



# AB 685 OVERVIEW

---

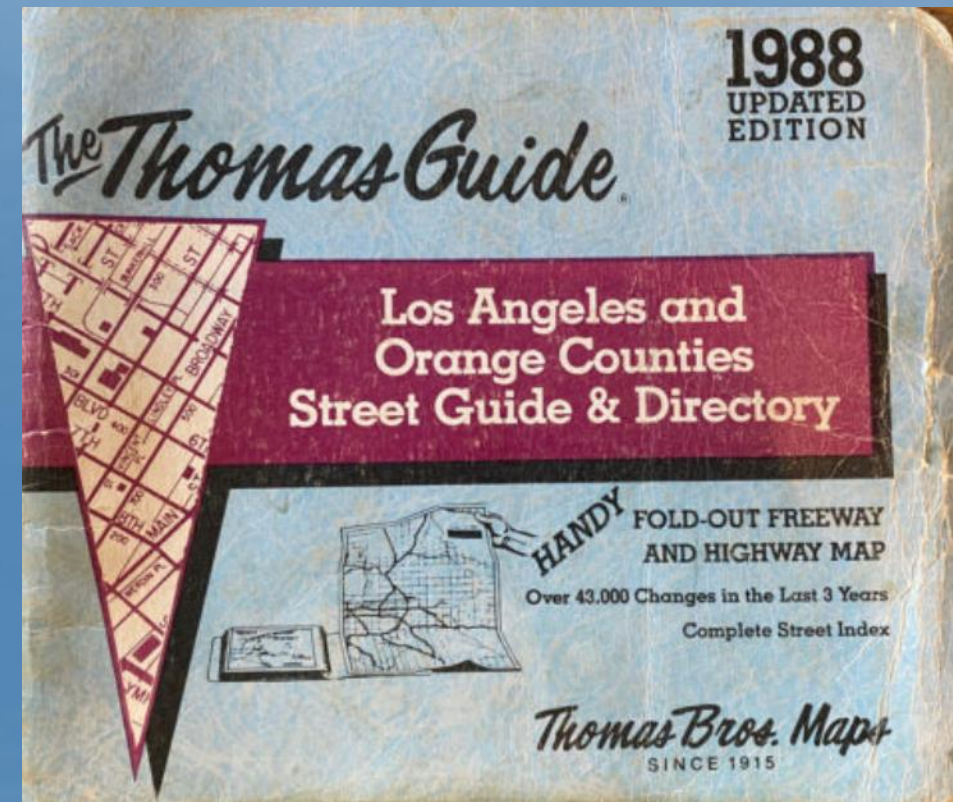
Disability Absence Meeting  
Chuck Pode, Risk Manager  
January 7, 2021

# AB 685 OVERVIEW

- Passed September 2020
- Takes effective January 1, 2021
- Sunsets January 1, 2023
- What does AB685 do?
  - Requires employee notification of potential exposure
  - Requires Public Health notification of outbreak
  - Gives COVID-19 jurisdiction to Cal/OSHA
  - Enhances OSHA's ability to cite and close worksites

# ROADMAP

- Definitions
- Who gets notice
- What must notice contain
- Difference between AB685 notice and OSHA notice
- COVID-19 recordkeeping
- “Houston - we have an outbreak!”
- What can OSHA do to us
- How can we get OSHA to like us?
- What to do with a COVID positive result

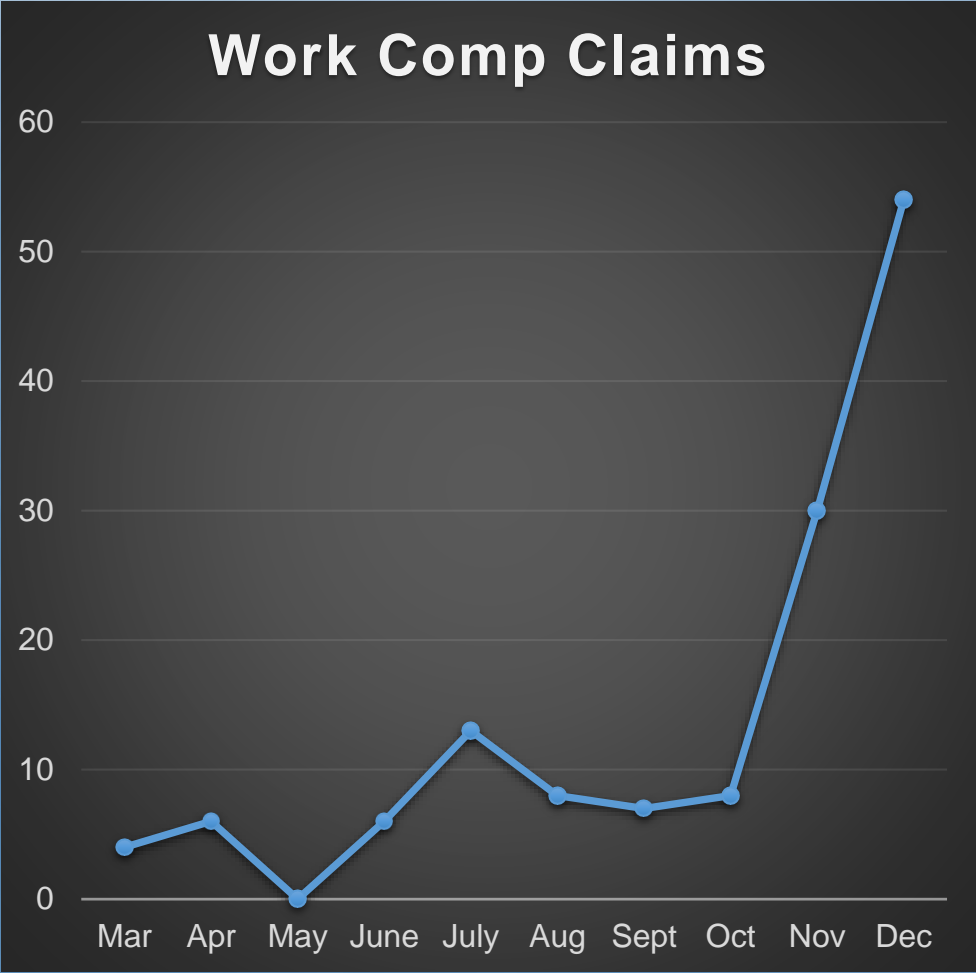
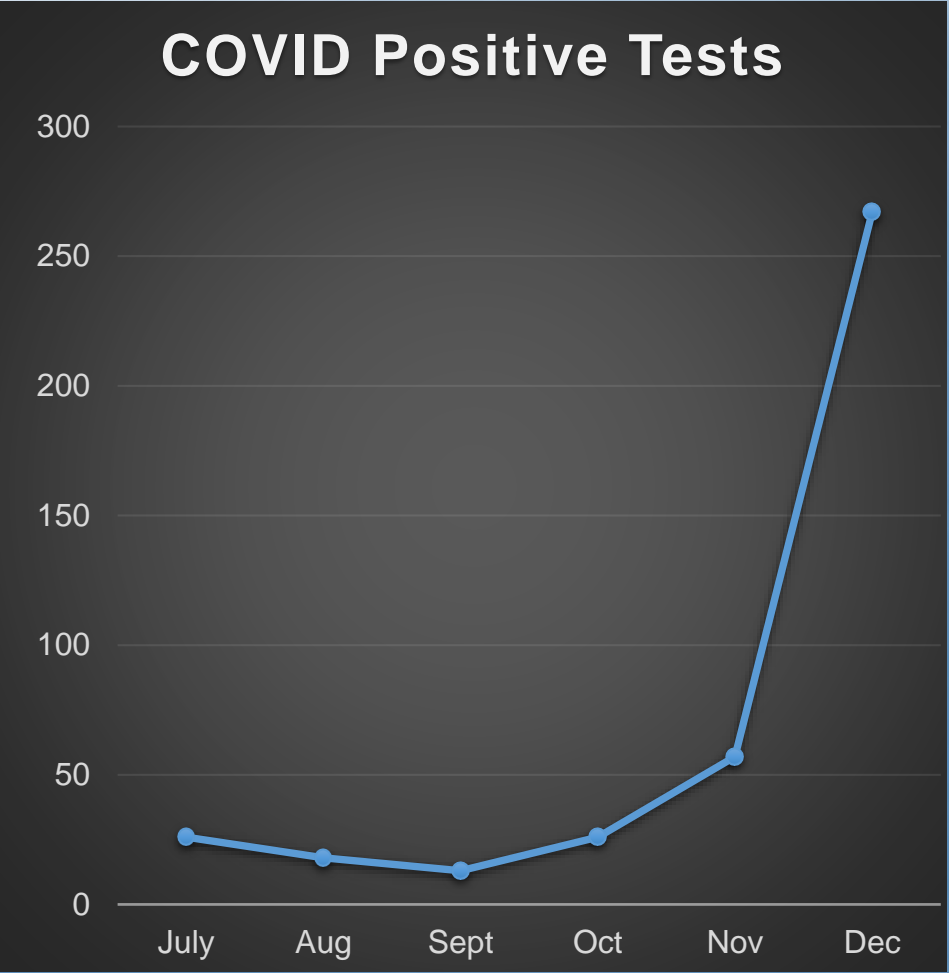


# MESSAGE FROM OUR SPONSORS

- COVID-19 positive results are increasing at an alarming rate
- Increasing infections seen in community, hospitals and workplace
- There is spread in the workplace
- There are employees coming to work ill
- There are employees coming to work after exposure to others that are ill
- There are employees not observing social distancing
- There are missed opportunities to have employees work from home
- There is a continuing need to evaluate and re-evaluate the workplace to prevent spread.



# COUNTY'S INCREASING EXPERIENCE





# DEFINITIONS

**“QUALIFYING INDIVIDUAL”** – Any person who has any of the following:

- Lab confirmed case of COVID -19
- Positive COVID diagnosis from licensed health care provider
- COVID-related order to isolate provided by a public health official
- Died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county.

# DEFINITIONS

**“INFECTIOUS PERIOD”** – as defined by CDPH.

OSHA calls it “high-risk exposure period” and defines it as:

1. Symptomatic individuals: from 2-days before they first developed symptoms until 10-days after symptoms first appeared, and 24-hours have passed with no fever and symptoms have improved.
2. Asymptomatic individuals: from 2-days before until 10-days after the specimen for their first positive test was collected

# DEFINITIONS

“**WORKSITE**” – 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.



# DEFINITIONS

**“Notice of potential exposure”** – means any of the following:

- A. Notification to the employer or representative from a public health official or license medical provider that an employee was exposed to a **qualifying individual** at the worksite.
- B. Notification to the employer or representative from an employee, or their emergency contact, that the employee is a **qualifying individual**.
- C. Notification through the testing protocol of the employer that the employee is a **qualifying individual**.
- D. Notification to an employer or representative from a subcontracted employer that a **qualifying individual** was on the **worksite** of the employer receiving notification.

# DEFINITIONS

- **“COVID-19 exposure”** (as defined by Cal/OSHA) – means being within six feet of a COVID-19 case (**qualifying individual**) for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” (AB 685’s **“infectious period”**) defined by this section. This definition applies regardless of the use of face coverings.

# WHY DOES THIS MATTER? - NOTICE

“If an employer or representative of the employer receives a **notice of potential exposure** to COVID-19, the employer shall take all of the following actions within one business day of **notice of potential exposure**”:

1. Provide written notice to all employees and the employers of subcontracted employees, who were on the premises at the same **worksite** as the **qualifying individual** within the **infectious period** that they may have been exposed to COVID-19.
2. Provide written notice to the exclusive representative, if any, of employees under paragraph 1.
3. Provide all employees (and exclusive representatives) who may have been exposed information related to COVID-19-related benefits.
4. Provide notice on the disinfection and safety plan that the employer plans to implement and complete per the guidelines of the federal Centers for Disease Control

# REQUIRED NOTICE CONTENT

## A TEMPLATE IS AVAILABLE AND COVERS THE REQUIRED CONTENT:

- COVID-related benefits to which the employee may be entitled
- Including applicable federal, state or local laws
- Including workers' compensation
- Options for exposed employees, i.e. COVID-related leave, sick leave, etc.
- The disinfection and safety plan the employer plans to implement and complete per the guidelines of the CDC
- Antiretaliation and antidiscrimination protections

-

# HOW TO PROVIDE NOTICE

- The required notice can be provided to the employee by any means reasonably anticipated to effect actual delivery.
- The code specifically mentions personal service, email or text message
- The bargaining unit receives written notice of employees that were provided the notice
  - The template includes written notice to the union
- Records of the notice must be maintained for at least three years



# AB685 VS. OSHA NOTICE



- AB685 notice goes to a broad segment of the workforce.
- AB685 notice is provided to all employees who may have been exposed to a **qualifying individual** in the in the **worksite**.
- Cal/OSHA notice goes to the few employees who are believed to have been within six feet of a **qualifying individual** (OSHA uses the term “**COVID-19 case**”) for a cumulative total of 15 minutes or more in any 24-hour period within or overlapping with the high-risk exposure period (**infectious period**).
- The OSHA notice goes to employees that must be quarantined from the workplace due to their close contact with a **qualifying individual**.
- All employees will receive the AB685 notice, and only select employees will also receive the OSHA notice.

# RECORDKEEPING

- COVID-19 cases must now be recorded like other occupational injuries and illnesses.
- The information provided to the bargaining unit shall contain the same information as required on the Cal/OSHA Form 300 injury and illness log, unless the information is inapplicable or unknown.
- However, identifying information must be excluded.
- Recommend maintaining a spreadsheet, that can be produced after deleting the employee name column:
  - Case number
  - Job title
  - Date specimen taken
  - Date of Notice
  - Worksite

[illegible]



# OUTBREAK PROCEDURE (3+)

- CDPH defines an outbreak as 3 or more COVID-19 positive results in the **worksite**.
- AB685 requires notification to Public Health **within 48 hours**. The time frame for test result is not defined, but OSHA defines it within 14 days of one another.
- Public Health currently asks that employers use a fillinable PDF to provide information. The link to the form is below. **However**, this process will likely change to an online portal in the coming months. Public Health can be reached at (805) 981-5201.
- AB685 lists the information to provide to Public Health:
  - Employee name
  - Number (of employees? Employee number?)
  - Occupation
  - **Worksite** address
  - NAICS code for the **worksite** - CEO is 921110; Sheriff is 922120
    - <https://www.naics.com/search/>

# PUBLIC HEALTH OUTBREAK FORM

CLEAR FORM

[illegible]





# CAL/OSHA AUTHORITY

- Cal/OSHA has authority over all employers, including county government
- OSHA can shut down operations in a place of employment when it believes it exposes workers to the risk of infection so as to constitute an imminent hazard.
- The code contemplates closing government facilities/operations in that closure shall be *“done in a manner so as not to materially interrupt the performance of critical government functions essential to ensuring public health and safety functions or the delivery of electrical power or water.”*
- OSHA will investigate complaints, conduct random inspections and may follow outbreaks.
- Cal/OSHA has added additional compliance staff in 2020 and expects to do so in 2021.
- Other counties have experienced Cal/OSHA inspections for COVID complaints.
- AB685 removes a 15-day waiting period to issue serious citations.

# OSHA COVID-19 REQUIREMENTS

- Written COVID-19 Prevention Plan (template from Risk Management is coming)
- Employee training
- Hazard identification and correction (conduct monthly workplace assessments)
- Social distancing and face covering enforcement
- Investigating and responding to COVID cases
- COVID testing (no-cost and during regular work hours)
- COVID case and exposure exclusion from the workplace
- Outbreak (3 or more in 14 days) requirements
- Major outbreak (20 or more in 30 days) requirements

# HOW TO PLEASE OSHA

The following factors are taken into consideration by Cal/OSHA in evaluating the level of citation:

- Training of employees and supervisors relevant to the hazard
- Procedures in place for discovering and controlling the hazard
- Supervision of employees exposed to the hazard
- Procedures for communicating to employees about the employer's health and safety rules and programs.
- Proper and up-to-date recordkeeping

# ACTION PLAN FOR COVID POSITIVE TEST

1. Protect the identity of the individual and their medical condition.
2. Interview the affected individual to determine:
  - a) The **infectious period**
  - b) Close contacts requiring OSHA notice;
  - c) The period of quarantine from the worksite needed;
  - d) Opportunities for telework while excluded from the workplace;
  - e) If the employee believes infection due to a workplace exposure provide a work comp claim form, DWC1;
3. Identify who was at the worksite during the **infectious period**.
4. Provide AB685 Notices to those at the worksite during the infectious period **within one day**.
5. Record who was given AB685 Notice for union reporting and recordkeeping purposes.
6. Provide Cal/OSHA Notification of worksite quarantine to close contacts **within one day**.
7. If this is the third positive result at the worksite within 14-days, notify Public Health at (805) 981-5201 and institute outbreak OSHA procedures.
8. Determine the maximum number of employees reporting to work at the worksite in the past 45 days.
9. Submit an SB1159 report to Risk.Management@ventura.org

# TIPS TO TAKE BACK TO WORK

- Whereever possible, permit telecommuting or remote working
- Reduce the number of employees in the worksite
- Maintain social distances between employees
  - If employees are 6' apart, you will never need an OSHA notice
- Consider work station placement and configuration
- Equip office computers with camera to permit virtual meetings
- Encourage virtual meetings even when in the workplace
- Reinforce the protective measures through training, reminders and enforcement
- **Protect the privacy of affected employees and remind supervisors and employees to do the same.**





# RESOURCES

- VC Emergency: <https://www.vcemergency.com/>
- Ventura County Recovers: <https://www.venturacountyrecovers.org/>
- Public Health Outbreak Reporting Form:
  - [https://vcportal.ventura.org/covid19/docs/2021\\_01\\_04\\_Business\\_Outbreak\\_Reporting\\_Form\\_12-31-2020.pdf](https://vcportal.ventura.org/covid19/docs/2021_01_04_Business_Outbreak_Reporting_Form_12-31-2020.pdf)
- CDPH Guidance for business: <https://covid19.ca.gov/industry-guidance/>
- HR COVID Intranet Site:
  - [Coronavirus-Related Employee Resources – Ventura County Human Resources](#)
- Cal/OSHA COVID Resources: <https://www.dir.ca.gov/dosh/coronavirus/>
- Cal/OSHA AB 685 FAQs: <https://www.dir.ca.gov/dosh/coronavirus/AB6852020FAQs.html>
- Risk Management Intranet Site: [MyVCWeb – Home](#)

# WHAT MORE CAN I TELL YOU?

