the crisis this year," said Sen. Richard Pan (D-Sacramento), a pediatrician who chairs the Senate's Health Committee. "It was a very challenging and unusual session, but I think we did what was needed."

Among those already en route is Assembly Bill 3216 by Assemblyman Ash Kalra (D-San Jose), a proposal pushed by unions that would create significant labor protections for hotel, janitorial, airport, event center and building maintenance workers.

The bill requires employers in those industries to first rehire workers they laid off during a state of emergency, including in cases in which a new owner takes over a business.

“This bill is and has always been about protecting workers, especially those who have been among the hardest-hit communities during this crisis: Latino workers, low-wage workers and immigrant workers,” Kalra said. “These workers did not create this crisis, and they should be able to go back to their jobs and be part of our state’s economic recovery.”

Opponents included Republicans and business groups, who argued that the “right of recall” provisions — which would require employers to extend offers of employment to laid-off workers — were unworkable and would slow industries trying to reopen.

The Legislature also passed a budget trailer bill, first made public Friday, that would require food-sector companies, healthcare providers and emergency responders with more than 500 employees to provide two weeks of supplemental paid sick leave for full-time workers who are unable to work after being exposed to the coronavirus or contracting COVID-19. AB 1867, which expires Dec. 31, is similar to an executive order Newsom signed earlier this year.

Federal law passed this year provides the same benefit to employees at smaller businesses. Assemblyman Phil Ting (D-San Francisco) said AB 1867 would ensure that workers at larger companies “aren’t left out in the cold.”

“We want to make sure we are protecting those workers, especially those workers who are going to work every single day to feed us,” Ting said.

Assemblyman Jay Obernolte (R-Big Bear Lake) said restaurants in the state are struggling to remain afloat amid the ban on indoor dining, and adding new regulations will hurt those businesses further.

“Although I think we all share the desire to make it easier for the workers of California, it is wrong to put this burden on the shoulder of an industry already reeling,” Obernolte said.

Late Monday night, the Legislature passed SB 1159 by Sen. Jerry Hill (D-San Mateo), which would make it easier for police, firefighters and other essential employees who

contract COVID-19 on the job to be covered under the state's workers' compensation program. The bill also eases a requirement that workers with COVID-19 prove they contracted the illness while on the job in cases in which there is an outbreak at the employee's worksite.

Newsom has previously said he plans to work "hand in glove" with the Legislature to expand COVID-19 workplace protections, including loosening workers' compensation claim requirements. In May, Newsom [signed an executive order easing workers' compensation restrictions](#) for essential workers, but those changes relaxed the burden of proof only for workers with COVID-19 before July 5. SB 1159 codifies the executive order and extends the time frame for the changes until 2023.

The Legislature also approved AB 276 by Assemblywoman Laura Friedman (D-Glendale), which would raise the amount Californians can borrow penalty-free from their employer-sponsored retirement accounts to \$100,000 from \$50,000 if they have been financially impacted by the pandemic.

Another proposal approved by the Legislature, AB 2537 by Assemblyman Freddie Rodriguez (D-Pomona), would require general acute care hospitals to stockpile three months of protective equipment supplies by April 1 or face a fine of up to \$25,000. AB 2043 by Assemblyman Robert Rivas (D-Hollister) is also headed to Newsom and would require the state's Division of Occupational Safety and Health to compile and publicly report investigations into agricultural workplace conditions related to COVID-19, as well as illnesses from the virus.

While lawmakers worked to clear bills before Monday's deadline, the state Senate was largely slowed by an unprecedented challenge — remote voting by 10 Republicans forced to quarantine after being exposed to Sen. Brian Jones (R-Santee), who tested positive for COVID-19 last week.

Action on COVID-19 bills and all other pending legislation came to a grinding halt early Monday evening for almost two hours when a bitter partisan feud erupted in the state Senate. Majority Democrats, concerned about the number of bills to be considered before the constitutional deadline at midnight, sought to impose time limits on debate — a change in normal Senate rules that infuriated Republicans.

Senators quarreled over the rule change, with at least one expletive caught on a microphone that wasn't muted. The effect of the disagreement left the fate of several closely watched bills in doubt as the night wore on.

Lawmakers approved SB 275 by Pan and Sen. Connie Leyva (D-Chino), which calls for the state to build a supply of medical equipment. Hospitals and other healthcare employers would be required to assemble a 45-day supply by June 1, 2023.

SB275 was watered down in recent days, reducing the stockpile from a 90-day supply to half that amount for healthcare employers, while leaving the state's own threshold undefined. Recent amendments require the state to begin building its stockpile only after money is set aside to do so.

Opponents of the bill argued that it requires healthcare employers to begin building a supply too soon, potentially taking away equipment needed now by frontline workers. Others have said it's the responsibility of the state, not healthcare employers, to create a stockpile for emergencies.

Pan said the need for the state to warehouse medical supplies was evident during the current pandemic, in which mask shortages drove up prices and increased the spread of the virus.

A [UC Berkeley Labor Center study](#) found that if the state had had a stockpile prior to the COVID-19 pandemic, thousands of workers would not have contracted the virus, and California would have saved \$93 million each week on unemployment claims from out-of-work healthcare workers.

The study's co-author, William Dow, a professor of health policy and management in the School of Public Health at UC Berkeley, said California can save money and lives if it plans ahead. Dow said any stockpile is an improvement over what California had prior to the pandemic, but he raised concerns that a 45-day supply would not be sufficient.

"I find that incredibly myopic," Dow said. "I hope this is looked at again when people have clearer eyes after we get through the current uncertainty surrounding our budget."

Times staff writer John Myers contributed to this report.

EXHIBIT 9

Aug 28, 2020

California Governor Gavin Newsom August 28 Press Conference Transcript



[Rev](#) › [Blog](#) › [Transcripts](#) › [Press Conference Transcripts](#) › California Governor Gavin Newsom August 28 Press Conference Transcript

Governor of California Gavin Newsom's August 28 press conference. He announced new reopening plans for the state. Read the full news briefing speech transcript here with all COVID-19 updates for CA.

Gov. Gavin Newsom: ([04:21](#))

Well, good afternoon everybody. I wanted to just jump right in as today is certainly an active and busy day here in the state of California. I'll begin by focusing, if I can, on the top line concern we have in this state and that's the issue of the ongoing battle to address these wildfires. Currently, we

have some, well, just shy of 15,000 firefighters that we've deployed in the state. We have nearly 2,400 engines still deployed to suppress these wildfires and address these fires. 730 now fires across the state representing about 1.4 million acres that have burned just in the latest round of wildfires that we've experienced. Reminding you that that round of wildfires included some 14,000 lightning strikes that we've experienced over the course of the last 10 or so days. 93 lightning strikes just in the last 24 hours, 30 new fires that occurred overnight.

Gov. Gavin Newsom: ([05:28](#))

Those fires have all substantially been diminished and, or extinguished. It just gives you a sense, again, of the ongoing vigilance that is required of this moment, is required of this time of year as it relates to work currently being done by Cal Fire and others. Some seven individuals have lost tragically their lives and 2,100 plus structures that we have identified as destroyed. And I always caution, I did this on Wednesday, I'll do it again today. The number of fatalities that we are aware of, familiar with, the number of structures that we've been able to identify, there's still a lot of work to do as people begin to repopulate, go back home, as we continue to assess the damage, the devastation, and potentially the mortality related to these fires. Those numbers that you see on this screen are likely to go up.

Gov. Gavin Newsom: ([06:28](#))

Just to give you a sense of where we are, good news, we are seeing in terms of things going up and the percentage of containment improving in each of these larger fires. 730 fires overall, some two dozen larger fires that are top of mind and taking the vast majority of our resources and our attention. The LNU Complex, the Lake Napa County Complex, 33% contained when I last left you on Wednesday. Today, the containment's improved modestly 35%. You see the number of acreage relatively contained, modest growth in the last 48 hours, but containment improving. The CZU fire down in the Santa Cruz mountain area, 19% contained on

Wednesday. Now, 26% contained. You can see a modest increase in the total number of acreage impacted by that complex of fires. SCU, the Santa Clara area, that's 25% contained on Wednesday. We're now up to 35% containment.

Gov. Gavin Newsom: ([07:35](#))

The acreage is, well, relatively stable over the course of the last 48 hours. I'll remind you, the LNU and the SCU fires, second and third largest fires in terms of total acreage burned in California's recorded history. The August fire continues to record 11% containment on Wednesday, 17% now recorded containment as of this morning. Roughly 197,000 acres impacted modestly as you can see from Wednesday. The Sheep Fire, I had highlighted that last week. Monday and Wednesday, it was 0%. 3% on Wednesday. We're seeing some real progress, tenfold progress on the Sheep Fire. A 30% containment, and they've held the line in total number of acres burned. And one other fire that we're monitoring of particular importance and concern, all these fires are important.

Gov. Gavin Newsom: ([08:40](#))

A particular concern though is this Sequoia Fire impacting forest, potentially some of our great majestic Sequoias. 0% contained on Wednesday. You could see 0% contained still today. It's a very difficult fire to suppress. The acreage has grown by about 5,000 acres in the last 48 hours. But this is up in Tulare County, just important in terms of the potential impact on some of our planet's most majestic trees. But nonetheless, we are putting a lot of resource on that, we'll continue to make progress despite those containment numbers, again, being very stubborn. Speaking of stubborn, the containment numbers related to the transmission of COVID continue to be stubborn here in the state. And that's why it is important just to remind each and every one of you of what you already know. And that is COVID-19 will be with us for a while long time and we need to adapt.

Gov. Gavin Newsom: ([09:50](#))

This idea that it was going to go away in the summer during the warmer months, that somehow it would disappear based upon an assertion, a tweet, or a headline has obviously been substituted by a different reality that not only are we experiencing here in the state of California, but all across the nation. And so it's a sober reminder that what we will be announcing today in terms of our progress and in terms of our new strategies, in terms of how we begin to modify our stay at home ordered, that we must rebuilt with this reality and live with this fundamental truth until there is a vaccine, until we have the kind of therapeutics that could substantially mitigate the spread and the impact of COVID-19 that we will simply need to adapt our behaviors until that time. We've learned a lot over the course, the last number of months on how this virus spreads.

Gov. Gavin Newsom: ([10:52](#))

A lot of focus on moving activities to the extent possible. From indoors to outdoors as a significant contributor to mitigating the spread of this virus, the importance of face coverings, the importance of masks, physical distancing, avoiding out of your household cohort, the kind of mixing, all of those things. We've learned with a greater sense of understanding the capacity that we're trying to bring in to an adjustment that we'll be making to our sector framework. For the last few weeks, we've been previewing that we wanted to make adjustments based upon the input we received from county health officers, input we've received from experts, our own experience here in the state of California to adjust the frameworks from the old monitoring list to a more dynamic list that we hope is. Not only more dynamic, but it's much more simple to understand. Stringent, no. Nonetheless in terms of its application, but statewide in terms of its consequences in terms of what it covers.

Gov. Gavin Newsom: ([12:01](#))

Simple also slow, and I'll get to that. As we look to a blueprint for safely

reopening the economy, pulling in the lessons learned, pulling in our own experience, others experiences, lessons learned in other states and across the country, these are the guidelines that foundationally we are advancing as it relates to this new blueprint. We're looking now to a uniform framework, one that provides four tiers. You'll be now hearing a lot about tiers, four tiers. The colors attached to that, we'll get to that in a moment. Four tiers, not 58 county variations as we've seen in the past. Process not only for tightening these restrictions, but also loosening these restrictions, now are based upon these same metrics. The metrics that we assert are the most significant in terms of giving us a leading indicator of how things are taking shape in a particular part of the state, our case rates and test positivity rates.

Gov. Gavin Newsom: ([13:07](#))

Case rates, number of individuals per population cohort, be it 1,000 or 100,000 that test positive, the percentage of people that get a test, that test positive, the positivity rate. So case rate and testing positivity will be the new, simple metrics that will determine movement within these tiers that we will be highlighting here today. There's also, and Dr. Ghaly will be highlighting this, an additional health equity consideration. He can talk more about what we're exploring in that space, but that's foundational. Again, always looking at the lens of equity as it relates to the work being done to test cohorts populations, essential workers, but vulnerable workers and vulnerable communities, low income communities. And otherwise it is critical that we're doing justice as it relates to the kind of testing we're doing, the specificity in targeted communities that we're testing because we don't want to see people game these numbers.

Gov. Gavin Newsom: ([14:11](#))

Here's what we're looking at. We're looking at these four tiers. Color coded, making it a little simpler for folks; purple, red, orange and yellow. We don't put a green because we don't believe that there is a green light

that says, go back to the way things were or back to the pre-pandemic mindset. Quite the contrary. These are the guidelines, these color coded county guidelines that we're putting forward to get us through this flu season, to prepare for the upcoming flu season, this twin-demic as sorts as we deal with flu and we deal with COVID-19 to work through the next few months here in the state of California. Again, this is a dynamic process, it's an iterative process. We are not stubborn in terms of an ideological thrust, it's the work we're doing and the considerations that we make in real time with experts and county health officers, and members of respected industries and members of the public that provide guidance and feedback.

Gov. Gavin Newsom: ([15:18](#))

But the guidance and feedback we have received that helped us put this in place, we have advanced and engaging in seeking that guidance and collecting that guidance over the course of many, many weeks to put together the chart that you see in front of us. The purple part of this, the risk level we refer to as the county risk level as would spread is what commonly was referred to in the past as the old monitoring list, the old watch list that you may have seen in the past. Let me give you an example. We had 34 counties that were on the old monitoring list, the old watch list. Now that list broadly, and I'll be specific about the distinctions, is defined now in this purple category as the width spread as it relates to the impact, the community spread, the background spread of the COVID-19 virus. New cases that are more than seven per 100,000, which by the way, that's a daily case rate.

Gov. Gavin Newsom: ([16:23](#))

It works out to be roughly exactly the old case rate of 100 per 100, 000. We had for a 14 day period, 98. So that's what the seven represents. We just want more specificity looking at daily rates, not just that 14 day rates. So no more or rather more than seven rates new cases per 100,000 population. And those with positivity rates North of 8%, you'll see where

the state of California is. We're closer to 6% over the last two week period. But if you're in a county with more than 8%, you would be on that purple list. If you have number of new cases that are more than seven per 100,000 population, you would remain on that purple tiered list. Dr. Ghaly will come up in a moment and say what that means from a sectorial perspective, what that means from guidelines as it relates to individual cohorting, group cohorting, the expectations rather we have in terms of individual and group behavior.

Gov. Gavin Newsom: ([17:24](#))

But let me quickly go through just some of these other colors before I bring up Dr. Ghaly. So the purple representing what broadly was defined as the old watch list. The new sectors now, three tiers as we refer to them, these new guidelines. The red tier is substantial spread. That's reflected four to seven new cases per 100,000 and positivity rates that drop below 8% and put us above 5%, so five to 8%. The moderate represented in orange and there are a number of counties in that category today. I'll provide that list in just a moment. Those are with new cases, the case rates below four per 100,000, one to 3.9, and you see positivity rates that get up to 4.9%, below 5%. And then of course minimal, that's the category, that's yellow category. We have less than one new case per 100,000 and less than 2% of people that test positive for COVID-19.

Gov. Gavin Newsom: ([18:32](#))

As you can see with this purple, again, we are replacing the old county monitoring list and we have criteria and expectations, just sort of a reset, the counties that start in the higher tiers, higher than that purple tier have to be in that tier with criteria within that tier that have met for at least two weeks. One thing we've learned from the previous reopening experience, something I'm asked all the time about what is the experience you had in the past? What are you incorporating in terms of new considerations in this new approach? One of the things is making sure that we really hold

strongly to these buffers in terms of criteria and data, and holding that criteria and data in line for an extended period of time. You'll see here in a moment, we want to extend that period of time, even beyond two weeks as it relates to people moving into new tiers, but you at least have to have stability for two weeks. We'll talk more specifically about, again, what that looks like.

Gov. Gavin Newsom: ([19:43](#))

We're going to begin our new assessments on a weekly basis every Tuesday and we will be updating every Tuesday, the county monitoring list as we go. Here's our snapshot where we are today. Number of counties, again, represented in purple, 38 counties. Red counties and-

Gov. Gavin Newsom: ([20:03](#))

... purple 38 counties, red counties and orange you see nine and eight respectfully. Yellow counties, the minimal, is represented by three specific counties. So again, 38's roughly in that range, 34, the last time member counties come on and come off the old monitoring list, roughly about the same number of counties. With the new criteria, we capture a few counties that were just coming off. They're likely to come out very, very shortly, and you'll see that update in a moment. We again expect this to be a dynamic list and continue to see people move into different tiers and certainly move into a different mindset in terms of how we can approach a lot of the activities within the respective counties. Well, 87% rather of people living in the state of California are living in these purple counties. Again, 38 counties representing about 87% of the population.

Gov. Gavin Newsom: ([20:59](#))

12% in red, 1% in orange, 0.1% in yellow. So you get a sense of how stubborn this process is, why we say statewide, stringent, but we also say slow in terms of our ability to move into these different tiers. Again, here are the tiers in the represented colors and in each tier, in order to move out

of those tiers, there's now a 21 day mandatory wait time, 21 days. When we did this the last time, Dr. Ghaly will talk a little bit more specifically about our experience in terms of the health orders we put out. We put out guidelines, they didn't mean go, but we empowered the counties to make decisions based upon attestations and partnerships that had to form with county health officers signing off with county officials on their ability to move. We're going to be more stubborn this time and have a mandatory wait time between moves.

Gov. Gavin Newsom: ([22:04](#))

We didn't do that last time. And that is a significant distinction between what we've learned from the past and what we now are advancing in this more stringent, but we believe more steady approach to moving counties within tiers and modifying the activities within those respective counties. We also have a criteria, not just 21 days, on moves between tiers, but also two weeks of some stability and steadiness before you move into those tiers. As well as a recognition that every week we'll continue to assess and we'll update the epi-criteria, the epi-data, the epidemiological data, so that we're sharing it with you, the public, sharing it with the county. And you'll see in a moment a new website and a much more dynamic, we hope, much easier website in terms of accessing information, providing, we hope, more transparency in this space.

Gov. Gavin Newsom: ([23:05](#))

Again, because you may have seen this for the first time, this may not be as easy to understand perhaps as the old watch list. But the purpose, our emphasis, in terms of how we're approaching this is we believe this is much more simple, much more transparent, easily monitored by individuals, not just by business representatives, but also by county and state health officers. We have a criteria that also toggles forward, but also toggles back, moving back. If you fail to meet the criteria for at least two straight weeks, you'll have to move back into the old tier. And Dr. Ghaly in

just a brief moment will come up and talk about this emergency break we have because we're not completely abandoning this notion of ICU capacity, hospitalization capacity. The other criteria that is very, very important. No one is denying the importance of that criteria. We're just not leading with that criteria. We're leading with case rates and we're leading with positivity rates as the two leading indicators as a simple measure to move within tiers.

Gov. Gavin Newsom: ([24:17](#))

But again, the ability, in real-time, to address criteria of conditions that may radically change in one county or another and various factors. We also have proposals and processes in place where we have this so-called emergency brakes. Again, like things that include hospitalizations. I want to provide this slide as a introduction to Dr. Ghaly. He'll explain what's on this slide, that 3,142, and the date that's attached to that and the current number of little over 4,200 and what it represents today. You see it's number of positive COVID patients within our hospital systems. It's a sober reminder of what we are announcing today and what we're not announcing today. We just want to put up clarity or rather slides for clarity, guidelines that provide a little bit more clarity to you of the kind of conversations we've been having for weeks and weeks and weeks with local health officers, but also within this frame, some clarity to the business sector.

Gov. Gavin Newsom: ([25:20](#))

But again, it is driven fundamentally all of this very soberly by what's happening in our hospital system, what's happening in our ICUs, what's happening, as they say, on the ground, real life criteria, real life considerations. And I want to bring up Dr. Ghaly to talk a little bit more about that. He's going to introduce a new website that we hope you use on the COVID-19 site. A much more updated, we hope more dynamic and iterative website, and then I'll come back and talk a little bit more about additional strategies to strengthen our efforts as we move forward to make

sure we're much more, again, stringent and incorporate some of the lessons learned from our previous experience around these modifications. With that, Dr. Ghaly.

Dr. Ghaly: ([26:17](#))

Thank you, governor. And thank you all for tuning in. I want to pick up where the governor left off and just talk about this slide that's in front of you. Really today, we're talking about a framework and moving forward, not about reopening. It really is important to pay attention to the three numbers on this slide. You see the 7,170 number, our really peak of hospitalizations last month, July 21st. And although we have come down nearly 40% or just over 40%, 4,205 today in our hospitals, it's still higher than we were back in June and at the beginning. And even when we started to have certain business sectors begin to increase their own activities, we were lower than we are today. And so this is just an important message to remind people that we're not out of the woods.

Dr. Ghaly: ([27:15](#))

Really, the points that the governor made when he began talking about COVID that we need everyone's efforts still. That 40 million strong came together to really bring the curve down and now we need 40 million to continue to come together to crush this curve, get 4,200 hospitalizations further down as we go forward. And that this is going to require us in this new framework that's really built around being statewide, being stringent and being slow. So I want to take a moment before I go through this example of how a county can expect to use this tiering system. How the people watching, tuning in, might go to the website that I'm going to introduce in a moment and look and see, well, our county is in this tier. What does that mean for me? What does it mean for the business down the street? But before I go into this example, I want to reiterate a couple of points that the governor made.

Dr. Ghaly: ([28:22](#))

First, counties are going to be slow moving through this. So if you're assigned a tier today, starting on Monday, you should expect to be in that tier for at least three weeks. And then before you move to the next tier, let's say you're in red, and before you move to orange, you will have had to meet the criteria to be in orange for at least two weeks. And so that's going to allow us to feel confident that the transmission in that County is appropriate to move to that less restrictive tier so we don't have to move quickly forward only to do move back sooner. And so we're going to continue to use this 21 day, three weeks standard within a tier, but really look for stability and improvement for at least two weeks to move on. That might mean that a county spends three, four, five weeks, maybe longer, depending on how transmission improves in a specific tier. I also want to say before we get into this specific example about museums, zoos, and aquariums, to talk a bit about schools.

Dr. Ghaly: ([29:30](#))

On July 17th, we put out guidance and said counties that came off the county data monitoring list, really pegged to what is the purple tier, the widespread Tier 1, that they could two weeks later begin to have the conversation about opening schools in that county with districts, families, others, to determine when the right time is. Still today, once a county is off of purple and they're in red, they would still have to wait two weeks to open up schools and have those important conversations. So this has not changed. We still have you come off what is essentially the data monitoring list and into red with a two week waiting period. So let's go over this example. So if today, as the governor showed the map of which counties are which color and which tier, you see your county in the purple tier, you know that museums, zoos and aquariums in this example are still only allowed to do outdoor operations with modifications.

Dr. Ghaly: ([30:40](#))

If you're in a county that is tier 2 in red, you can not only do outdoor, but some indoor activities. Up to 25% capacity of those settings can begin to operate and so forth. Getting into Tier 3, the capacity limit goes up to 50% and then Tier 4, open indoors with those ongoing modifications. What are those modifications? It's all the things we've been talking about for months; physical distancing of at least six feet, control over the requirement to mask while you're in the presence of others. And to make sure that if you're one of the industries that requires some symptom screening at the front door, that those things continue to happen. So I wanted to take this opportunity to introduce a new website that will be live shortly. It isn't up quite yet. That is a refresh of the covid19.ca.gov. And as you can see here, you can go to this page and type in the county Fresno, choose hair salons and barbershops, and then it will pop up and show you what color Fresno is and that sector, whether it's open or the degree that it's opened.

Dr. Ghaly: ([32:01](#))

And as you can see here, that hair salons in barbershops in the purple widespread will be allowed to operate starting as soon as Monday. I want to remind you one other factor that not only these are the state guidelines, county guidelines may be more stringent than what the state says. The state's order cannot be at the county level, made less stringent, but if a county sees conditions that cause them to be even more stringent than the state, that has always been the way California worked, it's been the way California has worked throughout this pandemic, and that will continue moving forward. So with that, I'll turn it back over to the governor. Thank you.

Gov. Gavin Newsom: ([32:48](#))

Thank you. So again, four tiers, four different colors, very simple way of finding out more information by sector, by county, by going to the covid19.ca.gov website, covid19.ca.gov website. This example of Fresno is

just one of many examples. This example, specifically, to barbershops is one, again, many industries where people want to get information, want to know what is allowable, pursuant to these guidelines based upon these tiers and was an important, it wasn't just an aside. It is an important note that barbershops based upon these new tiers, even in this widespread, this purple category, can reopen. But all of this always subject to if indeed local health authorities, local health obviously want to be more stringent subject to their attestation as well.

Gov. Gavin Newsom: ([33:47](#))

So we're trying, in the spirit of collaboration, to allow for localism if there are certain criteria where local officers feel there needs to be more stringency. But as far as we're concerned in 58 counties in the state of California, regardless of what tier you're in, as an example, hair salons and barbershops can be reopened. We also are very mindful on the experience that we had going back, now, a number of months. That it's one thing to put out guidelines. It's one thing to have a website. It's one thing to have information that may be universally, or at least, well, broadly shared within sectors within industries, within the health care profession. But for people, for you, for me, for folks that are going about your day to day lives, oftentimes it's much more difficult.

Gov. Gavin Newsom: ([34:44](#))

One of the other lessons that we learned from the previous reopening was not only the importance of time between sectorial moves. And we, again, addressing that with the 21 day process now. But also getting the information out, not just within sectors, not just within the healthcare space, but more broadly to the public and doing so in a way that captures the cultural competency that finds the best of this state. And so I wanted to provide two ads that we put together, two PSAs that we put together that are very targeted and are also highlighting in that target a demographic and highlighting an age cohort that we continue to need to spread the word

about the dangers of the spread in these social gatherings of this disease. So let's take a look at these two PSAs.

Video: ([35:52](#))

Oh, yeah. Now this is my kind of jam. Look at these close-talkers. Thanks for not wearing masks. Party over here, Rona right here. Raise your hands if you think I'm a hoax. Good. Give Nanna a big hug for me.

Video: ([36:12](#))

Make it hard for The Rona. Wear a mask, maintain physical distance, wash your hands to stop the spread. It couldn't be easier to save a life.

Video: ([36:48](#))

[foreign language 00:16:22]

Gov. Gavin Newsom: ([36:53](#))

You can see from those two ads, we very intentionally focused on young folks that may not feel the impact of their decision making and social gatherings and having an impact, not only in terms of increasing the chance that they themselves will contract COVID-19, but the possibility of significantly spreading COVID in those social settings. And then number two, clearly multi-generation families. People coming together, maybe letting their guard down. I think those scenes are very familiar to many of you that may be watching. And those scenes are exactly the kind of scenes we want to at least mitigate in terms of the impact of those gatherings and they're having in terms of the spread of this disease. And that's why you'll see a lot more in this space, more bilingual ads, more PSAs, more outreach to individuals, as well as empowering individuals more access to information in the business sector as well.

Gov. Gavin Newsom: ([38:01](#))

And what I mean by that is we want to empower individuals to know as

customers, what is happening in terms of the safety that is being provided as relates to any particular protective measures that may or may not be occurring within different sectors in different industries in our economy. So we've been working with a number of digital platforms, a number of well known brands as it were here in the state of California, asking what they can do to take it to the next level in terms of empowering individuals with more information and make it more navigable for people to provide themselves information. And what I mean by that, Yelp being a perfect example of a platform where you can provide the kind of information to validate what is asserted by, for example, a restaurant or a retail establishment. What are their health and safety measures. And provided that information now by individuals that have that experience, we can highlight that not only with general customer reviews, which you're very familiar with on a platform like Yelp, but now the customer validation as it relates to health and safety, not just the quality of an experience or a particular product. Accordingly, Facebook, to their credit, has been working in the same space and they are providing, again, more information, but with more explicit label to update posts that are COVID positive, or COVID rather 19 related posts that will help as it relates to businesses that want to describe what they're doing and what they're offering in terms of mitigation. OpenTable, another wonderful platform that now allows businesses even more prescriptively to list all of the safety precautions. You'll see examples right here on this slide, in that dashboard, so people can really get a much more prescriptive sense of what may or may not be-

Gov. Gavin Newsom: ([40:03](#))

... a much more prescriptive sense on what may or may not be happening as it relates to a particular business and their operation, and of course Google, they have search engine capacity and the mapping capacity. They are also providing more information working in partnership with the state and I imagine many other states, but to provide more information related to

things like does business have curbside pickup, what is the delivery prospects in terms of safety protocols and what exactly is happening with temperature checks and the like.

Gov. Gavin Newsom: ([40:36](#))

Those are the platforms of partnership that we are engaging in a much more forthright way than we did in the past in effort to educate individuals, empower individuals, keep people safe, [inaudible 00:40:50] healthy to make sure that we're working with the counties, but yes, that we have more stringent guidelines as it relates to epi data, that we can see some more stability, criteria for stability that allows people to move in to these next tiers.

Gov. Gavin Newsom: ([41:06](#))

Here's all I'll say as it relates to this process, and then I'll get into daily updates, numbers. This process, again, may seem more confusing because it may be the first time you've seen it, but this process is again, quite simple. You have four tiers, four colors, those tiers attach to specific capacity within sectors where those sectors can open up with modifications. That information's available on the covid19.ca.gov website, covid19.ca.gov website. But if you're a County representative, you're a county health officer, you're a local leader, the two things that you should pick up from this presentation that are the most impactful, the most important is getting that positivity rate down and getting that case rate down.

Gov. Gavin Newsom: ([41:56](#))

Those are the two measurements, the criteria that could move your community forward, and so it's incumbent upon all of us, business leaders, elected officials, people in leadership in every conceivable capacity as parents, we need to see the same, all of us as individuals doing everything we can to lower the case rates, to lower the positivity rates. We do that, we

start moving, but we do so in a safe way, and we do so with some confidence in the new guidelines that will allow us to measure progress in a more extended period of time, a 21-day window.

Gov. Gavin Newsom: ([42:37](#))

Here's where we are as it relates to a seven-day window. Average number of cases [inaudible 00:42:42] you're very familiar with, and today's updated number and total number of positive cases here in the state. This number should sober all of us. That's why today is not an announcement that we're reopening the economy in the state of California. Again, vast majority of sectors are open with modifications, essential workers, and the like. We were just talking about as we move forward how we could be more mindful of your health and safety so we don't have to continue to go back and forth, particularly as we move into flu season where we have even heighten our vigilance and do even more to mitigate the spread.

Gov. Gavin Newsom: ([43:19](#))

These numbers, again, are just a reminder this disease has not gone away. COVID is still with us. 5,320 roughly in that range of the seven-day average that we've experienced here in the state. Again, our testing's a little down a little, shy of 100,00, 92,000 yesterday of where it's been. It was up to 135,000 tests average a day pre these fires. You'll start to see those numbers come back up as we get a lot of these testing sites back up as we continue to do everything in our power to mitigate the spread of those wildfires.

Gov. Gavin Newsom: ([43:59](#))

But that positivity rate has also gone down, and that's encouraging. Down to 6%. You haven't seen that in some time. This is a 14-day positivity rate, 6% statewide. Remember, 8% is that threshold for the purple. You get into the six, five, get below five, all of a sudden, we're moving in a much more... well, in a direction allows us to do much more as it relates to

reopening certain sectors in our economy. The seven-day rate is even more encouraging, 5.7%, so 14-day, it's 6%, and a seven-day positivity rate at 5.7%.

Gov. Gavin Newsom: ([44:40](#))

Continues to also be encouraging, the number of hospitalizations down 18% over the last two weeks, and in terms of total number of positive patients with COVID-19, about 6% of the total capacity, rather, total number of people with COVID-19 as it relates to total number of beds within our hospital system represents about 6%, holding consistent where we were on Monday and Wednesdays as it relates to ICU admissions. Not dissimilarly, hospitalization numbers decline. We tend to see the same with ICU admissions. 19% increase, in that case, over a 14-day period. People ask me, and forgive me, it could be confusing, but total number of patients with COVID-19 represented within our ICU is about 16%. Again, that's dropped from about 23% just a few weeks ago so progress in that space.

Gov. Gavin Newsom: ([45:39](#))

Always progress, and most importantly, exists and resides within you and in the space that you create, the space between cohorts, the space between people outside of your households, the space between strangers that will fundamentally matter more than anything that we are asserting and advancing here today. Your actions matter. Good behavior is also contagious, not just COVID-19, and so we want to model good behavior, continue to wear those face coverings and masks and continue to consider the impact, particularly as we move closer to Labor Day, the impact of multigenerational events, household events where you bring your neighbors, friends, your cousin you haven't seen in months, your aunt, your extended family members, even second cousins that are just driving through that want to drop by.

Gov. Gavin Newsom: ([46:35](#))

Those events highlighted in that PSA or those two PSAs should be cautionary tales in terms of just making sure you're protecting them and protecting yourself with face coverings and doing what you can to physically distance, even in those environments where we are bringing people into the backyards, even into the living rooms. Your actions matter more than anything health officer can say or an elected official can say. That's why nothing substitutes for wearing those masks, doing that physical distancing, continuing to mind your mother and grandmother by washing your hands and sanitizing and doing what you can in that spirit of those PSAs, minimizing that mixing.

Gov. Gavin Newsom: ([47:21](#))

That's the update today. We continue, in closing, to be working next 72 hours with California legislature, working at the end of what we refer to as our session, which ends on midnight on Monday. Many dynamic things occurring at least of which we did land on an agreement on evictions. I'm very pleased to announce that. Look forward to talking more about that in detail as the details present themselves in what we refer to as print, meaning in the bill language that will cross both houses of the Assembly and the Senate and land on my desk for signature.

Gov. Gavin Newsom: ([48:08](#))

I just want to expend appreciation to all those leaders that worked hard, bring parties together. I just want folks to know broad strokes that we were able to accommodate each other's points of view. Not everybody pleased with every detail. That's the nature of negotiation, but we did get an eviction deal done. I look forward to signing it very, very shortly with that. Happy to answer any questions.

Speaker 1: ([48:35](#))

Katie Orr, KQED.

Katie Orr: ([48:38](#))

Hi, governor, thanks for taking our questions. As it relates to the eviction moratorium deal, can you tell us a little bit more? Does it just include renters? Does it include homeowners? What are the requirements going to be for people to obtain this relief?

Gov. Gavin Newsom: ([48:53](#))

Yeah, I want to be respectful of what is going into print and respectful of the request from legislative leaders to not talk about the details until things are in print and they will be socialized. All I can say, and I try to lead with that anticipation appropriately to the questions, is how pleased I am and how grateful I am that people that don't always see eye to eye, don't always agree on many fundamental policy issues came together, crossed those differences, and including legislative leaders that worked very hard over a long period of weeks, not just days, and certainly nights in the last few nights to work out some of the details to accommodate not only for tenants, millions of people who are at risk of eviction, but to accommodate for timing as it relates to when those evictions may occur, accommodate for small landlords that rightfully are concerned about not being able to pay their mortgages if they don't collect any rents issues related to your credit rating, if you're not paying your rent and the like, and things that are not COVID-induced, how do you still accommodate for people's legal rights and legal protections outside of the COVID issues in that same process.

Gov. Gavin Newsom: ([50:17](#))

All of that was considered. All of that was put together in a blended package where we incorporated those considerations and quite literally may already be in print as I speak. We are putting that in to writing and certainly become public momentarily.

Speaker 1: ([50:40](#))

Jeremy White, Politico.

Jeremy White: ([50:43](#))

Hey, governor, I guess I'm not going to get you to confirm any details of the evictions deal, so I will ask you on this new framework, you have consistently said that hospitalization and ICU data is the more accurate metric for COVID given testing labs and whatnot. Why leave that out of the reopening framework and instead look to testing metrics?

Gov. Gavin Newsom: ([51:04](#))

It's a conversation we've had throughout this process for many, many months. Dr. Ghaly is literally 6.1 feet away from me already standing up. Let me give him first shot at answering that from a health perspective. It's exactly the dynamic of the conversations that we've been having, not just amongst ourselves, but with local health officers as well. I'll get back to you with my thoughts after he gets it back with his.

Dr. Ghaly: ([51:33](#))

Thanks, governor, and Jeremy, thanks for the question. I want to say a couple things about the focus on really just two metrics. These are not the earliest metrics, but they're pretty early metrics depending on testing in some rate and our ability to find cases and case identification. We that when you find a case today that it has a chance to end up in the house, three, four weeks down the road. If we really want to be focused on catching early indicators of transmission, these are the right indicators to focus.

Dr. Ghaly: ([52:10](#))

We still maintain that those hospital numbers are very reliable. I often say hospital numbers don't lie. People who are very sick, thankfully in California, have largely been able to get to the hospital and get the care they need, so those are accurate and good numbers, but we want to aspire as we should to be as early as we can, and with the testing supplies improving California's moves to really control our own testing destiny,

working to get turnaround times down, and looking at the data differently, looking at daily case rates rather than just over 14 days, looking at those as a seven-day average and introducing something that we call the seven-day lag, which gives us another bit of time to wait for the data to come back, some test results that might not come in right away, we're giving ourselves another seven days to be able to have all that information come in.

Dr. Ghaly: ([53:07](#))

That gives us a degree of confidence working with our county partners that those will be increasingly more reliable numbers and a way to help us guide the future path. That said, I want to remind you what the governor talked about, this emergency break, that if we see hospital numbers starting to really increase, that the ICU is in a neighborhood in a community are becoming overwhelmed and that county is experiencing that across many communities, we will work with that county to make more immediate changes and pause and maybe even take a step back. We feel confident that this is the right way to move forward.

Dr. Ghaly: ([53:45](#))

I also want to mention that we've talked a lot about testing, contact tracing, isolation, these important tools to get that case rate down, your test positivity down, those things are also still being tracked. We're working closely with our counties on those so that we can make sure that those tools are optimized and used well so that counties have the best chance to keep their positivity rate down, their case numbers down.

Dr. Ghaly: ([54:13](#))

In the vein of being simple, we chose these two metrics as early enough indicators but that really do take into account so much of what is happening with transmission in those communities. We also know that it allows us to continue to emphasize these important harm reduction, risk

reduction approaches of making sure that we're focusing on wearing that mask, physically distancing, washing hands, looking out to what you do when you're with family members just as we showed in the new PSA videos. It allows us to continue to focus on those more upstream activities and not so much only look at hospitalizations in ICUs. That said, we will never take our eye off those numbers, and we are proud and continue to build on our surge capacity and making sure we're ready if and when it's needed in the future.

Gov. Gavin Newsom: ([55:10](#))

I'll just reinforce. Dr. Ghaly answered it comprehensively. That emergency brake is foundational. Again, we're not throwing out any consideration of the other criteria that you're very familiar with and all of us should continue to be very soberly familiar with on ICUs as relates to hospitalizations, as well as Dr. Ghaly said, the importance of continuing our work on contact tracing, continue to substantially improve our access to testing and targeted testing. Our ability to continue to monitor all of that, and the dynamic engagement will be a big part of the next few months. Those ongoing efforts will continue.

Gov. Gavin Newsom: ([55:51](#))

One final point. It's not only those criteria, those two leading criteria as it relates to case rates and positivity rate, but it's also hand-in-hand now with a 21-day process that is more stringent that gives us a real sense of that epi data, that epidemiological data as it relates to what that means from a leading indicator, what that looks like in terms of really giving us a sense of where the stage is and where we are heading over the course of almost a month.

Speaker 1: ([56:22](#))

Kathleen Ronayne, AP.

Kathleen Ronayne: ([56:25](#))

Hi, governor. I don't see amusement parks on the sector guidance list that your office put out. What does this mean for Disney? Then is it still your belief that sports with fans, live theater, and concerts won't be allowed in the state until we have a vaccine?

Gov. Gavin Newsom: ([56:41](#))

Well, not through this process. We're still maintaining our current status as it relates to those large events, those large sporting events. Specific to the issue of many, not just the one group that you mentioned, the one brand, but at other amusement park operators, we are working with them. We set our discussions aside on that. They're forthcoming. It is a very dynamic conversation, and so we didn't include it in the update today. That is a separate conversation. It's an easier to want to have, frankly, with some of the larger ones. We're trying to accommodate for some of the other amusement activities in this state, and so you'll be getting that as soon as we work through that. One of my afternoon meetings is in this space, and we're actively looking to see where we land on that.

Speaker 1: ([57:34](#))

Mederios Babb, KSEE.

Mederios Babb: ([57:37](#))

Hi, governor. This is Mederios just speaking about Immanuel schools in Reedley. They recently filed a lawsuit with the California Supreme Court specifically against you talking about private schools and reopening. Just to give a little bit of background, they've been open since the 13th of this month, and so I was wondering if you could address this and if you guys have filed the court asking that it be filed by 3:00 p.m. today.

Gov. Gavin Newsom: ([58:07](#))

No, I'm not going to opine or getting merits or demerits or details of any

ongoing litigation or the specifics about when or how or why we would file a brief, but I appreciate this ongoing dialectic as it relates to those that want to move quickly, but we continue to commit and are fully resolved to moving safely. That's our foundational principle. That one is universal. It's been consistent. As it relates to schools, we put out guidelines on July 17th, and those guidelines [inaudible 00:58:46] safely reopening our schools remain in effect.

Speaker 1: ([58:49](#))

[inaudible 00:58:49] New York Times.

Christine Mai-Duc: ([58:54](#))

Hi, governor. Thanks so much for your time. I was wondering if you could talk a little bit more about enforcement of the guidelines. One of the things we've seen over the last couple of months is a lot of workplaces, particularly larger congregate workplaces like factories and warehouses and meat processing plants and agricultural workplaces, that's where a lot of cases have been tied to people who work in those facilities. Whether or not they got them at work is not always clear. Can you talk, I guess, a little bit more about how these restrictions will be enforced, particularly in larger workplaces and in the Central Valley?

Gov. Gavin Newsom: ([59:38](#))

The way that we've set up in the past is a number, now over months ago, we put out some very detailed information about some of the enforcement activity that has substantially ramped up in this state, particularly with Cal/OSHA, but we also looked at teams we refer to as enforcement strike teams that had many different-

Gov. Gavin Newsom: ([01:00:03](#))

Strike teams that had many different state agencies as well as partners at the local level going out and doing spot monitoring checks on a much more

aggressive dynamic way, specifically the alcohol beverage control, but also in the beauty sector. We have put out accordingly efforts rather we have strengthened those efforts and put out additional guidelines and working including with the legislature to expand our enforcement capacity. And that's currently being negotiated with the legislature. We put out new recommendations in the space, not only in terms of strengthening our own efforts, but also working with local government to strengthen theirs. I've been very impressed with many local government leaders, many different agencies that have been very proactive that haven't just been out there enforcing to educate, but where there's been stubbornness and people just disavowing any of the rules or regulations or considerations for people's public health or safety, including employees, not just customers, they move forward to more aggressive fines.

Gov. Gavin Newsom: ([01:01:14](#))

And so it's a combination of local and state, state now working in a much more collaborative environment with other state agencies, more proactively, OSHA in particular in the Central Valley and the larger essential workforce in the sector in the meat processing plants and alike where it's been a more dynamic process and as I said more in additional work that we hope were able to do pursuant to some legislative work that is almost concluded, which we hope in the next three days will allow some of our state agencies to be even more targeted and more aggressive on educating, not just enforcing for fines.

Speaker 2: ([01:01:59](#))

Patrick Healy, KNBC.

Patrick Healy: ([01:02:05](#))

Governor does the creation of these new tiers reset the clock for counties, which had moved into the territory where they could apply for waivers for schools? And also if you could amplify on these categories, will any

counties be affected on Monday so that they can do or cannot do the things that are permitted now? Thank you.

Gov. Gavin Newsom: ([01:02:31](#))

Yeah, I can't anticipate what happens on Monday and what happens on Monday is determined on the epidata that comes in tomorrow which I don't have, Sunday, which I don't have and Monday morning, so specifically what happens over the next three days or at least two days of collected data, we'll make that determination. Again, this criteria is very explicit in terms of the 8% or below criteria as it relates to case rate, seven case rate or below. And that will make a determination as to when and how they could consider modifications as it relates to the issue of coming on and coming off and when people are on. I want Dr. Ghaly to talk a little bit more about this, because I mentioned a moment ago, this 14... We talked about the 21 day period, but you have to have stability within a 14 day period. And that becomes very, very important, and I think very specific to your question is also a way of answering your more specific question as to what we anticipate with many counties with our schools, but also in other business sectors.

Dr. Ghaly: ([01:03:37](#))

Thank you again for the question. It's an opportunity to clarify around the K through six waivers that I think you're discussing. Again, remember the waiver process in districts and in counties that decided to pursue it, that they could pursue it within a range while still on the County data and monitoring this. So even though you weren't off the list, there was a sort of range at which maybe you were about to come off the list and going back for the youngest students with some level of in person education could be planned and permitted under the waiver process, that still is available to counties, even if you're on purple, the widespread tier one that within a range of roughly case numbers of seven on the daily case per 100,000 up to 14 ability to still pursue the waiver.

Dr. Ghaly: ([01:04:33](#))

I think part of your question also is, well, what happens to a County that has been moving through with the school reopening plans? And as we've said before, once off the County data monitoring list into now the red tier or tier two, that with 14 days or two weeks of waiting in that red tier, that they can pursue opening schools at the discretion of the local health officers and the counties and all of the local school districts in that planning.

Gov. Gavin Newsom: ([01:05:11](#))

And again, I just want to remind everybody what you know well and that is the dynamic nature of these lists where people moving in the right direction and there's issues and challenges and we're on the list off the list, but this should provide some clarity. And again, guidance everybody, encourage you, go to that covid19.ca.gov website to see for yourself and get the benefit of this updated website that I think provides a lot more detail as relates to clarity within your particular County.

Speaker 2: ([01:05:47](#))

Christine Mai-Duc, Wall Street Journal.

Christine Mai-Duc: ([01:05:52](#))

Governor, thanks for taking our questions today. IC 793, the flavored tobacco bill just passed the Senate floor earlier. Do you have any comment on whether you're going to sign that? I know that you previously had said that you support the measure. And then my second question is there's a number of tenants rights groups who have been reacting to what they say are coming out of the negotiations for the eviction release bill that you discussed without necessarily going into the details of those provisions. Can you react to this idea that this doesn't go far enough, that the provisions as they stood last night and this morning are still going to see a wave of evictions in California?

Gov. Gavin Newsom: ([01:06:38](#))

Well, I don't know. There's another state leaning in and doing more to protect tenants than the state of California. I'll put up these efforts and what we agreed to with legislative leaders through a very difficult period of negotiations up against any other state in this nation. I think California truly is leading the way. Absolutely you'll hear from some, not just representing tenants. I imagine others that will express that we could have done more, done better, and that's the nature of negotiations, the nature of a dynamic, but the totality and the consequence of what we were able to achieve in terms of mitigating the prospects of millions, literally millions of people being evicted, or at least subject to eviction substantially was mitigated because of this effort. This relates to the broader issue of the bill that you referenced on flavored tobacco. I've long been an advocate for a ban.

Gov. Gavin Newsom: ([01:07:42](#))

I'd be remiss because it's just passed, it's easier to express point of view because it doesn't require the dynamic process of engagement that is more deserving of private conversations in the midst of those negotiations. But I look forward absolutely to signing it. I have been very, very expressive in terms of my absolute condemnation of this tobacco industry that continues to find ways to target our youth. And it will be a point of deep pride and personal privilege as a father of four. And as someone who has had many, many family members die at the hands of the tobacco industry to sign that bill. So I can't be more explicit. Yes, I will sign it. And I look forward to coming law in the state of California.

Speaker 2: ([01:08:34](#))

Paul Sission, San Diego Union-Tribune.

Paul Sission: ([01:08:39](#))

Thank you so much for taking my question. I've been looking through the new website while we've been waiting here and for San Diego County

going down the list I see restaurants dine in now that we're in the red category could open indoors at max 25% capacity. I see bars remaining closed, aquariums opening indoor 25% capacity, hair salons and barbershops open indoors with modifications that seems to indicate to me that they can do it with a hundred percent capacity gyms and fitness centers open at 10% capacity-

Gov. Gavin Newsom: ([01:09:15](#))

I should've included you in press conference.

Paul Sission: ([01:09:18](#))

Open with modifications, max 25% capacity. So on and so forth. It's a long list. Am I reading this right?

Gov. Gavin Newsom: ([01:09:25](#))

Yes.

Paul Sission: ([01:09:26](#))

Are you guys saying that as of Monday, that all of these different things will be able to open in one fashion or another?

Gov. Gavin Newsom: ([01:09:32](#))

I should've included you in the list of speakers. The answer is yes. Thank you for illuminating all of us. And again, that's exactly why I encourage all of you to go to the covid19.ca.gov website. Take a look where your County stands, where the industries within that County, how they'll be packed and infected but everything you said appreciate the illumination what you highlighted is accurate and is well represented on that site.

Speaker 2: ([01:10:00](#))

[inaudible 00:01:09:59].

Speaker 3: ([01:10:02](#))

Hi governor, thank you so much for taking this call. I just want to follow up about the Immanuel School that earlier this week, a judge here in Fresno denied the county's request to close it down. I just want to get your reaction to that. This essence the judge ruled the school can stay open.

Gov. Gavin Newsom: ([01:10:18](#))

Well, I appreciate the county's efforts. We've been very clear in terms of the guidelines on to keep people safe, not just our kids, but keep a pair of professionals, keep our teachers safe. There's a reason the County health officers are in alignment broadly with the state guidelines. The reason we all worked so hard over the course of many, many months, is a reason, people have expressed concern all across the state and around the world around opening where you don't have a safety capacities front and center, the impact that can have on the spread of this virus. So we stand by what we have assertive, what we are promoting, what we are doing here in the state of California. And we specifically applaud in this case, the work in partnership with that County and its leadership in advancing our collective goals.

Speaker 2: ([01:11:12](#))

Final question. [inaudible 00:11:13].

Speaker 4: ([01:11:17](#))

Hi governor. Thanks for taking my call. First off, we had a evening of protest in Sacramento that that were mostly peaceful, but there were some violent activity, windows broken, businesses that struggle to reopen even as the COVID epidemic moves on, and then you've got protesters that come in. So wondering if you could weigh in on the protests and the theory that some of these people are coming in from out of town to sort of create chaos as well as protests. And my second question involves the EDD in terms of benefits being paid out. And we've been seeing dozens and

dozens, if not hundreds of letters kind of coming to the same addresses in what EDD says is a scam investigation, but we can't get any more information. I'm wondering if you had any details on that, or if you'd been informed about that.

Gov. Gavin Newsom: ([01:12:13](#))

Trust me we're monitoring dozens of examples of people trying to take advantage of taxpayers, trying to take advantage of systems. And so let's leave it at that. Many ongoing investigations and partnerships in terms of those investigations that are led by the local authorities, not just the state in some cases, federal authorities. So that is very real, unfortunately people continue to try to take advantage of others and take advantage of these situations. And it's certainly the case as it relates to some of these checks, by the way, thank you for prompting this. The \$300, we no longer have that \$600 contribution that's coming from the federal government, as it relates to unemployment insurance benefit the supplement, but we will have that 300. It will be out in the next few weeks. Just want to remind people that this state did apply for the \$300 from the federal government.

Gov. Gavin Newsom: ([01:13:10](#))

It was approved by the federal government. We are putting it in to the unemployment insurance system and those checks should be coming out within the next few weeks. I currently was briefed today, anywhere from September 6th to 10th. And so that's roughly the period of time to which those checks will be made available. It's a process that goes back and forth with the federal government, but it looks to be progressing very favorably and our system will be capable of distributing those checks within roughly that period of time. So thank you for prompting that. Number two, this relates to specific protests that may have occurred last night, I've been monitoring as governor of California, 58 counties. There are protests of every different stripe in size, quite literally happening all across our state, including some others in the Bay area, not just in Sacramento. So I don't

with respect of the details of the concerns that you're raising around what happened specifically in one city last night, all I can say is this I respect and revere people that express their point of view.

Gov. Gavin Newsom: ([01:14:31](#))

What I don't respect, what I don't revere, what I condemn is people doing it in a way that puts other people's lives at risk or destroys other people's livelihoods and or property. I don't think that's constructive. I don't think it adds to the conversation. I think it gets in the way of a purity of many people's causes and that's to bring to light it has been the case in many protests not all, many protests is the issues of racial justice to the fore and American's consciousness. I applaud that and I respect that, but I don't respect I don't know how anyone could someone coming in and destroying someone else's property, particularly small businesses that are already struggling. And that just has no place and always should be called out and condemned. So that's broadly my response to your question, not specifically, because I don't have the benefit of the specific example that you cite.

Gov. Gavin Newsom: ([01:15:35](#))

More broadly though let me just express my appreciation to everybody that put together this presentation here today. Rather, put together this new process that we have unveiled today. These four tiers, four colors, the 21 day buffers between moving into respective tiers a much more simpler, much more specific criteria for moving into tiers, case rates and positivity rates. Thank to all of the County, our local health officers that work with us to business community that worked with us. I recognize in closing that when you put out something that's detailed and that was obviously represented by that one individual that commented about the specific sectors within a specific County, with the details that are present on this COVID-19. ca.gov website, that people will have opinions. And I want everyone to know we value those opinions and we are not, as I say, often,

ideologues, open argument, interested in evidence led by data, led by science, but more important than anything else led by core fundamental principle.

Gov. Gavin Newsom: ([01:16:49](#))

And that is to keep you healthy and keep you safe and to do everything in our power to reopen this economy. And that foundationally will not be advanced until we mitigate the spread of this disease. There is nothing more potent and powerful and impactful to reopening the economy in the state of California, than ending the spread of COVID-19. And so let's continue the thrust of focus. Get these schools reopened, get our businesses reopened, particularly our small businesses by doing everything in our power to mitigate the spread of this disease. And that must be and continue to be our top priority here in the state. So as you move into the weekend continue to do all you've done to practice the physical distancing wear a mask and be safe yourselves, take care of everybody we'll be back next week.

EXHIBIT 10

California to allow tattoo, massage parlors to reopen indoors with modifications

CALIFORNIA

by: Nexstar Media Wire

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All personal care services, like getting a tattoo or a massage, are allowed to open indoors with modifications, the state's top public health official announced Tuesday.

California Health and Human Services Secretary Dr. Mark Ghaly said the state was adding all personal care services to the "purple tier" — or "widespread risk tier" — to join other services already open indoors like hair and nail salons, [KTLA sister station KSEE/KGPE](#) in Fresno reported.

Services that can now resume include tattoo parlors, day spas, hair removal, esthetician and massage businesses, Ghaly said.

"Based on a number of conversations, we are moving all personal care services able to resume operations indoors with the stated modifications in Tier 1, that is the purple tier. We started out with hair salons, barber shops open in Tier 1, we later added nail salons and today we are adding tattoo parlors, hair removal and massage businesses," Ghaly said. "All of those personal services as we have categorized them are now in Tier 1."

California hair salons and barbershops were given the green light to reopen indoors in August, followed by nail salons reopening in September.

Local jurisdictions may still set their own rules that are more restrictive, meaning personal services may remain closed in some areas.

In Los Angeles County, public health officials said they were reviewing the state recommendations and would consult with the Board of Supervisors about the timing for the additional openings.

In [California](#), as of October 20, California has 874,077 confirmed cases of COVID-19, resulting in 16,992 deaths. The number of COVID-related deaths increased by 0.1 percent from the previous day's total of 16,970.