



# RISICO CLIENT WATCH



## Overview: California Assembly Bill 685 (January 1, 2021)

**Assembly Bill (AB) 685**, passed by the California Legislature and signed into law by Governor Gavin Newsom in September 2020, becomes effective on January 1, 2021. According to the state of California's Legislative Information website, the bill is intended to address imminent hazard to employees, exposure, notification requirements, and serious violations pertinent to COVID-19 and the newly enacted law.

This post will focus on California's Division of Occupational Safety and Health's expanded authority, new requirements for employers, and outbreak reporting according to the bill:

### **CALIFORNIA DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

This bill expands Cal/OSHA's authority, when in its opinion, a place of employment exposes workers to the risk of infection with COVID-19, constituting an imminent hazard to employees, to potentially prohibit the performance of that operation, or entry into that place of employment - essentially shutting the doors to the area presenting the imminent hazard.

Of particular importance, the Cal/OSHA shall not prohibit entry in or use of a place of employment that is outside such area of imminent hazard.

The bill directs Cal/OSHA to provide notice to the employer, to be posted in a conspicuous place at the place of employment. As stated above, the prohibition is to be limited to the immediate area in which the imminent hazard exists.

Such notice shall not be removed except by an authorized representative of the division, nor until the place of employment is deemed safe and the required safeguards are provided.

The prohibition of operations, pursuant to AB 685, shall not materially interrupt the performance of critical governmental functions essential to ensuring public health and safety functions, or the delivery of electrical power or water.

This COVID-19 imminent hazard provision is scheduled to be repealed on January 1, 2023, sans further action from the State's Legislature on the issue.

### **NEW REQUIREMENTS FOR CALIFORNIA EMPLOYERS**

Under existing law, an employer is required to file a report of every occupational injury or occupational illness, for each employee that results in lost time and that requires medical treatment beyond first aid, with the Department of Industrial Relations. Existing law also requires an employer to immediately report a serious occupational injury, illness, or death to the division by telephone or email.

Starting January 1, 2021, employers, public or private, that receive notice of potential exposure to COVID-19, will be required to provide written notification to its employees within one (1) business day of the notice of potential exposure in a manner the employer normally uses to communicate employment-related information.

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### NEW REQUIREMENTS FOR EMPLOYERS, CONTINUED

Written notification can include personal service, email, or text message if the employee is reasonably expected to receive said notification within one business day of sending. The notification must be in both English and the language understood by the majority of the employer's employees.

Employers will be required to provide notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite, within the infectious period as defined by the State Department of Public Health, that they may have been exposed to COVID-19.

AB 685 requires employers to provide those employees, and any exclusive representative, with information regarding COVID-19-related benefits and options. COVID-19-related benefits information may include, but is not limited to, 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 anti-discrimination protections.

The bill further requires employers to inform employees of the disinfection and safety plan that it plans to implement and complete per Centers for Disease Control and Prevention (CDC) guidelines.

Employers are mandated to maintain records of notifications for at least 3 years and would be liable for specified civil penalties for violations of the notification requirements.

### COVID-19 OUTBREAK REPORTING

Except for health facilities, AB 685 requires employers in the public and private sectors to report specified information to the local public

health agency where the worksite is located when the employer is notified of the number of cases that meet the definition of a COVID-19 outbreak within forty-eight (48) hours. Employers will be required to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite that has an outbreak, including names, number, and occupation of employees who meet the definition of a qualifying individual.

A qualifying individual means any person with a laboratory-confirmed case of COVID-19; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19-related order to isolate provided by a public health official; or who died due to COVID-19.

Variant from SB 1159, an outbreak is defined as three or more positive reported cases, regardless of the employer's size and whether the individuals infected are employees.

The State Department of Public Health will make publicly available via its internet website, information on reported outbreaks.

Risico has developed a library of resources, adding content regularly on new emerging issues pertinent to COVID-19, to help clients navigate through this unprecedented time. These resources are available by visiting our [Resources](#) page on [Risico.com](#).

Risico remains at your convenience to answer any other questions or concerns that arise. We hope to continue to be the partner that you trust most.

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