

AB 685 Summary

1. What are the notification requirements under AB 685?

a) Employers are required to provide **written** notice to all employees, their respective union representatives, and employers of subcontracted employees who were on the premises at the same worksite as the “qualifying individual” of the following within **one business day**:

- Notice of potential exposure to a “qualifying individual”;
- Information on COVID-19-related benefits and protections; and
- Disinfection and safety measures that will be taken at the worksite in response to the potential exposure

The notice must be sent in a manner the employer normally uses to communicate employment-related information. This can include personal service, e-mail, or text message so long as it can be reasonably anticipated that employees will receive the notice within one business day. Additionally, the notice must be in English and the language understood by the majority of employees.

A “qualifying individual” means an employee who:

- Has a laboratory-confirmed COVID-19 case;
- Is issued a positive COVID-19 diagnosis from a licensed health care provider;
- Is subject to a COVID-19-related isolation order issued by a public health official; or
- Dies due to COVID-19 as determined by a county public health department.

“Worksite” means the building, store, facility, agricultural field, or other location where a worker worked during the infectious period. It does not apply to buildings, floors, or other locations of the employer that a qualified individual did not enter. In a multi-worksite environment, the employer need only notify employees who were at the same worksite as the qualified individual.

b) Employers are required to notify local public health agencies within **48 hours** of all workplace outbreaks, which are defined as three or more laboratory-confirmed cases of COVID-19 among employees who live in different households within a two-week period. The notice must include:

- Names of employees;
- Employee phone number;

- Employee occupation;
- Employee worksite and address of worksite; and
- NAICS industry code of the worksite

Employers must continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

Employers are required to maintain records of these notices for at least three years. Failure to comply with the notification requirements may subject an employer to monetary penalties. Personally identifiable employee information shall not be subject to a California Public Records Act request, nor be posted on a public internet website.

2. What authority does Cal/OSHA have under AB 685?

a) Order Prohibiting Use (OPU)

Under AB 685, if Cal/OSHA finds that a workplace exposes employees to a risk of COVID-19 infection and, thereby, creates an imminent hazard to employees, Cal/OSHA can shut down an entire worksite or a specific worksite area by issuing an OPU. The worksite will remain closed off to employees until the employer effectively addresses the hazard(s). If Cal/OSHA uses its authority to apply such a workplace restriction, it must then provide the employer with notice of the action and post that notice in a conspicuous place at the worksite.

Cal/OSHA may not, however, impose restrictions that would materially interrupt “critical government functions” essential to ensuring public health and safety functions, or the delivery of electrical power or water.

b) Serious Violation Citations

Under AB 685, Cal/OSHA can issue citations for serious violations related to COVID-19 without giving employers a 15-day notice before issuance. Employers can still contest the citation through the existing Cal/OSHA appeal procedures.

3. Who does AB 685 apply to?

AB 685 applies to both private and public employers with the following exceptions:

- a) The notification requirements shall not apply to employees who, as part of their duties, conduct COVID-19 testing or screening or provide direct patient care or treatment to individuals who are known to have tested positive for COVID-19, are persons under investigation, or are in quarantine or isolation

related to COVID-19, unless the qualifying individual is an employee at the same worksite.

- b) The requirement to provide notice of an outbreak to the local public health agency shall not apply to a “health facility,” as defined in Section 1250 of the Health and Safety Code.

4. When is AB 685 effective?

AB 685 is effective January 1, 2021 through January 1, 2023.

5. AB 685 Resources

- Assembly Bill 685:
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB685
- Cal/OSHA AB 685 FAQs:
<https://www.dir.ca.gov/dosh/coronavirus/AB6852020FAQs.html>
- Cal/OSHA COVID-19 Emergency Temporary Standard FAQs:
<https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html#testing>
- Model AB 685 Notice:
<https://riskmanagement.lacounty.gov/wp-content/uploads/2021/01/Model-AB-685-Notice.docx>
- SB 1159 Reporting Requirements:
<https://riskmanagement.lacounty.gov/>
- Model Covid-19 Prevention Plan:
<https://riskmanagement.lacounty.gov/wp-content/uploads/2020/12/Model-COVID-19-Prevention-Program-CPP.doc>
- Public Health Reporting – Q & A
<https://riskmanagement.lacounty.gov/wp-content/uploads/2021/01/COVID-QA-of-Public-Health.pdf>