

Sailing Through Uncharted OSHA Waters

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AB 685

What Does it Say?



Reporting Requirements for Employers

•Notification to Employees

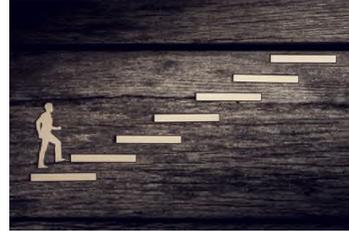
- In writing, at the worksite, and during the infectious period
- Available Benefits
- Disinfection and Safety Plan



Reporting Requirements for Employers

- Serious Violation (§6432)

- What is a Serious Violation?
- Preventative Training
- What are Reasonable Steps?
- “Serious Physical Harm”



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Emergency Cal OSHA Regulations

- Regulations Issued Before AB 685 Went Into Effect
- Regulations Were Issued Pursuant To Existing Laws
- Regulations are Clearly Meant to Define the Requirements Needed of AB 685
- Regulations Being Challenged In Court



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When do the regulations apply?

- Apply to All Employers
- Exceptions for Employees Who are Working From Home
- Exceptions for Employees Who Do Not Have Contact with Other People
- Notice it says 'people' and not 'other employees'
- Except certain medical field employees, including employees of hospitals and other medical facilities



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New Legal Terms

- COVID-19 Case
- COVID-19 Hazard
- COVID-19 Test
- Exposed Workplace
- COVID-19 Exposure
- High Risk Exposure Period



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COVID-19 Case

- A person who has a positive test, is subject to an order to isolate due to COVID-19, or death due to COVID-19
- You are no longer a COVID-19 case when a healthcare provider determines you do not have COVID-19
 - Conflicts with subsequent regs
- Note: Negative Test **Not** Required



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COVID-19 Test

- Approved US FDA test for emergency use to diagnose current infection and administered in accordance with FDA approval
- Note: This **may** include the antigen test
- Since it states current infection would not include an antibody test



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COVID-19 Exposure

COVID-19 exposure means within 6 feet of a COVID-19 case for a cumulative total of 15 minutes or greater in a 24-hour period during a “high risk exposure period.”



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COVID-19 Hazard

- Potentially Infectious Material
- Where do Hazards come from?
- Objects and Surfaces



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Exposed Workplace

- Any working area accessed by a COVID-19 case
- Includes common areas such as hallways, aisles, break rooms and bathrooms
- Does **not** include buildings or facilities where the COVID-19 case did not enter.
 - AB 685 further specifies that if there is a section of a building the COVID-19 case did not enter, then it is not considered an exposed workplace, but this is not clarified in the regulations themselves



High Risk Exposure Period

- Where Symptomatic:
 - Two days before symptoms develop until 10 days after symptoms first appear and 24 hours have passed with no fever and symptoms have improved
- Where Asymptomatic:
 - If no symptoms, two days before the test until 10 days after the test



COVID Prevention Program

- Bulk of Regulations Deal with Prevention and Notification of COVID cases
- Communication with Employees
- Evaluations of COVID Hazards
- Responding to COVID Cases
- PPE



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Executive Order Changes

- Governor issued an executive order on December 14, 2020 to work with the Cal OSHA regulations.
- Suspended regulations related to farm laborers operating less than 275 days
- Return to Work provisions in C 10 and C 11 may not be longer than the California Department of Public Health or local health officer recommends



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Communicating About COVID

- System for employees to report exposure
- Employer to communicate hazards, policies, and procedures
- Communications to employees, persons, or entities in contact with the employer's workplace
- Includes third-party vendors



Evaluating COVID-19 Hazards

- Employee screening-check for symptoms
- Employer must evaluate conditions that could lead to potential exposure
- Remember all individuals are to be treated as potentially infectious
- Ventilation and air filtration
- Employer required inspections to ensure compliance with COVID policies



Investigating COVID-19 Cases

- Employers must have a method to receive information about COVID-19 test results and symptoms and have the ability to record those cases
- When there is a case:
 - Date and time of the case, date and time of the symptoms, determine exposure at all workplace locations
 - Must give notice of potential COVID exposure within one business day
 - To all employees of that exposure
 - Independent contractors and other employers present at the workplace



After An Exposure - What's Next?

- COVID-19 testing must be offered at no cost during work hours
- Not specific on the type of testing, so an antigen test may work
- Did workplace conditions contribute to the risk?
- Can risks be reduced?



Correction of COVID-19 Hazards- Correcting a Hazard

- Correct unsafe or unhealthy conditions
- Look to update policies if insufficient
- Training instruction to employees as needed
- Must tell employees about COVID-19 related benefits
- Relay to employees the importance of proper sanitation



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Physical Distancing Requirements

- Six (6) feet
- Remote working if possible
- Visual cues regarding distancing, floor markings
- Staggered start and stop times to avoid crowding
- Face coverings must be worn, but there are exceptions



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Other Protective Measures

- Partitions when physical distancing is not possible
- Maximize natural air ventilation
- Cleaning and disinfecting procedures
- Includes a "discouragement" of shared equipment
- Frequent handwashing
 - Twenty (20) seconds, not just hand sanitizer



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Personal Protective Equipment

- Determine which type of personal protective equipment is needed
- Evaluate the need for respirators or eye protection depending on the likelihood of a possibility of infection
- Potential contact with saliva or respiratory tract fluids
- Any such PPE equipment must be provided by the employer



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Reporting a COVID Case

- COVID cases must be reported to the local health department when required
- COVID cases must be reported immediately to Cal OSHA in the cases of serious illness or death, vague as there is a requirement that it be in a place of employment or in connection with employment
- Maintain records regarding the COVID-19 prevention program



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Tracking Cases

All COVID-19 cases must have a record that includes:

- Employee's name and contact information
- Occupation
- Location where the employee worked
- Last day at the workplace
- Date of the positive COVID test
- Who has access to this information-employees!



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Removing COVID-19 Cases from the Workplace

- COVID-19 cases must be kept out until allowed to return pursuant to the regulations
- Employers shall exclude employees with COVID-19 exposure for 14 days
- Earnings, seniority, and other benefits must be maintained during this time.
- Sick pay may be used



Returning a COVID Case to Work

- COVID cases with ongoing symptoms **SHALL NOT** return to work (Remember the Executive Order)
- Employees may return to work when:
 - Twenty-four (24) hours have passed with no fever, COVID-19 symptoms have improved, and ten (10) days have passed since COVID-19 symptoms first appeared
- Positive test, but asymptomatic equals **SHALL NOT** return to work for a minimum of ten (10) days from the date of the test



Returning a COVID Case to Work

Negative COVID-19 Test Is Not Required for an Employee to Return to Work

Must meet the time deadlines and then be returned to work by their physician



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CAL OSHA COVID Outbreaks

- How do we Define Outbreak?
 - Three (3) or more cases in a 14 day period constitutes an outbreak
- Outbreak continues until there are no new COVID cases in a 14 day period
 - Could last months



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CAL OSHA COVID Outbreaks

- What must employers do?
 - Provide COVID-19 testing to all employees within that 14 day period at no cost
 - Testing shall be redone one week later
 - Ongoing tests at the workplace at least once per week until the outbreak is over
 - Investigation into safety practices



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Outbreak Reporting Requirements

Local health department-within 48 hours must continue to update the health department on new cases in the workplace

Includes personally identifying information



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Major COVID-19 Outbreak

- Major outbreak defined as 20 or more COVID cases within a 30 day period
- Major outbreak continues until there are no new cases within a 14 day period
- Different than an SB 1159 outbreak



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Major COVID-19 Outbreak

- Testing-twice a week for anyone at the place of employment during that 30 day timeframe
- Investigation into illnesses and correction of potential hazards
- May include updating ventilation/filtration system
- Employer may need to halt operations until the hazards are corrected, 3205.2 (e)(3)



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Employer-Provided Housing

- House Co-Habitants Together
- House Coworkers Together
- Physically Distancing Between Unit and Beds
- Air Filtration
- Disinfect and Clean Common Rooms



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Employer-Provided Transportation

- Same House – Same Vehicle
- Do Not Group People Who:
 - Don't share a household
 - Don't work together
- Vehicle Cleaning Schedule



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