

This post is for general informational purposes only and should not be considered to constitute legal advice.

Employment Update: COVID Order and Reminders
Posted December 17, 2020

Regional Stay Home Order

Beginning tonight (Thursday) at midnight the Regional Stay Home Order will go into effect in all Bay Area counties and remain in effect for at least 3 weeks.

Under the Order all non-essential businesses, those that are NOT defined as critical infrastructure, must close for in-person activities, with the exception of retail, which can remain open at reduced capacity. Essential work is permitted to continue. Restaurants can stay open for take-out and delivery only. Wineries can no longer conduct tastings, indoors or outdoors, but may continue with production, manufacturing, distribution, and retail sale for off-site consumption. If you have questions regarding whether your business can remain open please refer to the State's website (<https://covid19.ca.gov/stay-home-except-for-essential-needs/>) or contact us to discuss further.

Cal/OSHA Emergency Temporary Standard for COVID-19

A reminder that the new Cal/OSHA regulations for COVID-19 infection protection in the workplace are currently in effect and apply to most employers in California. The Department of Industrial Relations ("DIR") has compiled resources on their website regarding the regulations including FAQs, a fact sheet for employers, and a model COVID Prevention Program: <https://www.dir.ca.gov/dosh/coronavirus/ETS.html>.

If you have specific questions about the regulations or the COVID Prevention Program please contact us to discuss further.

AB 685 Goes Into Effect on January 1

A reminder that AB 685, which requires written notice to employees and employers of subcontracted employees of a potential exposure to COVID-19 in the workplace within one business day, goes into effect on January 1, 2021. We previously provided a notice template that you can modify for your use and have ready in the event of a COVID exposure in the workplace. We updated the template to add a version in Spanish as well and have attached it here for your use.

The DIR also issued an FAQ on the new requirements under AB 685 that appears to interpret the new law as only requiring one notice that includes all of the required information: <https://www.dir.ca.gov/dosh/coronavirus/AB6852020FAQs.html>. We previously recommended that in an abundance of caution employers should have two separate notices as the law is not clearly written, however, based on the Labor Commissioner's guidance we believe one notice would be sufficient.

SAMPLE COVID-19 WORKPLACE EXPOSURE NOTICE (AB 685)

Date: [Within one business day of notice that potential exposure occurred]

To: Employees, Employers of subcontracted employees, and Employee unions (if applicable) [to be sent to those who were on the premises at the same worksite as the COVID-19 positive or exposed individual during the infectious period]

Re: NOTICE OF POTENTIAL EXPOSURE TO COVID-19

We have learned that an employee [tested positive for COVID-19 / was placed under a COVID-19 related order to isolate / was exposed to a person with COVID-19 in the workplace]. Employees working at [worksite(s)] may have been exposed to COVID-19 between [date range of potential exposure].

If you are having symptoms or believe you may have contracted COVID-19 illness, please inform [name & contact information in HR or management] and contact your health care provider. [Company name] will maintain the confidentiality for all medical information unless disclosure is required by law.

[Company name] is implementing the following measures to maintain safety of our employees during this time:

[Describe the company's disinfection and safety plan, following guidelines of CDC.]

We want to remind you of the following COVID-19-related benefits:

- Workers' compensation may apply to you [include information for filing a claim]
- [COVID-19-related leaves, if any applicable (note, current mandated COVID-19 leave laws expire 12/31/2020)]
- [Company sick leave policy]
- [Company] does not retaliate or discriminate against any employee as a result of COVID-19 exposure

For more information on COVID-19, including symptoms and treatment, visit the CDC website at www.cdc.gov and the California Department of Public Health at <https://www.cdph.ca.gov/>.

MUESTRA DE AVISO DE EXPOSICION AL COVID-19 EN EL SITIO DE TRABAJO (AB 685)

Fecha: [Within one business day of notice that potential exposure occurred]

Para: Los Empleados, Empresas de empleados subcontratados, and Employee unions (if applicable) [to be sent to those who were on the premises at the same worksite as the COVID-19 positive or exposed individual during the infectious period]

Con Referencia a: AVISO DE EXPOSICION POTENCIAL AL COVID-19

Nosotros hemos aprendido que un empleado [tested positive for COVID-19 / was placed under a COVID-19 related order to isolate / was exposed to a person with COVID-19 in the workplace]. Los empleados trabajando en [worksite(s)] pueden haber estado expuestos al COVID-19 entre [date range of potential exposure].

Si Ud. tiene síntomas o cree que puede haber contratado la enfermedad COVID-19, favor de avisarle a [name & contact information in HR or management] y póngase en contacto con su proveedor de salud. [Company name] va a mantener la confidencialidad de toda la información médica a menos que la revelación se requiere por ley.

[Company name] implementa las siguientes medidas para mantener la seguridad de nuestros empleados durante este momento:

[Describe the company's disinfection and safety plan, following guidelines of CDC.]

Queremos recordarles de los siguientes beneficios relacionados al COVID-19:

- Se le puede aplicar la Compensación al Trabajador a Ud. [include information for filing a claim]
- [COVID-19-related leaves, if any applicable (note, current mandated COVID-19 leave laws expire 12/31/2020)]
- [Company sick leave policy]
- [Company] no toma represalias ni discrimina contra ningún empleado como resultado de la exposición de COVID-19.

Para más información sobre el COVID-19, incluyendo síntomas y tratamiento, visite el sitio de la red de CDC a www.cdc.gov y del Departamento de Salud Pública de California a <https://www.cdph.ca.gov/>.