
THIRD READING

Bill No: AB 2693
Author: Reyes (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-20, 5/23/22 - See last page for vote

SUBJECT: COVID-19: exposure

SOURCE: Author

DIGEST: This bill 1) extends to January 1, 2024, the sunset date on COVID-19 related workplace reporting requirements and for the Division of Occupational Safety and Health's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard; 2) revises and recasts COVID-19 exposure reporting provisions to require employers to display a notice with information on confirmed COVID-19 cases at the worksite; 3) authorizes employers to post this information on an employer portal or continue to provide it in writing; and 4) strikes requirements in existing law pertaining to the reporting by employers of COVID-19 outbreaks to local public health agencies and the public posting of this information by the State Department of Public Health.

Senate Floor Amendments of 8/25/22 (1) strike the requirement that employers provide written notice to all employees when there has been an exposure to COVID-19 and instead requires employers to post the information, as specified; (2) require employers to keep a log of these postings and grant the Labor Commissioner access; (3) strike requirements in existing law pertaining to the reporting of COVID-19 outbreaks to local public health agencies and the public

posting of this information by the State Department of Public Health, as specified; and (4) strike and define relevant terms.

ANALYSIS:

Existing law:

- 1) Provides that, until January 1, 2023, when in the opinion of Cal/OSHA, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) so as to constitute an imminent hazard to employees, the performance of such operation or process, or entry into such place of employment, as the case may be, may be prohibited by the division, and a notice thereof shall be provided to the employer and posted in a conspicuous place at the place of employment. (Labor Code § 6325)
- 2) Requires an employer that receives a notice of potential exposure to COVID-19 to take a number of actions within one business day of the potential exposure, including, but not limited to:
 - a) Provide a written notice to all employees, as specified, 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.
 - b) Provide a written notice to the exclusive representative, if any, of the employees in a).
 - c) Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. (Labor Code §6409.6)
- 3) Requires employers who are notified of the number of COVID-19 cases that meet the definition of an outbreak, as defined, to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of the employees, as specified. (Labor Code §6409.6)
- 4) Requires the California Department of Public Health, until January 1, 2023, to make workplace industry information received from local public health departments pursuant to employer COVID-19 reporting requirements on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace. (Labor Code §6409.6)

This bill:

- 1) Extends to January 1, 2024, the sunset date for COVID-19 related workplace reporting requirements and for Cal/OSHA's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard.
- 2) Strikes provisions in existing law that require employers to notify employees in writing when they have been exposed to COVID-19 and instead requires employers to prominently display a notice (in each worksite) in all places where notices to employees concerning workplace rules or regulations are customarily posted stating all of the following:
 - a) The dates on which an employee, or employee of a subcontracted employer, with a confirmed case of COVID-19 was on the worksite premises within the infectious period.
 - b) The location of the exposures, including the department, floor, building, or other area, but the location need not be so specific as to allow individual workers to be identified.
 - c) Contact information for employees to receive information regarding COVID-19 related benefits, per existing law.
- 3) Requires that the notice described above be posted within one business day from when the employer receives a notice of potential exposure, remain posted for not less than 15 calendar days, and requires that it be in English and the language understood by the majority of employees.
- 4) Authorizes employers to satisfy this posting requirement by posting the notice in existing employee portals where the employer posts other workplace notices.
- 5) Authorizes employers, as an alternative to the worksite posting, to provide written notice to all employees, and the employers of subcontracted employees, who were on the premises of their potential exposure in a manner the employer normally uses to communicate employment-related information including, but is not limited to, personal service, email or text message, as specified.
- 6) Requires employers to keep a log of all the dates the required notice was posted at each worksite of the employer, and shall allow the Labor Commissioner access to these records, per existing law.

- 7) Limits the required employer notification to the exclusive representative of an employee, if any, to only notifying them of confirmed cases of COVID-19.
- 8) Strikes existing law references to and definition for “qualifying individuals” and specifies that the exposure notification and other employer requirements apply to confirmed cases of COVID-19.
- 9) Strikes the current definition of “close contact” and instead defines it as an individual who has been in close contact with a confirmed case of COVID-19, as defined by the Division of Occupational Safety and Health.
- 10) Provides a definition for “confirmed case of COVID-19,” as specified, strikes the term “high-risk exposure period,” and modifies the definition of “notice of potential exposure” to be consistent with the focus on confirmed cases of COVID-19.
- 11) Strikes the requirement in existing law that an employer (and relevant exemptions) notify the local public health agency in the jurisdiction of the worksite when they are notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined.
- 12) Strikes provisions in existing law requiring the State Department of Public Health to make workplace industry information received from local public health department available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry, as specified.

Background

In 2020, AB 685 (Reyes, Chapter 84, Statutes of 2020) was enacted to provide guidelines and requirements around workplace COVID-19 exposure reporting. AB 685 sought to improve our understanding of the disease’s transmission and prevalence in the workplace. The bill required employers to provide specified notices to employees and others if an employee is exposed to COVID-19. It was also a response to documented underreporting of COVID-19 cases across many industries. With Cal/OSHA relying on employers to self-report workplace infections, this led to incomplete data about COVID-19 outbreaks putting workers and ultimately their families at risk. AB 685 provided a mechanism for the Department of Public Health to collect and publish COVID-19 outbreaks by workplace industry.

In 2021, AB 654 (Reyes, Chapter 522, Statutes of 2021), among other things, clarified provisions enacted under AB 685 and added a January 1, 2023 sunset date on the COVID-19 notice of exposure provisions.

Comments

Need for this bill? According to the author, “We have seen just how rapidly COVID-19 infections spread in California’s workplaces and how workers paid the price for these outbreaks with their health and lives. The least we can do to be prepared for future variants and as we move to an endemic strategy is to continue tracking COVID-19 cases in the workplace. With infections and deaths disproportionately high in the Latino, Black, and Asian Pacific Islander communities, more information about workplace illness and industry clusters can inform policy makers in addressing healthcare disparities and protecting vulnerable workers. We must be prepared to react immediately to future variants of COVID-19. This bill will aid in stopping the spread of future variants and informing workers of workplace exposures so they can protect themselves and their families by extending the sunset on workplace reporting and notification of COVID-19 cases.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 8/26/22)

American Federation of State, County and Municipal Employees
Brotherhood of Locomotive Engineers & Trainmen, CA State Legislative Board
California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Food & Farming Network
California IATSE Council
California Labor Federation, ALF-CIO
California Professional Firefighters
California Rural Legal Assistance Foundation
California School Employees Association
California State Legislative Board, SMART Transportation Division
California Teachers Association
California Teamsters Public Affairs Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional de Desarrollo Indigena Oaxaqueno
Engineers and Scientists of CA, IFPTE Local 20
ILWU Warehouse, Processing & Distribution Workers’ Union, Local 26

Legal Aid at Work
Los Angeles Alliance for a New Economy
National Union of Healthcare Workers
Pesticide Action Network North America
SEIU California
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/Union of Health Care Professionals
United Public Employees
UNITE-HERE
Utility Workers Union of America, AFL-CIO
Warehouse Worker Resource Center

OPPOSITION: (Verified 8/26/22)

Acclamation Insurance Management Services
Allied Managed Care
California Association of Health Services at Home
California Business Roundtable
California Cable & Telecommunications Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers & Technology Association
California Railroads
California Trucking Association
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Flasher Barricade Association
Folsom Chamber of Commerce
National Federation of Independent Business
Oceanside Chamber of Commerce
Public Risk, Innovation, Solutions and Management
Urban Counties of California
Wine Institute

ARGUMENTS IN SUPPORT: According to the United Food and Commercial Workers, Western States Council, "California is moving towards a new phase in the COVID-19 fight that places testing, vaccination and support front and center. AB 685's (Reyes, 2020) tracking gives the state key data so we can focus our resources efficiently and effectively. AB 2693 will ensure these protections are kept in place as COVID-19 sadly continues to ravage our state. The next COVID-19 variant can show up any time and we can't wait for the legislature to act or go

through the legislative process every time a new variant arises. We must be prepared to react immediately to stop the spread, and extending the sunset on workplace tracking of COVID-19 cases is critical to doing that.”

ARGUMENTS IN OPPOSITION: A coalition of employers are opposed and write, “Thankfully, we are in a different world from the one where these notice requirements were put into place. The vast majority of people in California are vaccinated – and those who are not mostly remain that way by choice. Test availability has improved considerably. Case rates are low – despite the economy re-opening and in-person schooling recommencing. They conclude by stating that, “To be clear: we do not oppose notification of close contacts. However, workplace-wide notices no longer serve the purposes they did early in the pandemic. A COVID-19 case is no longer the same risk it once was due to increased vaccination and immunity in the population. Extending emergency-level notice until 2025 just doesn’t make sense.”

ASSEMBLY FLOOR: 47-20, 5/23/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Mia Bonta, Cooper, Daly, Gray, Mayes, O'Donnell, Quirk-Silva, Ramos, Blanca Rubio, Villapudua

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