

AB 1804 & 1805

Changes to Cal/OSHA's Recordkeeping and Reporting Requirements in 2020.

Presented by: Alka Ramchandani-Raj, Littler & Anthony Poston, ESM

Speakers



Littler

[Alka Ramchandani-Raj, Of Counsel](#)
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Alka Ramchandani is an attorney at Littler Mendelson where she focuses on all aspects of employment litigation including:
Representing employers in inspections, investigations & enforcement actions involving OSHA & Cal/OSHA.
Providing advice and counsel in all aspects of employment.
Conducting manager based safety training & compliance counseling.

Representing employers in discrimination & whistleblower cases and in Federal and State wage & hour cases.
Representing employers to defend Title III ADA matters.



ESM INSITE

[Anthony Poston, ARM, AIM](#)
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Anthony has over 19 years of risk management experience. He co-founded ESM in 2005 with the vision of supporting California employers with analyzing their operational challenges and developing a strategic plan that focuses on injury prevention, compliance and Worker's Compensation cost containment.

Prior to ESM he spent 5 years as a risk analyst at Charles Schwab, interpreting and implementing PATRIOT act procedures at both Charles Schwab Brokerage and Bank. He is a frequent speaker on Risk Management topics and assists employers with creating operational efficiencies that reduce Workers' Compensation risks and costs.

Assembly Bill 1804



MUST FILE CAL/OSHA 300 LOGS (INCLUDING 300A) WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS **OR** THE INSURER.



REPORT NEEDS TO BE FILED **WITHIN 5 DAYS** AFTER EMPLOYER OBTAINS KNOWLEDGE OF INJURY OR ILLNESS.



REPORT MUST INCLUDE SOCIAL SECURITY NUMBER



MUST ALSO SEND THE REPORT TO THE INSURER, AND THE INSURER MUST FILE WITH THE DIVISION, A COPY OF THE EMPLOYER'S REPORT.



EMPLOYER NEEDS TO AMEND A REPORT IF A FATALITY OCCURS AFTER THE 5 DAY PERIOD, WITHIN 5 DAYS OF NOTICE OF THE DEATH OF THE EMPLOYEE.



Assembly Bill 1804

Serious injury or illness, or death must be reported immediately by telephone or through specified online mechanism.

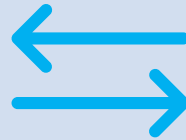
May make the report by telephone or email until online mechanism established.

\$5,000 penalty for no report of serious injury.

Assembly Bill 1805



The bill changes the definition of “serious injury or illness” by removing the 24-hour minimum time requirement for qualifying hospitalizations, excluding medical observation or diagnostic testing, and the “loss of an eye.”



Changes the definition of “serious exposure.”



Changes the duties of OSHA requiring faster response and confidentiality of the person submitting a complaint.

Assembly Bill 1805

“Serious Injury or Illness”

“**Serious injury or illness**” means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization, for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone.

Assembly Bill 1805

“Serious Exposure”

“**Serious exposure**” means any exposure of an employee to a hazardous substance when the exposure occurs as a result of an incident, accident, emergency, or exposure over time and is in a degree or amount sufficient to create a realistic possibility that death or serious physical harm in the future could result from the actual hazard created by the exposure.

Assembly Bill 1805



If the division receives a **complaint from an employee**, an employee's representative, including, but not limited to, an attorney, health or safety professional, union representative, or government agency representative, or an employer of an employee directly involved in an unsafe place of employment, **that their employment or place of employment is not safe**, it shall, with or without notice or hearing, summarily **investigate the complaint as soon as possible**, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation.

Assembly Bill 1805

- A complaint is deemed to allege a serious violation:
 - If the division determines that there is a realistic possibility that death or serious physical harm could result from a condition that exists,
 - or from one or more processes that have been adopted or are in use
- When a complaint charging a serious violation is received from a state, local prosecutor, or local law enforcement agency, the division shall investigate the employment within 24 hours of receipt.
 - All other complaints are deemed to allege nonserious violations.

Assembly Bill 1805



- The division shall:
 - Keep complete and accurate records of all complaints and shall inform the complainant of any action taken by the division and the reasons for the action, within 14 calendar days.
 - Conduct an informal review of any refusal by a representative of the division to issue a citation with respect to an alleged violation.
 - Furnish the employee requesting the review a written statement of the reasons for the division's final disposition of the case.

What Do Employers Do Now?



- Review your processes for recordkeeping and reporting. Update as needed.
- Retrain managers on new processes for Compliance
 - New definition of Serious
 - New definition of Exposure
- When in doubt about contacting Cal-OSHA about a “Serious” injury, error on the side of caution.

Resources

- AB 1804:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1804
- AB 1805:
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1805
- Cal/OSHA (Department of Industrial Relations):
www.dir.ca.gov

For more information, please contact:



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Thank you!