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Contra Costa supervisors to health officials: Don't stop fining restaurants who refuse to check COVID vaccine proof

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Restaurants in Contra Costa County that refuse to check customers for proof of vaccination against COVID-19 soon may discover that health enforcement inspectors won't be playing nice with them anymore.

The Board of Supervisors made it clear Tuesday that restaurants should be fined if they don't follow the county's mandate that eateries, gyms and bars cannot serve indoor diners who aren't inoculated.

The supervisors chastised health officials, saying they weren't happy to learn from [this news organization's reporting](#) that Contra Costa Health Services received at least 80 complaints in November about restaurants violating the order yet didn't issue a single fine.

"It seems to me the time for education is over. The time for providing information is over," Supervisor Karen Mitchoff said, adding that the problem has "progressed to the area where we need to be citing and issuing whatever the legal document is to shut them down."

She and Supervisor John Gioia said they were concerned that Health Director Anna Roth seemed to be unaware of the lax enforcement standards.

When Roth insisted the department hadn't formally shifted its approach in handling customer complaints about renegade restaurants, Mitchoff interjected to say that "some of your staff" had indeed opted to refrain from issuing fines.

Mitchoff, after hearing that the county had not issued any fines in November, confirmed with a staff member last week that the health department was "only doing education" about the rules.



ANTIOCH, CA – NOVEMBER 5: Exterior photo of Lumpy's Diner in Antioch, Calif., on Friday, Nov. 5, 2021. The restaurant hasn't followed the county's vaccine mandate, failing to check customers for their COVID-19 vaccination status before entering the restaurant. (Ray Chavez/Bay Area News Group)

The health department followed up on 99 complaints last month and is actively investigating 13 restaurants suspected of not checking indoor diners for vaccination cards or a negative COVID-19 test, Roth said, adding that fines and other penalties aren't going away.

She said the department will make some internal changes so that her office has more direct oversight over violations, and she also promised that some of the restaurants cited multiple times for noncompliance will be hit with fines.

Most restaurants comply fairly quickly when they are contacted by the health department about complaints, she added.

"It really is a lack of understanding and maybe not even an awareness," Roth said. "But we do have outliers, and that's what this escalating disincentive penalty structure is really for."

The health department investigates restaurants almost exclusively based on complaints, so noncompliance may be far more widespread.

“I’ve been to at least half a dozen restaurants where they’re not checking for a vaccine card,” a West County resident who didn’t give his name told the supervisors. “And I’m unvaccinated. I’m proud to say it.”

Under the county’s vaccine mandate, restaurants that ignore formal warnings are supposed to receive successive fines of \$250, \$500 and \$750. If the businesses continue to defy the rules, the county can shut them down unless they agree to cease their indoor dining operations.

Many times, Roth said, enforcement depends on the violation. Generally, the health department will give the restaurants two days to comply before a follow-up, but egregious violations mean officials could go out sooner.

Across the county, restaurants [have been mixed about the vaccine mandate](#), which only [Berkeley](#) and [San Francisco](#) have established in addition to Contra Costa County.

Lumpy’s Diner, a restaurant in Antioch, was fined \$750 earlier this fall for not following the mandate but remains open. In an interview last month, the restaurant’s co-owner [declared she didn’t intend to follow the health order](#), believing it to be a violation of individual freedoms.

Gioia said the problem with not issuing fines is that restaurants that currently follow the orders might ease up checking for vaccination cards if they think they can get away with it.

“If they see that business establishments that are not complying are not facing some type of consequence, they then raise the issue and say, ‘Hey, I’m working really hard, I support this, why aren’t those restaurants that are not complying receiving consequences?’ ” Gioia said.

Supervisor Diane Burgis said that she empathized with small-business restaurants caught between the vaccine mandate and customers who don’t want to be jabbed. “If they turn, they’re going to get the force of all these people” who refuse to be vaccinated, she said.

Mitchoff said she doesn’t have much empathy for businesses that defy the mandate.

“They are violating the order, and they are putting the public at risk,” she said, adding that the emergence of the omicron variant makes the situation even more urgent. “I go to a lot of small businesses, the rest of the public does that. ... But no, we’re done.”

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