

**SB 1159 Workers Compensation
COVID-19 Presumption
Cheatsheet 2020**

Provisions	<u>SB 1159 - Section 2</u>	<u>SB 1159 - Section 3</u>	<u>SB 1159 - Section 4</u>
Labor Code Section	3212.86	3212.87	3212.88
Effective Date	March 19, 2020 Codifies Executive Order	July 6, 2020 thru January 1, 2023	July 6, 2020 thru January 1, 2023
Scope of Employees	All Employees (essential workers during Executive Order and Stay-At-Home Order period)	<p>Active firefighters (active full-time, part-time and volunteers)</p> <p>Peace Officers per PC Section 830.1, 830.2(a)(b)(e)(f)(h), 830.3(a)(b), 830.37(a)(b) who are primarily engaged in active law enforcement activities</p> <p>Fire & Rescue Services Coordinators of OES (Coordinator, Senior Coordinator, Chief Coordinator)</p> <p>Employee who provides direct patient care or custodial employee in contact with COVID-19 patients, who works at a health facility (Health & Safety Code Section 1250(a)(b)(c)(m)(n))</p> <p>Registered Nurse, Emergency Medical Technician I & II, Emergency Medical Technician-Paramedic (Health & Safety Code Section 1797.50, chapter 2)</p> <p>Employee providing direct patient care for a home health agency – Health & Safety Code 1727</p> <p>Employees of health facilities not listed in (7) - Health & Safety Code 1250(a)(b)(c)(m)(n) – if no evidence of patient contact, Section 4 applies</p> <p>Employees of health facilities with who had contact with a health facility patient (Health & Safety Code Section 1250(a)(b)(c)(m)(n))</p> <p>In-home supportive services provided outside of the employee's home</p>	<p>All Other Employees not specified in LC 3212.87</p> <p>For employers with 5 or more employees</p>
Presumption	Rebuttable	Rebuttable	<p>Rebuttable</p> <p>Subdivision (e) (1) Extends eligibility up to 14 days post-termination from last day worked. Preponderance of evidence (2) Evidence to controvert presumption includes measures in place to reduce potential transmission and evidence of employee's non-occ risks of infection</p> <p>Cluster approach to presumption: Subdivision (l): A claim is not part of an outbreak if it occurs during a continuous 14 ay period where the requisite number of positive tests have not been met.</p> <p>Subdivision (m)(4) Outbreak exists if within 14 days one of the following occurs: (A) Employer has less than 100 employees = 4 employees test positive (B) Employer has more than 100 employees = 4% of employees who reported to the specific place of employment test positive (C) A specific place of employment is ordered to close by a local or state public health department, Division of Occupational Safety & Health or a school superintendent due to a risk of infection with COVID-19</p>
Injury Defined - Description	COVID-19 = the 2019 novel coronavirus disease	<p>COVID-19 = the 2019 novel coronavirus disease</p> <p>Confirmed by a COVID-19 PCR test approved by FDA Does not include serologic (aka antibody) testing May use FDA approved viral culture to detect the presence of viral RNA</p>	<p>COVID-19 = the 2019 novel coronavirus disease</p> <p>Confirmed by a COVID-19 PCR test approved by FDA Does not include serologic (aka antibody) testing May use FDA approved viral culture to detect the presence of viral RNA</p>
Injury Defined - Qualification	<p>Positive test within 14 days of last day worked</p> <p>AND</p> <p>Employee worked between 3/19/20 thru 7/5/20</p> <p>Diagnosis by MD, DO, PA, NP <u>and</u> confirmed by a COVID-19 serologic test within 30 days of diagnosis</p>	<p>If all of the following apply:</p> <p>(1) Employee tests positive within 14 days of last day worked at employee's place of employment at the employer's direction</p> <p>(2) Last day worked was on or after July 6, 2020. Date of Injury is last day worked</p>	<p>If all of the following apply:</p> <p>(1) Employee tests positive within 14 days of last day worked at employee's place of employment at the employer's direction</p> <p>(2) Last day worked was on or after July 6, 2020. Date of Injury is last day worked</p> <p>(3) Employee's positive test occurred during a period of an outbreak at the employee's specific place of employment</p>
Last Day Worked	<p>14 days prior to the positive test</p> <p>Does not include work at employee's home or residence</p>	<p>14 days prior to the positive test</p> <p>Does not include work at employee's home or residence</p>	<p>14 days prior to the positive test</p> <p>Does not include work at employee's home or residence</p>
Specific Place of Employment	(i)(2): Does not include an employee's home or residence	(i)(3): Does not include an employee's home or residence	<p>Subdivision (m)(3): (A) Building, store, facility or agricultural field where employee performs work. (Does not include employee's home or residence, unless the employee provides home health care services to another individual at the employee's home or residence (B) For employees who perform work at multiple places of employment within 14 days of the employee's positive test, the employee's positive test shall be counted for the purpose of determining the existence of an outbreak at each of those places of employment</p>

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Date of Injury	Last day worked	Last day worked	Last day worked
Apportionment	None specified	None specified	None specified
Lost Time From Work	If available, COVID-specific leave x 2 weeks, then TD, 4800, 4800.5 or 4850 if applicable. If COVID-specific pay is not available, then TD, 4800, 4800.5 or 4850 benefits shall be provided. No waiting period.	If available, COVID-specific leave x 2 weeks, then TD, 4800, 4800.5 or 4850 if applicable. If COVID-specific pay is not available, then TD, 4800, 4800.5 or 4850 benefits shall be provided. No waiting period.	If available, COVID-specific leave x 2 weeks, then TD, 4800, 4800.5 or 4850, or Ed code sections 44977, 44984, 45192, 45196, 87780, 87787, 88192, or 88196, if applicable. If COVID-specific pay is not available, then TD or 4850 benefits shall be provided. No waiting period.
Temporary Disability Eligibility	If any of the following apply: Employee tested positive or diagnosed on or after May 6, 2020, shall be certified for TD every 15 days for the first 45 days Employee tested positive or diagnosed before May 6, 2020, employee shall obtain certification by May 21, 2020 documenting disability periods, and every 15 days thereafter for the first 45 days following diagnosis TD certification must be done by MD or DO.	None specified	None specified
Compensability Determination Period	30 days	30 days	45 days
Post-Termination Filing	None specified	Up to 14 days of last day worked	Up to 14 days of last day worked
Death Benefits	DIR waives right to death benefits if no known dependent	DIR waives right to death benefits if no known dependent	DIR waives right to death benefits if no known dependent
Employer Notification of COVID cases	None specified	None specified	Subdivision (i): When employer knows or reasonably should know that employee tested positive, shall report to TPA in writing within 3 business days: (1) Employee tested positive. No personally identifiable info, unless employee has asserted it was work related or filed a claim (2) Date of positive test (date specimen collected) (3) Specific address or addresses of employee's specific place of employment during the 14 day period preceding the date of the employee's positive test. (4) Highest number of employees who reported to work at specific place of employment in the 45 day period preceding the last day the employee worked at a each specific place of employment. Subdivision (j): Employer or person on behalf of employer who submits false or misleading information or fails to submit information when reporting per subdivision (i) is subject to a civil penalty up to \$10k by the Labor Commissioner Subdivision (k) 1) TPA shall use info to determine if an outbreak has occurred. To calculate the number of employees at a specific place of employment, TPA shall utilize the data reported for the first employee who is part of the outbreak, or for claims between July 6 and the effective date of this section, the number reported under paragraph (2) 2) Any employer who is aware of an employee testing positive on/after July 6 forward, shall report to their claims administrator in writing within 30 business days of the effective date of this section, all of the data required in subdivision (i). For data pursuant to (i)(4), the employer shall report the highest number of employees who reported to work at each specific place of employment on any given work day between July through the effective date of this section. This shall be used to determine if an outbreak has occurred from July 6 forward for the purpose of applying the presumption.