

# COVID-19 PRESUMPTION STATUTES



## LABOR CODE § 3212.86

## LABOR CODE § 3212.87

## LABOR CODE § 3212.88

WHO'S COVERED	Employees diagnosed with COVID-19 from 3/19/20 to 7/5/20	Frontline workers (i.e. police, fire, and healthcare workers) through 1/1/2024	All others if an outbreak occurs at place of employment through 1/1/2024
REQUIREMENTS FOR PRESUMPTION	<ol style="list-style-type: none"> <li>1. Work at place of employment at the employer's direction between March 19, 2020, and July 5, 2020;</li> <li>2. Test positive for or diagnosed with COVID-19 within 14 days after a day working at place of employment;</li> <li>3. Place of employment not employee's residence; and</li> <li>4. If #2 satisfied with diagnosis, diagnosis is confirmed by testing or by a COVID-19 serologic test within 30 days of the date of the diagnosis.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prove qualifying frontline workers</li> <li>2. Work at place of employment at the employer's direction on or after July 6, 2020;</li> <li>3. Test positive with COVID-19 within 14 days after a day working at place of employment; and</li> <li>4. Place of employment not employee's residence.</li> </ol>	<ol style="list-style-type: none"> <li>1. Work at place of employment at the employer's direction on or after July 6, 2020;</li> <li>2. Test positive with COVID-19 within 14 days after a day working at place of employment;</li> <li>3. Positive test occurred during an outbreak at the place of employment.</li> <li>4. Place of employment not employee's residence unless he/she provides home health care services to another individual at the home or residence.</li> </ol>
REBUTTABLE	Yes	Yes	Yes
EXTENSION OF PRESUMPTION	No	14 days from last day worked	14 days from last day worked
BENEFITS AVAILABLE	Workers' Compensation Only	Workers' Compensation Only	Workers' Compensation Only
INVESTIGATION PERIOD	30 days	30 days	45 days
CREDIT COVID-19 BENEFITS	Yes	Yes	Yes
TD WAITING PERIOD	No	No	No
TD REPORTING REQUIREMENTS	TD certified by doctor within 15 days of initial diagnosis and recertified every 15 days for first 45 days	None	None
WAIVER OF DEATH BENEFITS BY DIR	Yes	Yes	Yes

# EMPLOYER REPORTING REQUIREMENTS



## CLAIMS FROM JULY 6, 2020 - SEPTEMBER 16, 2020

## CLAIMS ON OR AFTER SEPTEMBER 17, 2020

FORM OF REPORT	Email or Fax	Email or Fax
TIME LIMIT TO REPORT	30 business days from September 17, 2020	Three business days from knowledge of a positive test
REQUIRED INFORMATION	<ol style="list-style-type: none"> <li>1. An employee has tested positive without personally identifiable information unless employee asserts a claim or files a claim form.</li> <li>2. The date that the employee tests positive, which is the date the specimen was collected for testing.</li> <li>3. The specific address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test.</li> <li>4. The highest number of employees who reported to work at each of the employee's specific places of employment on any given workday between July 6, 2020, and the effective date</li> </ol>	<ol style="list-style-type: none"> <li>1. An employee has tested positive without personally identifiable information unless employee asserts a claim or files a claim form.</li> <li>2. The date that the employee tests positive, which is the date the specimen was collected for testing.</li> <li>3. The specific address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test.</li> <li>4. The highest number of employees who reported to work at the employee's specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.</li> </ol>
PENALTIES	LC 5414.3, "Notwithstanding Section 5814, when liability has been unreasonably rejected for claims of injury or illness as defined in Sections 3212 to 3213.2, inclusive, the amount of the penalty shall be five times the amount of the benefits unreasonably delayed due to the rejection of liability, but in no case shall the penalty exceed fifty thousand dollars (\$50,000)."	

Claims administrators must use information reported to determine if an outbreak has occurred for the purpose of administering a claim. If an outbreak occurred from July 6, 2020 to the effective date, claims administrators must use the information for the purpose of applying the presumption. An outbreak exists if within 14 calendar days one of the following occurs at a specific place of employment:

1. Four employees test positive for COVID-19 at a specific place of employment with 100 employees or fewer.
2. Four percent of the number of employees test positive for COVID-19 where more than 100 employees reported to the specific place of employment.
3. The place of employment is ordered to close due to a risk of infection with COVID-19 by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health or a school superintendent.

To calculate the number of employees at a specific place of employment, the claims administrator must utilize the data reported for the first employee who is part of the outbreak. A claim is not part of an outbreak if it occurs during a continuous 14-day period where the requisite number of positive tests have not been met. If an employee performs work at the employer's direction in multiple places of employment within 14 days of the employee's positive test, the employee's positive test must be counted at each of those places of employment, and if an outbreak exists at any one of those places of employment, that shall be the employee's "specific place of employment."