
November 19, 2020

AB 685 - COVID-19 Notification

AB 685, chaptered on September 17, 2020, requires employers to provide specified notices if an employee is exposed to Covid-19. This new law will take effect on January 1, 2021.

This new legislation adds Sections 6325, 6432 and 6409.6 to the Labor Code to provide Cal/OSHA the ability to stop operations at a place of employment, operation or process if it is deemed an imminent hazard to employees by exposing them to the risk of infection as a result of a Covid-19 exposure. A citation alleging a serious violation would be exempt from the precitation standardized form provision and the rebuttal at hearing provision. These particular provisions will sunset on January 1, 2023.

AB 685 places new notice requirements on employers. Within *one business day* of a potential Covid-19 exposure, an employer is required to take these actions:

1. Provide a written notice to all employees, and employers of subcontracted employees, who were on the premises at the same worksite as the infected or potentially infected individual within the infectious period that they may have been exposed to Covid-19. This notice can include

personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending and shall be in both English and the language understood by the majority of employees.

2. Provide a written notice to the exclusive representative, if any, of employees who have been potentially exposed.
3. Provide all employees who may have been exposed and their exclusive representative, if any, with information regarding COVID-19 related benefits that employees may receive, including workers' compensation benefits, COVID-19 related leave, company sick leave, state mandated leave, as well as anti-retaliation and anti-discrimination protections of the employee.
4. Provide notice to all employees, the employers of subcontracted employees and the exclusive representative, if any, on the disinfection and safety plan that the employer plans to implement and complete per the guidelines of the federal Centers for Disease Control.

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When an employer is notified of the number of cases that meet the State Department of Health's definition of a COVID-19 outbreak, within 48 hours the employer must notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of employees with COVID-19.

This new legislation requires the Department of Public Health to publish information on their website including tracking the number of COVID-19 outbreaks and cases by industry reported by any workplace.

Lastly, an employer is required to maintain records of the written notifications for a period of at least three years.

CBA opposed AB 685 arguing that this legislation will subject employers to unworkably vague standards and liability when they fail to comply with ambiguous written and burdensome standards.

Employer guidance and frequently asked questions regarding AB 685 can be found on the Department of Public Health's website at www.cdph.ca.gov.

The information contained in this CBA Regulatory Compliance Bulletin is not intended to constitute, and should not be received as, legal advice. Please consult with your counsel for more detailed information applicable to your institution.

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