

## California Employers Will Soon Have to Take Action upon Notice of Potential Covid-19 Exposure within One Business Day

October 5, 2020

On September 17, 2020, Governor Gavin Newsome signed AB 685 into law. Effective January 1, 2021, AB 685 makes several changes to the California Labor Code regarding occupational exposure to COVID-19. This includes authorizing Cal-OSHA to essentially shut down a workplace if it determines that the risk of COVID-19 exposure constitutes an imminent hazard to employees.

**More importantly for most employers, it also requires employers to provide the following notifications within *one business day* of finding out that someone was diagnosed with COVID-19 in the workplace:**

- Provide a written notice to all employees and subcontractors who were on the premises at the same worksite as the infected individual that they may have been exposed to COVID-19.
- Provide a written notice to the exclusive representative, if any, of employees.
- Provide all employees who may have been exposed with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as anti-retaliation and antidiscrimination protections of the employee.
- Notify all employees and subcontractors about the disinfection and safety plan that the employer will implement and complete per the guidelines of the federal Centers for Disease Control.
- If an employer is notified of the number of cases that meet the definition of a "COVID-19 outbreak," as defined by the State Department of Public Health, the employer must notify the local public health agency within 48 hours. An employer that has an outbreak subject to this section shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

The notices required under this legislation are above and beyond any notices required under existing orders and directives by public health departments. Employers will need to review these new requirements carefully and be prepared for the eventuality that one of their employees tests positive after the law goes into effect in 2021. One business day is a very tight deadline so businesses need to draft these notices in advance so they are ready to go if they are needed. For example, researching what COVID-19-related benefits workers may be entitled to and updating that research from time to time will take some time and should be done before a business finds out it has a positive case and is scrambling to respond. Likewise, businesses need to be thinking about disinfection plans in the event of a positive case, to be adjusted for case facts like where the employee or contractor worked, etc., should be prepared.

Buchalter has experienced Labor & Employment and Environmental, Health & Safety attorneys to assist businesses comply with these new requirements, as well as other COVID-19 requirements. Please contact any of the attorneys below for more information.



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