



Dear Great American/Alternative Markets Customer,

On September 17th, 2020 Governor Gavin Newsom signed Senate Bill 1159. This new law establishes reporting and presumption standards for employees who test positive for Covid-19.

SB 1159 includes new **Labor Codes 3212.86, 3212.87 and 3212.88**. The labor codes apply based on the time period in which a positive test occurs.

Labor Code 3212.86

Applies to employees testing positive for Covid-19 between March 19, 2020 and July 5, 2020.

SB1159 makes adjustments to the rebuttable presumption created by Governor Newsom in his Executive Order N-62-20. The Governor's Executive Order expired on July 5, 2020. New **Labor Code 3212.86**, similarly, only applies to work performed between March 19 and July 5 of this year. Its provisions apply to open claims.

For positive tests occurring between July 5th and September 17th, the employer must report incidents as follows:

- If you are aware of an employee testing positive between July 6, 2020 and September 17, 2020 , you must report to us, in writing via electronic mail or facsimile, **within 30 business days** of September 17, 2020 certain specific information that is required for your ongoing reporting obligations (see "Ongoing reporting" below).
- You must also report the highest number of employees who reported to work at each of the specific places of employment where the employee(s) who tested positive worked on any given work day between July 6, 2020, and September 17th, 2020, instead of the information required in (4), below.

Labor Code 3212.87:

Applies to employees testing positive for Covid-19 after July 5th, 2020.

Labor Code 3212.87 creates a presumption standard for injured workers that are classified as firefighters, police, health facility workers, home healthcare workers, and other similar occupations. If you have employees that fall under these job classifications, please contact your claim administrator for additional information or reference the bill text linked below.

Labor Code 3212.88:

Applies to employees testing positive for Covid-19 after July 5th, 2020.

Labor Code 3212.88 applies to classifications of employment other than health care and public safety/rescue personnel. It grants workers a rebuttable presumption that COVID-19 is compensable under the workers' compensation system. It applies to employers who employ five or more workers will be entitled to a rebuttable presumption that COVID-19 is a work-related injury if there is an **outbreak** at a specific place of employment.

Important: LC 3212.88 requires the claims administrator to determine the presence of an outbreak and subsequent claim compensability. In order to determine whether there is an outbreak, the new law requires you to send us certain information on a timely basis. This information is detailed on the reporting templates that accompany this communication.

Ongoing reporting

In order for us to determine whether the presumption applies to a given claim, when you know, or reasonably should know, that an employee has tested positive for COVID-19, you must report to us in writing via electronic mail or facsimile *within three business days* all of the following:

- (1) An employee has tested positive. For purposes of this reporting, *the employer shall not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee asserts the infection is work related or has filed a claim form pursuant to Section 5401.*
- (2) The date that the employee tests positive, which is the date the test specimen was collected for testing.
- (3) The specific address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test.
- (4) The highest number of employees who reported to work at the employee's specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.

*To submit your reports, please email your information to:
alternativemarketsclaims@gaig.com or fax to 888-223-1317*

All positive tests should be reported to your Claim Administrator, not just workers' compensation claims. Personally Identifiable Information should only be included for those employees who have filed a Worker's Compensation claim. See the enclosed reporting templates for specific instructions.

An employer or other person acting on behalf of an employer who intentionally submits false or misleading information or fails to submit information when reporting (See #11) is subject to a civil penalty in the amount of up to **ten thousand dollars (\$10,000) to be assessed by the Labor Commissioner.**

Loss Control/Mitigation:

If you have not already done so, we urge you to visit [Cal/OSHA's website](#) to review measures that you can take to reduce COVID-19 exposure at your business.

Summary:

Please refer to the attached reporting templates, FAQ list, reporting flow chart, and LC 3212.88 summary for additional resources.

You may access the entire text of SB 1159 on the California Legislature's website:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159

This information is intended to provide guidance and is not intended as a legal interpretation of any federal, state or local laws, rules or regulations applicable to your business. The loss prevention information provided is intended only to assist policyholders in the management of potential loss producing conditions involving their premises and/or operations based on generally accepted safe practices. In providing such information, Great American does not warrant that all potential hazards or conditions have been evaluated or can be controlled. It is not intended as an offer to write insurance for such conditions or exposures. The liability of Great American Insurance Company and its affiliated insurers is limited to the terms, limits and conditions of the insurance policies underwritten by any of them.

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