

# California COVID-19 Workplace Developments During An Extraordinary Year

# COVID-19 Legislation and Guidance

## An employee tests positive for COVID-19...Now what?

- Notify your workers' compensation claims administrator (SB 1159)
- Notify your employees, employee representatives, employers of subcontracted workers, and local public health agencies (AB 685)
- Follow Cal/OSHA guidance, including the Emergency Temporary Standards
- Monitor CDC, federal, state, and local agency guidance for specific requirements



# SB 1159: “Workers’ Compensation: COVID-19”



## Who is affected:

- All California employers with five or more employees

## Effective date:

- September 17, 2020, and applies to COVID-19 infections after July 6, 2020

## End date:

- Infections through January 1, 2023

# SB 1159: “Workers’ Compensation: COVID-19”

- Creates a **presumption** of entitlement to workers’ compensation benefits for employees infected with COVID-19 if:
  - The employee tests positive for or was diagnosed with COVID-19 within 14 days after performing labor or services at the employee’s “place of employment” (excluding the employee’s residence) and
  - The employee tests positive during an “outbreak” at the specific place of employment
- Requires written notice to an employer’s workers’ compensation claims administrator within **three (3) business days** when the employer “knows or reasonably should know that an employee has tested positive for COVID-19.”
- Shortens timeframe to make a workers’ compensation liability determination from 90 to **45 or 30** days, depending on the type of employee.
- DIR FAQs: <https://www.dir.ca.gov/dwc/Covid-19/FAQ-SB-1159.html>

# AB 685: “COVID-19: Imminent Hazard to Employees: Exposure: Notification: Serious Violations”



**Who is affected:** All California employers

**Effective date:** January 1, 2021

**End date:** January 1, 2023

**Effect:**

- Requires written notice within **one (1) business day** to all employees, employers of subcontracted employees, and employee representatives after potential COVID-19 exposure
- Requires written notice **within 48 hours** to local public health officials if the number of cases is an “outbreak”
- Eliminates Cal/OSHA notice requirement prior to issuing a “serious violation” citation related to COVID-19
- Expands Cal/OSHA authority to limit operations if there is a risk of COVID-19 infection
- DIR guidance:  
<https://www.dir.ca.gov/dosh/coronavirus/AB6852020FAQs.html>

# Cal/OSHA COVID-19 Emergency Temporary Standards

**Who is affected:** California employers except employees covered under the ATD standard, employees working from home, or employers with one (1) employee who does not have contact with other persons.

**Effective date:** November 30, 2020 for 180 days, subject to renewal

**Effect:**

- Establish written COVID-19 Prevention Program
- Provide written notice within **one (1) business day** to employees, employee representatives, independent contractors, and any other employers at the workplace during a “high-risk exposure period”
- Provide testing “at no cost to employees during their working hours” if exposed during “workplace outbreak” (3+ in 14 days) or “major outbreak” (20+ in 30 days)
  - During major outbreaks, employers may need to provide testing at least twice a week.
- Written investigation requirements during “major outbreaks”
- “[K]eep a record of and track all COVID-19 cases...”
- Exclude employees with COVID-19 or COVID-19 exposure for at least 10 days after the last known exposure to a COVID-19 case” and “**continue and maintain an employee’s earnings and seniority**” during exclusion subject to exceptions
- Cal/OSHA Emergency Temporary Standards: <https://www.dir.ca.gov/oshsb/documents/noticeNov2020-COVID-19-Prevention-Emergency.pdf>
- Cal/OSHA FAQs: <https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html>
- Sample COVID-19 Prevention Program: [https://www.dir.ca.gov/dosh/dosh\\_publications/CPP.doc](https://www.dir.ca.gov/dosh/dosh_publications/CPP.doc)


# COVID-19 Guidance

## Consequences for violations

- Cal/OSHA citations and penalties
- Workers' compensation liability
- State and local fines
- Shutdown of operations

## Best Practices

- Monitor and implement CDC, federal, state, and local (county and city) guidance
- Communicate with your workforce

BE HEALTHY, BE CLEAN			
CLEAN & DISINFECT			
SOCIAL DISTANCE			
PICK-UP & DELIVERY			

# Contact Information & COVID-19 Resource Center

## Kristalyn Lee

Associate  
Orange County

kristalyn.lee@troutman.com  
949.622.2744



Kristalyn represents businesses in employment disputes and litigation before various governmental agencies, in state and federal court, arbitration, and pre-litigation resolution. Her employment practice focuses on defending employers in disputes involving discrimination, harassment, retaliation and wage and hour claims (including the Private Attorney General Act). Kristalyn also provides preventive advice and counseling to employers regarding all employment practices, including drafting and auditing employee policies, preparing employment and severance agreements, conducting workplace investigations, and evaluating personnel decisions. Kristalyn has assumed an active role in advising California clients on COVID-19-related employment practices and issues, including workplace safety (Cal/OSHA), family and sick leave management, and quarantine and shelter-in-place orders.

## COVID-19 Resource Center

The Troutman Pepper COVID-19 Task Force maintains a resource center to help our clients through these issues. If you have questions specific to your business or COVID-19 policies and practices, please contact Kristalyn Lee or visit the [Troutman Pepper COVID-19 Resource Center](#).