

ESIS Workers Compensation Legislative Update: California

Changes to California Workers Compensation Reporting Requirements

Effective January 1, 2020

Please be advised that on August 30, 2019, the Governor of California approved AB 1804, Committee on Labor and Employment. Occupational injury and illnesses: reporting.

The law amends Labor Code Section 6904.1(b), and requires employers to report serious occupational injury, illness, or death to the Division of Occupational Safety and Health immediately by telephone or through an online mechanism established by the division for that purpose. The bill requires that employers be permitted to make the report by telephone or email until the division has made the online mechanism available. Once an online reporting mechanism is established, employers may only report by telephone or through the online mechanism.

Details of AB 1804

Specifically, Section 6409.1 of the Labor Code is amended to read:

- (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, of each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial Relations or, if an insured employer, with the insurer, on a form prescribed for that purpose by the department. A report shall be filed concerning each injury and illness which has, or is alleged to have, arisen out of and in the course of employment, within five days after the employer obtains knowledge of the injury or illness. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file with the division immediately upon receipt, a copy **of the employer's report, which has been received** from the insured employer. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the reported injury or illness, the employer shall file an amended report indicating the death with the department or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. A copy of any amended reports received by the insurer shall be filed with the division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or through a specified online mechanism established by the division for this purpose. Until the division has made such an online mechanism available, the employer shall be permitted to make the report required by this subdivision by telephone or email. An employer who violates this subdivision may be assessed a civil penalty of not less than five thousand dollars (\$5,000). Nothing in this subdivision shall be construed to increase the maximum civil penalty, pursuant to Sections 6427 to 6430, inclusive, that may be imposed for a violation of this section.

Notes and Clarifications

We are also pleased to provide the following notes to clarify the meaning of AB 1804. These definitions are found in the California Code of Regulations (CCR), Title 8, Section 342. Reporting.

8 CCR § 342(a) - Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

8 CCR § 330(h) - "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

Have More Questions?

Click [here](#) for more information on California AB 1804, please contact your Partnership Leader.