

SB1159 COVID-19 Presumptions

On September 17, 2020, Governor Gavin Newsom signed SB1159 into law, establishing three new Labor Code sections creating COVID-19 presumptions. These presumptions will remain in effect until January 1, 2023.

- Labor Code §3212.86 codifies Newsom’s Executive Order (N-62-20) that created a presumption for essential workers and applies to injuries occurring from March 19, 2020 to July 5, 2020.
- Labor Code §3212.87 applies to front line workers (peace officers, firefighters, health care providers, home care workers and IHSS workers).
- Labor Code §3212.88 applies to employees that contract COVID-19 due to an outbreak at the employer’s job site after July 5, 2020.

Labor Code §3212.88 Reporting Requirements

Labor Code §3212.88 now requires employers with 5 or more employees to report specific information to their Worker’s Compensation Carrier to determine if an outbreak has occurred at the job site. There are two different reporting requirements and specific time obligations to report the information to your carrier which are outlined below.

When an employer knows or reasonably should have known that an employee tested positive for COVID-19 on or after September 17, 2020, the employer must report the positive test to the carrier within 3 business days. This information must be reported in writing via electronic mail or fax. The information that is to be reported is as follows:

1. An employee has tested positive. *No identifying information is to be provided unless the employee is stating the exposure is work related or has filed a DWC 1 claim form.*
2. The date the test result was positive which is the date the specimen was taken (the date of the test, not the date the results were known).
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 days preceding the date of the employee’s positive test.

There is also a retroactive reporting requirement for employers to report any employees who tested positive on or after July 6, 2020 through September 17, 2020. This information must be reported to the carrier within 30 days of September 17, 2020. The Information required to be reported is specified below.

1. An employee has tested positive. *No identifying information is to be provided unless the employee is stating the exposure is work related or has filed a DWC 1 claim form.*
2. The date the test result was positive which is the date the specimen was taken (the date of the test, not the date the results were known).
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 from July 6, 2020 to September 17, 2020.

Labor Code §3212.88 also carries potential civil penalties of up to \$10,000 for an employer or anyone acting on behalf of the employer who intentionally submits false or misleading information or who fails to report the information to their carrier.

Reporting to Zurich

To assist you in complying with Labor Code §3212.88, Zurich has established a dedicated e-mail address and fax number to be used for the required reporting of positive test results. PLEASE DO NOT REPORT ACTUAL CLAIMS HERE; CLAIMS SHOULD STILL BE REPORTED AS USUAL.

For Labor Code §3212.88 reporting ONLY, please use one of the following:

- By E-mail: usz.sb1159.covid19testreporting@zurichna.com
- By Fax: 1-833-344-0446

To assist you further, included is a sample reporting form and FAQs to assist you navigate through these requirements per SB1159.

THIS "NOTICE OF REPORTING REQUIREMENTS PURSUANT TO CALIFORNIA SB-1159" IS PROVIDED BY *ZURICH AMERICAN INSURANCE COMPANY* AS A CONVENIENCE TO ITS CUSTOMERS AND CLIENTS, AND THEIR BROKERS, IN AN EFFORT TO ILLUSTRATE THE OPERATION OF CALIFORNIA GOVERNOR GAVIN NEWSOM'S ENACTMENT OF THE CALIFORNIA SENATE BILL 1159 ON September 17, 2020. THIS NOTICE IS NOT AN ATTEMPT TO PROVIDE LEGAL ADVICE NOR IS IT INTENDED TO ELIMINATE THE NEED TO REVIEW THE NEWLY ENACTED SB-1159. IF ANY RECIPIENT OF THIS FLOW CHART HAS ANY QUESTIONS OR CONCERNS ABOUT THE OPERATION OF THE ENACTED SB-1159, THE RECIPIENT SHOULD SEEK LEGAL ADVICE OF HIS/HER/ITS OWN CHOSING.

© 2020 Zurich American Insurance Company