

NEW COVID-19 LAWS HELP PROTECT HEALTHCARE WORKERS

Governor Gavin Newsom recently signed three new COVID-related laws that temporarily expand the rights and protections of healthcare workers in California:

SENATE BILL 1159: Presumptive eligibility for workers' comp for workers in high-risk settings who contract COVID-19)

- Requires that employees in high-risk settings who test positive for COVID-19 – including police officers, firefighters, and health care employees who provide direct patient care with COVID-19 patients – are presumed to have contracted COVID-19 on the job and are therefore entitled to workers' compensation covering lost wages and medical costs.
- For other healthcare facility employees, this presumption does not apply if the employer can show that the employee did not have contact with a COVID-19-positive patient at the facility within the 14-days prior to making a workers' compensation claim.
- Employers will have 30 days after a claim is filed to deny it.
- Employees must exhaust any paid sick leave benefits that have been made available to them specifically for COVID-19 before they can access any benefits under SB 1159.
- This new law is effective immediately until January 1, 2023 and covers cases retroactive to July 6, 2020.

ASSEMBLY BILL 1867: Requires employers with 500+ employees to provide supplemental paid sick time for COVID-19-related absences through the end of the year).

- Entitles full-time employees to 80 hours of supplemental paid sick leave (part-time employees get less, on a pro-rata formula basis) for any of the following reasons:
 - The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
 - The employee is advised by a healthcare provider to self-quarantine or self-isolate due to concerns related to COVID-19; or
 - The employee is prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19.
- An employer may not require an employee to first use any other employer-paid leave. However, if an employer already provides employees with supplemental COVID sick leave that pays them at least the same amount as required by the new law, the employer may count those hours toward meeting its requirements under the legislation.

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- COVID-19 supplemental paid sick leave is in addition to any paid sick leave the employee may be entitled to under the Healthy Workplaces, Healthy Families Act of 2014, Labor Code section 246 (“HWHFA”). This benefit requires employers to provide up to 80 hours of supplemental paid sick leave to employees if they are directed by their employer to self-quarantine, isolate or not report to work due to COVID-19 exposure, symptoms, and/or illness.
- If an employer illegally withholds COVID-19 supplemental paid sick leave, they may be subject to a penalty of at least \$250 per day, but not to exceed \$4,000 in the aggregate.
- This law is effective immediately and expires December 31, 2020 or upon the expiration of any extension of the federal Emergency Paid Sick Leave Act, whichever is later.

ASSEMBLY BILL 685: notifying employees of potential COVID exposure within one business day)

While this bill was written to address concerns of workers in meatpacking plants, it also covers health workers who DO NOT conduct COVID testing or screening, or provide direct care to patients known or suspected to be COVID-positive, this law:

- Requires that within one business day, they be notified of potential exposure to anyone known or presumed to be COVID-positive in the specific location where they work;
- Protects them from retaliation for reporting positive cases;
- Ensures that they are made aware of sick leave and other benefits.
- For health care employees who DO conduct COVID testing or screening, or provide direct care to patients known or suspected to be COVID-positive, the above provisions apply ONLY if the person known or presumed to be COVID-positive to whom they have been exposed is another employee in the specific location where they work.

The bill covers EVS and dietary workers; however, we are awaiting administrative clarification on how it will apply to EVS and dietary workers who regularly work in COVID-19 patients’ quarters.

This law also:

- Empowers CalOSHA to issue citations more quickly and shut down worksites where COVID-19 presents an imminent threat.
- Takes effect on January 1, 2021 and sunsets on January 1, 2023.