

# NEW YORK TRAVEL ADVISORY

JULY 2020



## Governor Cuomo Institutes Travel Advisory

Governor Cuomo, along with the Governors of New Jersey and Connecticut, have issued executive orders requiring 14 day quarantines for persons traveling to those states from states with elevated COVID-19 cases, effective June 25th. It applies, with exceptions and separate provisions for first responders and essential workers, to any person arriving from a state with a positive test rate higher than 10 per 100,000 residents over a 7-day rolling average or a state with a 10% or higher positivity rate over a 7-day rolling average. The list of impacted states will be updated frequently and can be found on the [Department of Health website](#).

The DOH guidance has provision for essential workers traveling to (or back to) New York State depending on their expected length of stay. For those with intended stay greater than 36 hours, it requires testing within 24 hours and, provided the test is negative, it requires symptom monitoring and other basic protective protocols (mask in public, social distancing, etc.), and avoidance of extended periods in public for 7 days. Essential worker is defined in the guidance as “ (1) any individual employed by an entity included on the Empire State Development (ESD) Essential Business list; or (2) any individual who meets the COVID-19 testing criteria, pursuant to their status as either an individual who is employed as a health care worker, first responder, or in any position within a nursing home, long-term care facility, or other congregate care setting, or an individual who is employed as an essential employee who directly interacts with the public while working.”

While employers have no role in enforcing this travel advisory quarantine for non-work related travel by their employees, any employee subject to quarantine may be eligible for state and/or federal emergency paid sick leave benefits to provide income replacement during the quarantine period.

On June 26<sup>th</sup>, Governor Cuomo issued a subsequent executive order clarifying whether employees quarantined as a result of the travel advisory described below would qualify for NYS emergency paid sick leave. In short, employees who voluntarily travel to any of the states designated as having a COVID-19 infection rate that exceeds the established criteria – who then becomes quarantined by a public health official as a result - would not be eligible for NYS emergency paid sick leave.

The law requires employers provide advance notice of the travel advisory, the possibility of quarantine, and the potential loss of paid sick leave benefits if an employee were to become quarantined. Employers should provide a general notice to all employees that this type of travel could result in loss of benefits. A sample notice could read-

*To all employees:*

*By order of the Governor, anyone traveling to a state (after June 25th) with positive test rate higher than 10 per 100,000 residents, or higher than a 10% test positivity rate, over a seven day rolling average, and which the commissioner of the department of health has designated as meeting these conditions is required to quarantine for 14 days. On June 26<sup>th</sup>, the Governor issued an Executive Order clarifying that employees who travel voluntarily to any of these states shall not be eligible for benefits under the New York State emergency paid sick leave law. Employees should be aware that voluntary travel to any of these states could result in loss of pay during the required quarantine.*

*The list of impacted states will be updated frequently and can be found on the Department of Health website.*

In addition, employers with less than 500 employees may be subject to providing emergency paid sick leave benefits for quarantined employees under the provisions of the FFCRA.

If you have an employee who is returning from travel to one of these states, you need to be aware of potential quarantine and your obligations under state and federal law and should consult with your legal counsel to ensure compliance.