

Northwest Auto Trades Association Government Affairs Update

November 19, 2020

By: Darrell W. Fuller

The world has been spinning a little quicker than usual these past couple of months. It's hard to know when to pull the trigger on an update when the facts are changing day-by-day, sometimes hour by hour. But here are some important updates for right now. I hope you'll spend some time reviewing each item on the list. Each one impacts your business and family.

GOVERNOR BROWN'S TWO WEEK (OR LONGER) FREEZE

You all likely know from the news that Governor Kate Brown has declared a two-week freeze throughout Oregon. The freeze will last at least four weeks in Multnomah County. It may last longer and may include more counties. But the news only gives you 60-90 seconds of information. The Governor didn't actually issue her Executive Order until a couple of days after the announcement. Click [here](#) to read the actual Executive Order.

Workers who may be laid off by the freeze—if they previously made a COVID-related **unemployment** claim and have benefit eligibility remaining—can re-start their claim, rather than filing a new one. Click [here](#).

OSHA COVID-19 EMERGENCY RULES NOW IN EFFECT (MUST READ)

The final OSHA Temporary COVID Rules have been released. As a reminder, as Temporary Rules these are allowed to be in effect for 180-days (through May 4, 2021). A discussion about making them permanent (possibly expanded/revised) is expected to begin in the coming weeks.

The rules are full of ambiguities. Business lobbyists are asking OSHA to create a FAQ section to answer questions. We hope it is forthcoming, or that questions will be clarified when permanent rules are adopted. OSHA has agreed to create a FAQ section "soon".

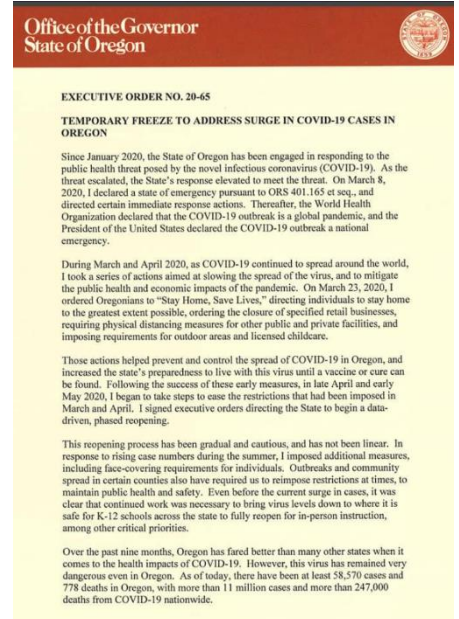
It is important to read through the 21 pages of rules. Ultimately, only you can ensure you are following all the rules relevant for your business. I am providing some highlights below, but you are solely responsible for ensuring compliance.

The rules impact all "employers", which includes sole proprietors if any person is covered by workers compensation. The size or scope of your business does not matter. These rules are intended to impact you. (See page 3)



Places of employment do not cover private homes or family farms where no one is covered by workers compensation. But if customers visit you home, you should probably adhere to the workplace rules to be safe. (See page 3)

Employers with more than ten employees (including part time) have additional written requirements regarding their exposure risk assessment. (see page 9)



All employers must provide training to all employees on COVID-19. No cost training materials and videos should be available prior to the December 21 deadline. More information to follow. (See page 12)

Pages 17-21 only deal with “Workplaces at Exceptional Risk” which includes primarily medical facilities. These do not pertain to repair shops.

A few key items to note: There are 80 pages of industry-specific appendices. They don’t apply to auto repair, but pay particular attention to:

- Appendix A-2 / Mandatory Workplace Guidance for Retail Stores (While auto repair shops may not be considered “retail”, most of you have spaces where customers interact with employees in at least a pseudo-retail environment.)

Effective Immediately:

- Physical Distancing
- Masks
- Cleaning & Sanitation
- Posting posters: Posters are available in English [here](#) and Spanish [here](#).

Delayed Effective Dates:

- Building Operators: November 23, 2020
- Exposure Risk Assessment: December 7, 2020
- Infection Control Plan: December 7, 2020
- Employee Training: December 21, 2020
- Ventilation Requirements (all workplaces): January 6, 2021

Read the Temporary Rules [here](#).

Read the workplace chart for application [here](#).

Fillable Exposure Risk Assessment Form – for use by employers can be found [here](#).

Model notification of workplace COVID-19 exposure can be accessed [here](#).

Spanish version [here](#).

Oregon Health Authority approved “Masks Required” sign can be downloaded [here](#).

“Masks Required” sign available in eleven other languages [here](#).

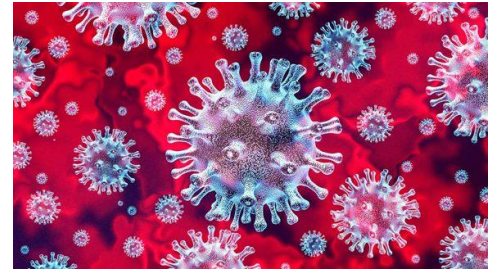
Catch-all link to rules webpage can be found [here](#).

HOW IS THE GOVERNMENT DOING ON TESTING PEOPLE FOR COVID-19?

You should watch this recent report: [KGW report on COVID testing](#)

OHA has been reporting they have been testing around 35K Oregonians each week. As our numbers have skyrocketed, it’s been very concerning because the testing hasn’t seemed to increase, meaning there is a greater positivity rate signaling increased spread. Apparently, there have actually been approximately 113K people tested each week, a difference of more than 75K. OHA only reports testing of any person one time. So, if you’ve ever been tested before, your test doesn’t show up in the weekly report of how many tests have been done. Yet they appear to be calculating the positivity rate based on the lower, 35K amount, and that is

the only amount they publicly report. All of our reopening decisions use positivity rates as a metric to determine whether a county can be open or closed and whether schools can reopen, yet that positivity rate is completely skewed and OHA has been aware of that the entire time. This issue came to light because of questions asked about why Oregon has one of the lowest testing rates in the country. Their response was we just don't actually report all the tests that are done each week. They apparently now recognize this is a problem and are moving to report how many actual tests are done each week and will have that new system in place sometime in the next couple weeks.



The fact they are only reporting such a small percentage of testing that's actually being done and that they are basing positivity rates and decisions on completely inaccurate numbers is appalling.

This is how they relay the numbers in their weekly report:

During the week of November 8–November 14, 37,651 Oregonians were tested for COVID-19, and 12.5% of them had a positive result. Not all positive tests represent new cases; some are from specimens collected from people who had already been counted as presumptive cases. The number includes tests done at all locations, including commercial non-hospital-based laboratories, hospital laboratories and Oregon State Public Health Laboratory.

This is completely inaccurate! They tested 113,000 people! But a huge percentage of them had already been tested before so they didn't count. In addition, they apparently have no way of knowing what testing capacity is right now or how many tests have been used or remain available.

NATA PARTICIPATES IN BROAD BUSINESS COALITION OPPOSING COVID RULES

NATA is a member of the Oregon Employer Roundtable. This group of diverse business interests provides a strong and unified front to protect the interests of employers in Oregon. A recent letter to Governor Brown received significant media attention. You can read news stories [here](#) and [here](#).



Your NATA lobbyist has been working closely with other business association lobbyists in an effort to reduce the pain and suffering caused by COVID-19 rules. While the adopted emergency rules are significant, they are certainly less onerous than those originally proposed. Unions and other "workers rights" groups have been working hard to make rules and requirements so stringent that opening the doors would be nearly impossible for any business.

Further, unions want any employee who tests positive for COVID-19 to have an automatic valid workers compensation claim even if there is no proof the employee was infected at work. In fact, they want COVID-19 positive employees to use the workers compensation system even if there is proof the employee did NOT catch COVID-19 at work. They have been very clear, they don't care where a person is infected by COVID-19, they want the employer to be liable, period. Fortunately, so far, business lobbyists have been successful in thwarting those proposals. At a recent meeting of the Workers Compensation "Management-Labor Advisory Committee", NATA's Darrell Fuller was one of only a handful of lobbyists to testify in opposition to any rule which declared a business automatically responsible for any employee testing positive for COVID-19.

NEW CAT (CORPORATE ACTIVITY TAX) RESOURCES AVAILABLE ONLINE



New resources to help business taxpayers and tax professionals understand and comply with Oregon's new Corporate Activity Tax (CAT) have been added to the Department of Revenue's website.

In October, the CAT policy staff hosted a pair of live video conference training sessions. The [PowerPoint presentation](#) used in the training sessions is available on the [CAT page of the agency's website](#).

In addition, questions submitted via email by participants in the two training sessions and answers provided by the CAT policy staff have been [posted](#) under the CAT training materials header. Questions and answers are divided by topic to make it easier for taxpayers to find the information they need.

In the coming weeks, a series of short, subject-specific training videos will also be added to the website. For more details click [here](#).

RULES HEARING PLANNED FOR NOVEMBER 24

In accordance with social distancing measures necessary during the COVID-19 pandemic, the Department of Revenue (DOR) will host a public hearing on proposed administrative rules via video conference call from 9 to 11 a.m. Tuesday, November 24.

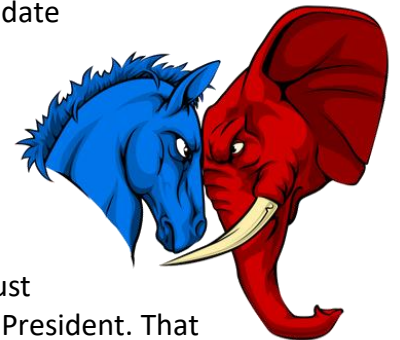
Testimony will be heard on more than two dozen administrative rules including two permanent administrative rules for the Corporate Activity Tax (CAT).

Interested persons can join the Zoom video conference platform meeting at the following link: <https://www.zoomgov.com/j/1615325808>. The passcode for the meeting is 509506. More details can be found [here](#).

REPUBLICANS DO WELL IN 2020 ELECTIONS (THE STORY YOU MAY NOT HAVE HEARD)

NATA is a nonpartisan voice of the auto repair industry across the state. This update provides information on what happened during the elections earlier this month. Note: recounts could potentially make small changes in the noted results below.

Understandably, most of the attention on this month's election has focused on the presidential election. But that tells only part of the story. The media and pollsters, prior to the election, forecast a substantial loss for Republicans. Not just President Trump, but all Republicans across the board, being drug down by the President. That didn't happen on election day. In fact, across the nation and here in Oregon, Republicans had a very good year. Instead of crippling losses, Republicans actually made gains. Consider the following:



Pundits said Democrats might win a majority in the US Senate (they could still achieve a 50-50 tie if both run-off elections in Georgia tilt to Democrats). But it appears more likely that Republicans will have a one or two seat majority.

In the US House of Representatives, Speaker Nancy Pelosi was certain Democrats would increase their grip on the majority. Instead, Republicans have made gains. Eleven Democratic incumbents have lost their seats to Republicans and no Republicans lost their re-election campaigns. One Libertarian seat was won by a

Republican. Three open seats currently held by Republicans were won by Democrats. This is a net Republican gain of nine sets.

Eleven states held gubernatorial elections this year. In all but one race, the party of the incumbent governor won the election. But in Montana, a Republican candidate (Greg Gianforte) won, replacing the current Democratic governor. So, the balance of political parties among governors changed from 26 Republicans and 24 Democrats to 27 Republicans and 23 Democrats. This is a win for Republicans.

In state legislative chambers, Republicans now control 59 of the nation's 98 state chambers (Senate and House). Democrats had forecast flipping 10 chambers but failed. Republicans now control both the Senate and House in 24 of the 36 states where state legislators are responsible for redrawing district lines using 2020 census data.

Here in Oregon, Democrats – who currently have supermajorities in the Senate and House – predicted making gains in both chambers. In the state Senate, one Democrat seat was won by a Republican while one Republican seat was won by a Democrat. So, there was no change at all to the 18-12 Democrat majority. In the House of Representatives, like in the US House, Republicans actually made gains. Before the election, Democrats held a 38-22 majority. But Republicans won two Democrat seats along the coast while Democrats turned one seat blue in Deschutes County. But that is still a +1 increase for Republicans.

You can read news stories [here](#) and [here](#).

MUCH IS STILL UNKNOWN ABOUT THE 2021 LEGISLATIVE SESSION

With the pandemic is still impacting daily life, the 2021 Legislative Session is still a big question mark. Legislative leaders have not yet announced whether the Capitol building will remain closed or be open to the public, to the media and to lobbyists. In addition to building access issues, they are discussing options to delay the start of the session. However, they have a constitutional deadline to complete the state's two-year budget and go home by the end of June regardless of when they start.



And, while Democrats retained a supermajority in the state House of Representatives, Speaker Tina Kotek is facing a strong challenge from insider her own party. State Rep. Janelle Bynum, a black legislator from the metro area lost her bid to unseat the speaker behind the closed doors of the Democratic caucus meeting where leadership is usually chosen. Afterwards, she announced she was taking her fight to the floor of the House of Representatives, where she may be able to build a coalition of



Republicans and moderate Democrats to wrestle control from the very left-leaning current leadership. Oregon has not seen a bipartisan coalition elected leadership in recent memory, if ever. This does not include the few times the Senate or House has had a tie, requiring coalition leadership.

Read about the Democratic soap opera [here](#).

GOVERNOR SHEMIA FAGAN?

National politics may also impact who will be Oregon's Governor in 2021. Two Oregon politicians – Governor Kate Brown and US Senator Jeff Merkley – are sometimes discussed as potential appointments in a Joe Biden administration. So, if Biden does take the oath of office in January, our Governor may resign.



There are two scenarios. In the first scenario, US Senator Jeff Merkley is tapped by President Biden leaving his seat open. Governor Brown could appoint herself to the spot. Or, behind curtain number two, Governor Brown could be appointed to a post in the Biden White House, leaving her post open.

In either scenario, if Governor Brown resigns the Secretary of State becomes Governor. In this case, our newly elected Secretary of State, Shemia Fagan, might spend only a few days to a few weeks in the office to which she was just elected before stepping into the role of Governor. Then, Governor Fagan would appoint someone to replace her as Secretary of State.

The only thing certain in politics is change. Stay tuned.

CONCLUSION

If you have any questions or comments about the information presented here, please give me a call at 971-388-1786 or email me at fuller_darrell@yahoo.com. It is a privilege to serve as your lobbyist and I always appreciate hearing from those I represent.