

CALIFORNIA WORKERS' COMPENSATION REBUTTABLE PRESUMPTION

As we continue to navigate the ever-changing landscape of the COVID-19 pandemic, we want to ensure that you, our valued customer, are kept apprised of key legislative changes.

On Thursday September 17, 2020, California Governor Newsom signed into law SB 1159. SB 1159 codifies the Governor's Executive Order, N-62-20, which provided a rebuttable presumption for all California employees from March 19, 2020 through July 5, 2020. SB 1159 expands access to workers' compensation by creating a rebuttable presumption for front line employees - health care workers, firefighters and peace officers. Additionally, SB 1159 establishes a rebuttable presumption when there is a workplace outbreak for all other California businesses that have more than five employees. SB 1159's expanded presumption applies to employees injured from July 6, 2020 through January 1, 2023.

Injury is established for front line firefighters, health care workers and peace officers when **all** of the following conditions are met:

- Employee tests positive within 14 days of the date last worked at the employer's place of employment at the direction of the employer
- The date of injury is on or after July 6, 2020 and prior to January 1, 2023
- The positive diagnoses is confirmed by test which must be PCR (Polymerase Chain Reaction) or other viral testing approved by the FDA and does not include serologic (antibody) testing

SB 1159 applies to **all California employees** injured from July 6, 2020 through January 1, 2023 who meet **all** of the following conditions:

- Employee tests positive during a period of outbreak within 14 days of the last date worked at the employer's place of employment and at the direction of the employer
- The date of injury is on or after July 6, 2020 and prior to January 1, 2023
- The positive diagnoses is confirmed by test which must be PCR (Polymerase Chain Reaction) or other viral testing approved by the FDA and does not include serologic (antibody) testing

Outbreak is defined under SB 1159 as:

- Employers with 100 or fewer employees at the specific place of employment have 4 employees test positive
- Employers with more than 100 employees at the specific place of employment have 4% of employees test positive
- The specific place of employment is ordered closed by a local health department, State Department of Public Health, Division of Occupational Safety and Health, or school superintendent due to risk of infection from COVID-19
- The specific place of employment includes the building, store, facility or agricultural field where the employee performs work at the employer's direction

Under SB 1159, part of your reporting duties, as an employer, are outlined as follows:

Effective September 17, 2020.

If you know, or reasonably should know, that an employee has tested positive, you shall report to us in writing within **3 business days**:

- That an employee has tested positive. No personally identifiable information should be provided unless the employee asserts infection is work related or has filed a claim form
- The date of employee's positive test
- The specific address(es) of the employee's specific place of employment during the 14 day period preceding the date of the employee's positive test
- The highest number of employees reporting to work during 45 days preceding the employee's last day worked at each specific place of employment

Between July 6, 2020 and September 17, 2020.

If you know, or reasonably should know, that an employee has tested positive, you shall report to us in writing within **30 business days**:

- That an employee has tested positive. No personally identifiable information should be provided unless the employee asserts infection is work related or has filed a claim form
- The date of employee's positive test
- The specific address(es) of the employee's specific place of employment during the 14 day period preceding the date of the employee's positive test
- The highest number of employees reporting to work during 45 days preceding the employee's last day worked at each specific place of employment

Under SB 1159 if you fail to report the required data to us, or intentionally submit false/misleading information you could be subject to a citation or civil penalty up to \$10,000 assessed by Labor Commissioner.

To assist you with your reporting obligations, we have attached a form which can be used when submitting positive test results with no intent to file a claim. We have also attached a copy of the California First Report of Injury form which should be used when submitting an actual workers' compensation claim.

To learn more about your other responsibilities as an employer under California's Workers' Compensation Presumption SB 1159 please visit: <https://www.dir.ca.gov/dwc/Covid-19/FAQ-SB-1159.html>.

You can also contact your claims professional if a claim has already been reported. For all other general questions, please contact 800.870.8857.