



At a Glance: California Assembly Bill 685

December 2020

Signed into law by California Governor Gavin Newsom on September 17, 2020, Assembly Bill 685 (AB 685) will become enforceable on January 1, 2021.

The new legislation establishes statewide occupational safety standards, specific to how employers must provide written notification to employees after acknowledgement of a potential exposure to COVID-19. AB 685 also provides the California Division of Occupational Safety and Health (Cal/OSHA) with expanded authority to enforce the new requirements, including stop work orders and civil penalties for non-compliance.

California AB 685 Applicability

AB 685 applies to any place of employment, operation or process that exposes workers to the risk of infection by COVID-19, if that risk constitutes an “imminent hazard,” and requires all public and private employers to notify employees who may have been exposed to a “qualifying individual” known to have COVID-19 at their “worksite.”

Imminent Hazard – According to Cal/OSHA, an imminent hazard is a condition or practice within the workplace that constitutes a hazard which could reasonably be expected to cause death or serious physical harm immediately or within a short period of time. In order to constitute a health hazard, there must be a reasonable expectation that toxic substances are present and exposure to them will shorten life or cause significant reduction in physical or mental efficiency.

Qualifying Individual – A “qualifying individual” is a person who:

- Has had a laboratory confirmed case of COVID-19;
- Has a positive COVID-19 diagnosis from a licensed health care official;
- Is subject to a COVID-19 order to isolate issued by a public health official; or
- Has died due to COVID-19, as determined by a county public health official.

Worksite – AB 685 defines “worksite” as any building, store, facility, agricultural field, or other location where a worker worked during the infectious period (as defined by the California Department of Public Health). The bill also specifies that it does not apply to buildings or floors of buildings, owned or leased by the employer that a qualifying individual, as defined above, did not enter.

COVID-19 Stop Work Orders

When an imminent hazard is found in the workplace, the Cal/OSHA is authorized to prohibit the operation, process, or entry into the space that poses the imminent hazard. These types of prohibitions are commonly referred to as “stop-work orders.”

AB 685 Highlights

- Cal/OSHA may issue limited stop-work orders whenever workers face an imminent hazard in the workplace.
- Employers must notify workers that they may have been exposed to COVID-19 within one business day after receiving notice of any potential exposure.
- Employers must notify public health agencies of COVID-19 outbreaks within 48 hours.

Important Dates

September 17, 2020

California enacted AB 685.

January 1, 2021

AB 685 becomes effective.

January 1, 2023

COVID-19 related provisions of AB 685 expire, but procedures for imminent hazard remain in place.

Cal/OSHA will notify affected employers in writing when stop-work orders are issued. Since stop-work orders are generally limited to the immediate area where the threat exists, the written order will specify all affected areas, processes and operations.

Employers that receive these orders must display them prominently in a conspicuous place at each affected location. The orders must remain on display until the place of employment, machine, device, apparatus or equipment is made safe and all required safeguards or safety appliances or devices are provided. Only Cal/OSHA personnel are authorized to remove a stop-work order notification once it has been displayed.

Given the significant impact a stop-work order could have on an employer's business, employers should take time to review the new law and plan for how they would respond to one of these orders if an outbreak should take place at their worksite(s).

COVID-19 Notifications

The new law also requires employers to notify workers whenever they have been potentially exposed to an imminent hazard.

The worker notification requirement is triggered any time an employer (or its representative) receives a "notice of potential exposure," which includes any notification from:

- A public health official or licensed medical provider, indicating that an employee was exposed to a qualifying individual, as defined above, at a worksite;
- An employee, or his or her emergency contact, indicating that the employee falls under the definition of a qualifying individual;
- An employer's testing protocol, indicating that an employee falls under the definition of a qualifying individual; or
- A subcontracted employer, indicating that a qualifying individual, as defined above, was on the employer's worksite.

Employers that receive a notice of potential exposure to COVID-19 must provide a written notice to all potentially affected workers **within one business day**. These notifications will not impact the determination of whether the illness is work-related. Employers are required to maintain records of these notifications **for at least three years**.

The notice must be distributed to affected workers using the same channels and media that the employer normally uses to provide employment-related communications. At minimum, the notice must:

- Indicate that the worker may have been exposed to COVID-19.
- Inform the worker of any benefits and protections available under Applicable federal, state and local laws (such as Workers' Compensation). Options for exposed employees (such as COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave or negotiated leave provisions); and anti-retaliation and anti-discrimination laws.
- Explain the disinfection and safety plan that the employer intends to implement and complete according to the guidelines set forth by the Centers for Disease Control and Prevention (CDC).

The required notice must be given to all individuals who were at the same worksite as a qualifying individual within the infectious period, including employees, subcontracted employees and any exclusive employee representatives. The notice provided to exclusive employee representatives must include the same information as would be required in an incident report in a Cal/OSHA Form 300 injury and illness log, unless the information is inapplicable or unknown to the employer. This requirement applies regardless of whether the employer is required to maintain a Cal/OSHA Form 300 injury and illness log.



The new law also requires employers to notify local public health agencies, **within 48 hours**, any time the number of cases within a work site meets California's definition of a COVID-19 outbreak. Ongoing notifications are also required for any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

This does not apply to health facilities and employees who, as part of their job duties, regularly conduct COVID-19 testing, perform COVID-19 screening or provide care to individuals who have tested positive for COVID-19.

The required notices to a public health agency must include the names, numbers, occupations and worksites of employees who meet the definition of a qualifying individual. Employers must also report their business addresses and the North American Industry Classification System (NAICS) codes of the worksites where the qualifying individuals work.

To bolster existing privacy protections for employees, the new law specifies that personally identifiable employee information is not subject to California Public Records Act (or similar) requests and must not be posted on a public internet website or shared with any other state or federal agency.

Finally, the new law prohibits employers from retaliating against any worker for disclosing a positive COVID-19 test, a COVID-19 diagnosis or an order to quarantine or isolate. Workers who believe they have been retaliated against may file a complaint with the Division of Labor Standards Enforcement.

How USI Can Help

We recognize that this new order will present additional challenges for our clients' environmental health and safety programs. USI's Risk Control Team is closely monitoring the situation and is here to assist you in complying with the state requirements. Contact your USI representative to learn more about our risk control solutions or for additional guidance.

Helpful Resources

To help clients navigate these challenging times USI has implemented a **STEER** (Steer Through Epidemic & Economic Recovery) **Task Force**. This cross-functional team is working to provide timely COVID-19 information, understand cross-industry and geography impact and evolving responses, and to develop and deliver tailored solutions to help clients **steer** through this epidemic challenge and economic recovery.

For additional resources, tools, information, and links, please visit our COVID-19 resource page: www.usi.com/public-health-emergencies



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