



# SB 1159



Everything You Need to Know

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# Agenda

- The 5 Sections
- Reporting Requirements
- Rules Regarding “Outbreaks”
- Rebuttable Presumption of Compensability
- COVID Prevention Resources
- Next Steps

# The 5 Sections of CA SB 1159

**Section 1**: A COVID-19 task force is being formed to study the impact of COVID on the work comp system.

**Section 2**: Mirrors the Executive Order for dates of employment between 3/19/20 and 7/5/20, now part of LC Section 3212.86.

- Must be outside the home at direction/control of employer
- Must have positive test or diagnosis and confirming test within 30 days
- Positive test must be within 14 days from date last worked
- 30 days to make a compensability decision
- SB 1159 does not change the Executive Order

# The 5 Sections of CA SB 1159

(continued)

**Section 3**: Specific to firefighters, peace officers and health care workers who provide direct patient care or have contact with COVID patients.

- 30 days to make a compensability decision
- Must have positive PCR test
- Positive test must be within 14 days from date last worked

**Section 5**: This is an “urgency” measure so as soon as Governor Newsom signs the bill, it’s effective immediately and retroactively from 7/6/20 – 1/1/23.

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# SB 1159 – Section 4

**Section 4:** Applies to all other CA businesses with 5 or more employees

- Retroactive to 7/6/20 – 1/1/23
- Compensability has to be determined within 45 days
- Must have a positive Covid test, (PCR or other FDA approved viral culture test)
- Defines “outbreak”
  - **Outbreak = Rebuttable Presumption of Compensability**
- Can be rebutted if proven that the employer had measures in place to reduce transmission or can prove employee had non-occupational exposure
- COVID related sick leave must be exhausted prior to temporary disability being initiated with no waiting period

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# Mandatory Employer Reporting Requirements

- **Civil Penalties = Up to \$10,000**
- All positive PCR or FDA approved viral culture COVID tests **must** be reported to Zenith
  - 7/6/2020 – Date Governor signs the Bill
    - Within 30 business days of Governor’s signature
  - Date Governor signs the Bill – 1/1/2023
    - Within 3 business days
- What you need to report
  - Date of test (date specimen collected)
  - Specific place of employment during the 14-day period preceding the EE’s positive test
  - The highest number of employees who reported to the EE’s specific place of employment in the 45-day period preceding the last day the EE worked at each specific place of employment.
  - No personally identifiable information (unless employee is claiming work causation or filing a claim)
    - Note: Employer will need to keep track of specific employees they report to Zenith

# When to Report?

- Negative COVID Test = No need to report
- Positive COVID Test = Report using SB1159 Reporting Form, regardless of whether or not it is work related
  - Complete SB1159 Form: <https://www.thezenith.com/zenith/zeniths-covid-19-response/>
  - Submit Form electronically to Zenith at [COVID1159Reporting@thezenith.com](mailto:COVID1159Reporting@thezenith.com)

Ask Employee how they think they contracted COVID:

- If the employee asserts non-industrial causation: Still complete SB1159 Reporting Form above (no need to provide claim form)
- If employee does not know or asserts industrial causation: Still complete SB1159 Reporting; Ask follow up questions to determine if Claim Form should be provided
  - Refer to Zenith provided resource on what questions to ask



# What is an Outbreak?

Outbreak = Rebuttable Presumption

An outbreak is:

- 4 or more employees with positive tests within 14 days of each other  
*(5-100 employees at same “specific place of employment”)*
- *4% or more with positive tests within 14 days of each other*  
*(over 100 employees at same “specific place of employment”)*
  - Calculation of 4% is based on the highest number of employees at that specific location in the last 45 days
- Zenith will determine if the outbreak criteria has been triggered through the SB1159 Reporting Forms submitted. We will use an exclusive database as a central repository.

# Specific Place of Employment

- An outbreak that triggers the presumption applies to each specific place of employment only
- Defined to encourage separation of work units by building, store, facility, and agriculture field, where employee performs work at employer's direction
- Need to consider shared gathering places for breaks, lunches, bathrooms, etc.
- Does Not generally include employee's home or residence

# Safeguarding Business From COVID-19 Contagions and Claims

Employers may dispute the outbreak presumption of compensability with evidence of safety measures to reduce COVID-19 transmission. Zenith recommends the following:

- Conduct a thorough hazard assessment and implement site-specific infection control strategies that include use of appropriate engineering and administrative controls, safe work practices, and personal protective equipment (PPE) to prevent employee infection.
- Train all employees on applicable COVID-19 prevention safety measures, including limiting movement to appropriate work locations, as well as all other essential program elements.
- Document safety measures and all employee training using a combination of written documents, photographs, and video.

Zenith has high quality COVID-19 resources to help keep employees safe and productive. These materials, combined with easy access to Zenith safety and claims experts, can also help show evidence of the safety measures needed to rebut the COVID-19 presumption.

# COVID-19 Information & Resources



(58) COVID-19 tools: online courses, policies, templates, bulletins, signs, posters, checklists, etc.

Live and pre-recorded Zenith University training webinars on COVID-19

COVID-19 guidelines and resources tools for Ag, Food Mfg. and Food Processing

COVID-19 Infection Prevention Program Evaluation

COVID-19 Infection Prevention Safety Program template

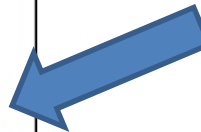
Unlimited access to HR and safety experts

Discounted pricing on infection control supplies, PPE and other safety items

## Employer Checklist for California SB 1159

Please use this guide to protect your employees and your business in the event of COVID-19 infection

- Fulfill your obligation to timely report notice of employees who have a COVID-19 positive (PCR Test) to Zenith.
  - Initial Report for all positive tests between 7/6/20 and the date the bill is signed by the Governor. Complete within 30 days of law enactment. [Download the form.](#)
  - Ongoing reporting requirement. Report for every new COVID-19 positive within three days that you knew of or should have known of a positive test. [Download the form.](#)
- Conduct a thorough COVID-19 hazard assessment and implement site-specific infection control strategies. View the [Protecting Your Employees to Reduce Transmission of COVID-19](#) document.
- Train managers, supervisors, and employees on applicable COVID-19 infection prevention safety measures, including limiting movement to appropriate work areas. View the [COVID-19 Training Topics for Managers, Supervisors, and Employees](#) document.
- Verify COVID-19 safety measures through written protocols, documentation, photos, and videos to demonstrate measures were enacted and enforced. View the [Verification of COVID-19 Safety Measures](#) document.
- Have all employees read and sign Employee Acknowledgement form, documenting they know, understand, and will abide by COVID-19 safety requirements and will report any safety violations they see. View the Employee Acknowledgement form ([English](#) / [Spanish](#)).
- Ask initial questions to determine if an employee is filing an industrial COVID-19 claim when the employee reports that they have tested positive for COVID-19 or have COVID-19. View the [Employee Questions to Ask](#) document.



## Protecting Your Employees to Reduce Transmission of COVID-19

California workplace safety and health regulations require employers to take measures that protect employees from exposure to, and infection from, the virus that causes coronavirus disease (COVID-19). While the focus of these requirements is to help keep employees safe and productive, they now may also help California employers rebut the presumption of work-related employee compensability for COVID-19 claims.

Employers should conduct a thorough hazard assessment and implement site-specific infection control strategies that include use of appropriate engineering and administrative controls, safe work practices, and personal protective equipment (PPE) to prevent employee infection. All employees must be trained and it's essential that key program elements be effectively documented.

Zenith experts have created the following COVID-19 Best Practices tools and resources to help you develop, conduct, and document your site-specific COVID-19 Infection Prevention Program.

[COVID-19 Infection Prevention Program Evaluation Checklist](#)

Written COVID-19 Infection Prevention Program Template ([English](#) / [Spanish](#))

COVID-19 Guidance and Resources:

[All Businesses](#)

Agriculture ([English](#) / [Spanish](#))

[Food Manufacturing and Processing](#)

[Zenith Solution Center®](#) COVID-19 related training courses, policies, templates, bulletins, signs, posters, and checklists

Discounted pricing on [COVID-19 infection control supplies, PPE, and safety items](#)

If you would like to schedule a consultation with a Zenith Safety & Health professional to go over these materials and establish a COVID-19 Infection Prevention Plan, please contact the Zenith Regional Safety & Health Officer listed below for the area where your place of business is located:

Northern California – [Gonzalo Sapiz](#), 925-416-5354

Central California – [Traci English](#), 559-449-4773

Southern California – [Cathline Fort](#), 818-251-8713

**COVID-19 Infection Prevention Program Evaluation Checklist**

This COVID-19 Infection Prevention Program Evaluation checklist is a tool to assess safety practices and help you minimize the risk of employees becoming infected with COVID-19. For each element, check the response that most accurately reflects the status of your current COVID-19 infection control practices.

Location: \_\_\_\_\_ Date Completed: \_\_\_\_\_


Completed By: \_\_\_\_\_

A. BASIC ELEMENTS		Yes	No	NA
1. Written Program	Written COVID-19 Infection Prevention Program in place and includes:			
	Defined management and employee responsibilities			
	Management and employee training requirements			
	Guidelines for distancing, personal hygiene, workplace cleaning, and disinfection			
2. Responsibilities and Accountability	Responsibilities and training expectations documented through employee acknowledgement form			
	Process in place to ensure accountability for meeting expectations and carrying out responsibilities			
3. Communication	Frequent and effective communication and guidance to employees through various formats			
	Consistent promotion of guidelines and controls by management			
	Method to report issues or suggest improvements to the COVID-19 infection prevention program			
B. TRAINING		Yes	No	NA
1. Manager and Supervisor Training	Documented manager and supervisor training includes:			
	Distancing guidelines			
	Personal hygiene guidelines			
	Cleaning and disinfection procedures			
	Employee health monitoring procedures			
2. Employee Training	Confirmed infection management procedures			
	Documented employee training includes:			
	Routes of transmission and how infection spreads			
	Infection symptoms, what to do if sick, and when to seek medical attention			
	Importance of not coming to work when ill			
	Steps to prevent the spread of COVID-19 infection			
	Importance of frequent hand washing/hand sanitizing			
	Coughing and sneezing etiquette			
Safely using cleaners and disinfectants				
COVID-19 Infection Prevention Program expectations				

		Method to report issues or suggest improvements		
C. SAFE WORK PRACTICES		Yes	No	NA
1. Physical Distancing	Work tasks and common areas assessed to define distancing needs and opportunities to increase ventilation			
	Barriers, markings, work station arrangement, or other methods to maintain safe distancing			
	Steps taken to reduce employee gatherings and group size on all activities			
2. Personal Hygiene	Action taken to ensure employees and others entering work areas:			
	Don't enter when sick			
	Practice proper and frequent handwashing			
	Avoid touching mouth, nose, and eyes			
	Cover mouth and nose when coughing or sneezing			
	Clean shared surfaces before and after use			
3. Workplace Cleaning and Disinfection	Use appropriate PPE consistent with exposure			
	Workplace assessed to identify high-touch surfaces and required cleaning methods			
	Responsibility established for frequent and scheduled workplace cleaning and disinfection following CDC guidelines			
	Employees safely use cleaning and disinfection materials			
D. EMPLOYEE SCREENING	Required PPE evaluated and issued to employees			
	Surfaces touched by sick employee(s) disinfected			
			Yes	No
1. Employee Health Monitoring	Employees encouraged and know how to self-assess personal health			
	Process in place to continuously monitor employee's health			
	Process to send symptomatic employees home with instruction to seek medical attention			
2. Management of Confirmed Infection	Processes to manage confirmed infection include:			
	Disinfection of surfaces touched by infected employee following CDC guidelines			
	Documented infected employee work history and contact with others			
	Documented communication with others exposed to infected employee			
	Communication with local public health officials			
E. VISITORS, VENDORS, DELIVERIES	Employee return-to-work guidelines			
			Yes	No
1. Access	Non-employee visits only for essential services			

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Right click then select  
Change Picture to place  
your company logo here.



## COVID-19 INFECTION PREVENTION PROGRAM Employee Acknowledgement Form

(Company name) is committed to preventing workplace hazards that could result in employee injury and/or illness, and to complying with all applicable state and local occupational health and safety guidelines and regulations. This acknowledgement confirms that you have received, read and understand (Company name)'s COVID-19 Infection Prevention Program and are willing to follow the expectations established by our COVID-19 Infection Prevention Program. Please initial and sign in the spaces provided.

### TRAINING

By initialing below I, \_\_\_\_\_ [Print Name], acknowledge that I have received training provided by (Company name) to help make sure I understand the dangers of COVID-19 including (initial):

- \_\_\_\_\_ COVID-19 and how it is spread
- \_\_\_\_\_ Symptoms of COVID-19 infection and when to seek medical attention
- \_\_\_\_\_ Importance of not coming to work when ill
- \_\_\_\_\_ Steps to prevent the spread of COVID-19 infection
- \_\_\_\_\_ Coughing and sneezing etiquette
- \_\_\_\_\_ Importance of frequent hand washing/hand sanitizing
- \_\_\_\_\_ Importance of maintaining safe physical distancing
- \_\_\_\_\_ Safely using cleaners and disinfectants on surfaces and objects
- \_\_\_\_\_ COVID-19 Infection Prevention Program information and expectations
- \_\_\_\_\_ Method to report issues or suggest improvements to the COVID-19 Infection Prevention Program

### EMPLOYEE RESPONSIBILITIES

I, \_\_\_\_\_ [Print Name], also understand (Company name) has established a list of expectations. By initialing below, I acknowledge my responsibility to prevent the spread of COVID-19 in the workplace, including but not limited to:

- \_\_\_\_\_ Self-monitor my health on a daily basis
- \_\_\_\_\_ Stay at home when sick and avoid close contact with others
- \_\_\_\_\_ Keep a minimum distance of 6 feet from others when possible
- \_\_\_\_\_ Refrain from shaking hands, hugging, or touching others
- \_\_\_\_\_ Avoid unnecessary interaction with others outside my immediate work area or work team
- \_\_\_\_\_ Clean surfaces in common areas and shared equipment before and after use
- \_\_\_\_\_ Wash hands with soap and water or use hand sanitizer
- \_\_\_\_\_ Wash/sanitize hands multiple times daily, including before/after work, breaks, eating, going to the restroom, and after coughing, sneezing, or blowing nose
- \_\_\_\_\_ Avoid touching mouth, nose, and eyes
- \_\_\_\_\_ Wear face covering and other personal protective equipment as required by my company
- \_\_\_\_\_ Cover mouth and nose when coughing or sneezing and immediately wash hands
- \_\_\_\_\_ Avoid sharing personal items with coworkers (food, dishes, lunch boxes, gloves, etc.)
- \_\_\_\_\_ Report any safety violations, issues, and suggestions regarding the COVID-19 Infection Prevention Program

If I have tested positive for COVID-19, identify symptoms, or have interacted with someone infected with COVID-19, I will:

- \_\_\_\_\_ Immediately communicate the presence of symptoms to my supervisor
- \_\_\_\_\_ Immediately communicate to my supervisor when I have interacted with someone with COVID-19 either at or outside of the workplace
- \_\_\_\_\_ Go home immediately after discovering symptoms or as instructed
- \_\_\_\_\_ Immediately contact a medical professional by phone before going to a medical facility
- \_\_\_\_\_ Provide my supervisor with names of people in the workplace I've interacted with
- \_\_\_\_\_ Notify (Company responsible person) when the doctor allows my safe return to work

### INFECTION PREVENTION PROGRAM RECEIPT

I have received a copy of (Company Name)'s COVID-19 Infection Prevention Program on the date listed below. I understand I am expected to follow the program at all times and to report any issues or suggestions I may have to improve it.

Please sign two copies of this Acknowledgment of Receipt, retain one copy for yourself, and return one copy to (Name of Company's representative or Department). A copy of the signed form will be retained in your personnel file.

Employee Name (print) \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

Supervisor Name (print) \_\_\_\_\_

Supervisor Signature \_\_\_\_\_

Date \_\_\_\_\_

|

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# Additional Questions?

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