



KAHN, SOARES & CONWAY, LLP



## California Department of Public Health Guidance on AB 685

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October 26, 2020

In preparation of the implementation of AB 685 on January 1, 2021, the California Department of Public Health (CDPH) has issued two guidance documents on AB 685 compliance.

First, CDPH has provided a new "[Definitions](#)" page. Of note:

- **Outbreak:** At least three COVID-19 cases among workers at the same worksite within a 14-day period.
- **Case of COVID-19:** A COVID-19 case is someone who:
  - Has a positive viral test for COVID-19,
  - Is diagnosed with COVID-19 by a licensed health care provider,
  - Is ordered to isolate for COVID-19 by a public health official, or
  - Dies due to COVID-19, as determined by a public health department.
- **Infectious Period:**
  - For those who test positive with symptoms: Two days before symptoms until 10 days after symptoms end, 24 hours without fever (no medication), and "other symptoms have improved."
  - For those who test positive without symptoms: Two days before submitting positive test, and 10 days after first positive test.
- **Lab Confirmed Test:** A positive result on any viral test for COVID-19 based on CDC

testing guidelines.

Second, CDPH has issued a longer [guidance document](#) on compliance with AB 685. This guidance includes what information an employer must provide employees exposed to COVID-19 at the workplace; how employees must be notified; which employees must be notified; and when an employer must report cases to the local health department.

It is important to note that CDPH's guidance, "[Responding to COVID-19 in the Workplace for Employers](#)," also requires employers to notify local health departments if there are 3 or more cases of COVID-19 in their workplace within a 2 week period. This requirement is already in effect, so employers must follow it now.

It is also important to note that the "outbreak" threshold in CDPH's guidance and AB 685 are different than the "outbreak" threshold in SB 1159 (Hill), which governs when the presumption is that an employee contracted COVID-19 at the worksite for worker's compensation purposes. SB 1159 defines "outbreak" as:

- If the employer has 100 or fewer employees at a specific place of employment, 4 employees test positive for COVID-19 within 14 calendar days.
- If the employer has more than 100 employees at a specific place of employment, 4 percent of employees test positive within 14 calendar days.
- Public authorities order the place of employment closed due to a risk of COVID-19 infection.

Even though AB 685 does not go into effect until January 1, 2021, it is important for employers to review the guidance documents and AB 685 to ensure they have procedures in place should there be an outbreak at the worksite.

For any questions, please reach out to Lauren Noland-Hajik at [lhajik@ksacsacramento.com](mailto:lhajik@ksacsacramento.com).

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