



State: Calif.

Governor Signs Presumption, COVID Notification Bills: WEST [2020-09-18]

California Gov. Gavin Newsom on Thursday signed a bill creating several presumptions that COVID-19 is a compensable condition, and he signed a measure that would require employers to report outbreaks to local health officials.

Both measures took effect immediately.

The governor said during a signing ceremony streamed online that SB 1159, by Sen. Jerry Hill, D-San Mateo, and AB 685, by Assemblywoman Eloise Reyes, D-San Bernardino, are part of a package of legislation intended to protect workers during the pandemic.

“Protecting workers is critical to slowing the spread of this virus,” Newsom said in a statement. “These two laws will help California workers stay safe at work and get the support they need if they are exposed to COVID-19.”

SB 1159 codifies the presumption the governor created through executive order in May that applied to any worker who tested positive for COVID-19 within 14 days of going to work between March 19 and July 5.

The bill also creates four additional conditions under which the disease caused by the new coronavirus would be presumed occupational for people diagnosed on or after July 6 and before Jan. 1, 2023.

The presumption for firefighters, peace officers and health care workers — including nurses, emergency medical technicians, those providing patient care for home health agencies, and providers of in-home supportive services — would be triggered when someone tests positive within 14 days of going in to work.

The bill would additionally presume that any claim filed by these workers that is not rejected within 30 days is compensable unless rebutted by evidence discovered outside of the 30-day period. California law generally presumes claims not denied within 90 days are compensable.

Work comp claims for COVID-19 filed by all other workers will be presumed compensable if not rejected within 45 days, under SB 1159.

A separate presumption applies to all other types of workers who test positive within 14 days of going to the workplace that is experiencing an outbreak. For the purposes of the presumption, an outbreak exists if:

- At least 4% tested positive at a company with more than 100 workers.
- At least four tested positive at a company with 100 or fewer workers.

To assist in determining whether a specific worksite is experiencing an outbreak and whether the presumption applies, the bill also requires employers to report the following information to claims administrators within three business days:

- That an employee tested positive.
- The date the employee tested positive, which is the date that a specimen was collected for testing.
- The specific address or addresses of each place where the person worked during the 14 days preceding the positive test.
- The highest number of employees who reported to work at each specific place of employment in the 45-day period preceding the last day that the employee who tested positive worked at the same location.

Failing to submit this information or intentionally submitting false or misleading information could result in a penalty of up to \$10,000, under terms of the bill.

AB 685, meanwhile, requires employers to notify workers when someone at a job site tests positive. It also gives the Division of Occupational Safety and Health authority to close any business or work site if it believes the risk of exposure to COVID-19 constitutes an

“imminent hazard to employees.”

The bill additionally requires employers that experience an outbreak to report to local public health agencies the names, occupations and work sites of anyone who tests positive or is diagnosed with COVID-19. Employers will also be required to notify any worker about potential exposure and any COVID-19 benefits that are available under state and federal law.

The term “outbreak,” as used in AB 685, does not mean the same thing as it does in SB 1159. The reporting requirements in AB 685 are triggered when a workplace experiences what the California Department of Public Health considers a COVID-19 outbreak.

A voice message left with the office of Assemblywoman Reyes was not returned.

A spokesperson for the Department of Public Health on Thursday said she was unable to provide information about how the agency defines an “outbreak” over the phone and insisted that questions be submitted by email. The department acknowledged receiving an email from WorkCompCentral but had not provided answers by deadline.

<https://ww3.workcompcentral.com/news/print/id/7b15641bf398306438874d78758716ab5726eb6f>