



SAFETY NEWS BULLETIN

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Cal/OSHA (AB 1804 and 1805)

Changes to the Definitions of Serious Injury & Illness and Reporting Requirements

Assembly Bills 1804 and 1805, recently signed into law, change the definition of serious injuries and illnesses and how these incidents can be reported to Cal/OSHA. Both go into effect on January 1, 2020.

What did Assembly Bills 1804 and 1805 change?

- AB 1804 amends California Labor Code, section 6409.1 by changing the methods employers can use to report work-related serious injuries, illnesses, and deaths to Cal/OSHA.
- AB 1805 amends California Labor Code, section 6302 by changing the definitions of serious injury and illness, and serious exposure; and
- AB 1805 also amends California Labor Code, section 6309 to change the definition of serious violation for purposes of determining whether complaints filed with Cal/OSHA are deemed to allege serious violations.

How have the definitions of serious injury, illness, and exposure changed regarding immediate reporting to Cal/OSHA?

Regarding reporting to Cal/OSHA, a serious injury or illness is now defined as one involving:

- **any hospitalization, regardless of length of time, for other than medical observation or diagnostic testing** (removing the 24-hour minimum time requirement for qualifying hospitalizations);
- **amputation;**
- **loss of an eye; or**
- **serious degree of permanent disfigurement.**

Accidents that result in serious injury or illness, or death that occur in a construction zone on a public street or highway are now included by statute. Work-related injuries, illnesses and deaths caused by the commission of a Penal Code violation are no longer excluded from the definition of "serious injury or illness".

A serious exposure is now defined as an exposure to a hazardous substance that 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.

What changed about the ways that employers can report serious injuries and illnesses and fatalities to Cal/OSHA?

Prior to the enactment of AB 1804, employers could report serious injuries and illnesses and fatalities to Cal/OSHA by telephone or email. AB 1804 allows employers to continue to make such reports by telephone or through a specified online mechanism that Cal/OSHA will establish for reporting. Until Cal/OSHA creates the online reporting mechanism, employers may continue to make reports by telephone or email. Employers are always encouraged to immediately report serious injuries and illnesses and fatalities by telephone to the nearest enforcement district office.

How has Cal/OSHA's definition of a serious violation changed regarding complaints?

Regarding conditions alleged in a complaint, Cal/OSHA's definition of a serious violation is one where there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the condition alleged in the complaint.

Serious injury or illness is now defined as follows:

Labor Code § 6302(h) "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.

Serious exposure is now defined as follows:

Labor Code § 6302(i) "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.

Important Reminder: Employers continue to be required to report "serious injuries and illnesses" immediately but no later than **eight (8) hours** after the employer knows, or with diligent inquiry would have known of the death or serious injury or illness. Failure to do so can result in significant financial fines and penalties.

Reporting Serious Injury and Illness to Cal/OSHA

Click the following link to find your local Cal/OSHA office to report:

<https://www.dir.ca.gov/dosh/report-accident-or-injury.html>

Source: Department of Industrial Relations Cal/OSHA

Sincerely,

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Mission Statement: A worthy enterprise is based on educating and servicing.
Thomas Herold, President