

CAL/OSHA ETS TO ALIGN WITH UPDATED CDC GUIDELINES

The California Department of Occupational Safety and Health Administration (Cal/OSHA) has adopted new guidelines that align with the Center for Disease Control and Prevention's (CDC) updated standards which were released on December 27, 2021.

On December 30, 2021, the California Department of Public Health (CDPH) issued an update which aligns the COVID-19 isolation and quarantine timeframes with the CDC. An Executive Order by Governor Newsom requires the CDPH standards to be the default rule for the Cal/OSHA ETS exclusion periods and return to work requirements.

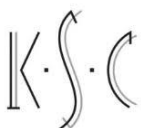
The most notable change is that the isolation period for many employees is reduced to five days, if the employee is asymptomatic or has had any symptoms resolve and has had a negative COVID-19 test drawn on or after the fifth day. A memo provided by **Barsamian & Moody** is attached with a complete overview of the new standard. The new requirements are set to take effect on January 14th. Employers should update their COVID-19 Prevention Policies with these new revised guidelines.

The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH EXTENDING INDOOR MASK MANDATE THROUGH FEBRUARY 15TH

On January 5th, the California Health and Human Services Secretary Dr. Mark Ghaly announced the extension of California's indoor mask mandate through February 15th. The change comes as the state has seen an increase in COVID-19 cases in recent weeks. The guidance requires face coverings to be worn in all indoor public settings regardless of vaccination status. To read the updated mandate, please visit (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>).

NEW LEGISLATION TO TAKE EFFECT IN 2022



The team at **Kahn, Soares & Conway, LLP** has provided an overview of new legislation of that went into effect on January 1st.

Minimum Wage:

In accordance with the timeline established by SB 3 (Leno), signed in 2016 by California's previous Governor Jerry Brown, the state's minimum wage will increase by one dollar until it reaches \$15.00/hr. for all employees in 2023. At that point, "the rate will be adjusted annually for inflation based on the national consumer price index for urban wage earners and clerical workers (CPI-W)." This year, the new minimum wage rates are as follows:

- For employers with 25 employees or less, minimum wage will go up to \$14.00/hr.
- For employers with 26 employees or more, minimum wage will go up to \$15.00/hr.

Labor Code section 1182.12 defines "employer" as: "any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person [and] includes the state, political subdivisions of the state, and municipalities." Employees are considered to be "any individual performing any kind of compensable work for the employer who is not a bona fide independent contractor... including salaried executives, part-time workers, minors, and new hires." The Labor Commissioner's FAQ page regarding these increases can be found by visiting (https://www.dir.ca.gov/dlse/FAQ_MinimumWage.htm).

Schedule for Changes to Daily and Weekly Hours After Which Agricultural Workers Receive Overtime Pay		
Effective date for employers with 26 or more employees	Effective date for employers with 25 or fewer employees	Overtime (1.5x regular rate of pay) required after the following hours per day / hours per week:
Jan. 1, 2019	Jan. 1, 2022	8.5 / 55
Jan. 1, 2020	Jan. 1, 2023	9 / 50
Jan. 1, 2021	Jan. 1, 2024	8.5 / 45
Jan. 1, 2022*	Jan. 1, 2025*	8 / 40

*Double the regular rate of pay required after 12 hours in a workday.

Ag Overtime:

Enacted in 2016, AB 1066 (Gonzalez) created a schedule phasing in overtime requirements for agricultural workers over the course of 4 years, from 2019 to 2022. "Beginning

January 1, 2022, the bill [will] require any work performed by a person, employed in an agricultural occupation, in excess of 12 hours in one day to be compensated at the rate of no less than twice the employee's regular rate of pay. The bill [will] provide employers who employ 25 or fewer employees an additional 3 years to comply with the phasing in of these overtime requirements." The timetable published by the Department of Relations for overtime pay can be found below.

An FAQ on this overtime requirement can be found at (<https://www.dir.ca.gov/dlse/Overtime-for-Agricultural-Workers-FAQ.html>).

SB 606 (Gonzalez):

Currently, the law requires the Division of Occupational Safety and Health to issue a citation for a violation of provisions relating to the spraying of asbestos, or any standard, rule, order, or regulation established pursuant to specified provisions of the California Occupational Safety and Health Act of 1973 if, upon inspection or investigation, the division believes that an employer has committed a violation.

SB 606 broadens Cal/OSHA's scope of enforcement by establishing a rebuttable presumption that a violation committed by an employer that has multiple worksites is enterprise-wide if:

1. The employer has a written policy or procedure that violates these provisions, except as specified; or
2. The division has evidence of a pattern or practice of the same violation committed by that employer involving more than one of the employer's worksites.

The bill authorizes the division to issue an enterprise-wide citation requiring enterprise-wide abatement if the employer fails to rebut such a presumption.

SB 606 also requires Cal/OSHA to issue a citation for each “egregious violation” to an employer the Division believes to have willfully violated an occupational safety or health standard.

“A violation is an ‘egregious violation’ if one or more of the following is true about that employer or the willful violations committed by it:

1. The employer, intentionally, through conscious, voluntary action or inaction, made no reasonable effort to eliminate the known violation.
2. The violations resulted in worker fatalities, a worksite catastrophe, or a large number of injuries or illnesses. For purposes of this paragraph, ‘catastrophe’ means the inpatient hospitalization, regardless of duration, of three or more employees resulting from an injury, illness, or exposure caused by a workplace hazard or condition.
3. The violations resulted in persistently high rates of worker injuries or illnesses.
4. The employer has an extensive history of prior violations of this part.
5. The employer has intentionally disregarded their health and safety responsibilities.
6. The employer’s conduct, taken as a whole, amounts to clear bad faith in the performance of their duties under this part.
7. The employer has committed a large number of violations so as to undermine significantly the effectiveness of any safety and health program that may be in place.”

SB 1383 (Lara):

SB 1383 (2016) sets forth methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP). The targets must:

- Reduce organic waste disposal 50% by 2020 and 75% by 2025.
- Rescue for people to eat at least 20% of currently disposed surplus food by 2025.

Certain food businesses will be required to donate the maximum amount of edible food they would otherwise dispose, to food recovery organizations. The law phases food donors in under two tiers. The first tier is required to donate starting in 2022. The second tier is required to donate starting in 2024.

Though these targets will not be evaluated based on a “good faith effort” standard, CalRecycle has stated their primary concern is on compliance, and “will dedicate enforcement efforts to the most egregious offenders.”

To view CalRecycle’s FAQ on SB 1383’s implementation, by visiting (<https://www.calrecycle.ca.gov/organics/slcp/faq>).

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For any questions, please contact Adam Borchard (aborchard@cafreshfruit.com).

CFFA SEEKING INPUT FOR 2022 WAGE AND BENEFIT SURVEY

CFFA is conducting a wage and benefit survey among its membership to provide a market reference for Association members making important labor decisions for their businesses in 2022. Results from the survey will be compiled anonymously in an aggregated, tabulated manner based on commodity, contract labor, and type of operation.

To complete the survey, please see attached. If you have any questions, please contact Adam Borchard (aborchard@cafreshfruit.com).

SAVE THE DATE FOR THE 51ST ANNUAL GOLF TOURNAMENT



The California Fresh Fruit Association is set to hold its 51st Annual Golf Tournament on Friday, March 4th, 2022.

Join friends and colleagues at the Kings River Golf & Country Club in Kingsburg for a day of fun! Registration, sponsor forms and more information will be available this month.

CROP INSURANCE ENDORSEMENT



During its November meeting, the CFFA Board of Director’s voted to continue the endorsement of **Rain and Hail Insurance Service, LLC**, for 2022. This is the 26th consecutive year of the partnership and both organizations truly value the relationship.

All crop insurance companies operate with uniform rates and some growers may not be concerned about who their provider is. The Association would like to help you with that decision by recommending Rain and Hail Insurance because of its commitment to the agricultural industry and the company’s financial strength.

Again, the Association recommends Rain and Hail Insurance for its members. Rain and Hail Insurance works with numerous agencies throughout California to provide this coverage.

Please be aware the crop insurance deadline for peaches, plums, nectarines, apricots, cherries, table grapes, pears and apples are January 31st.

If you have questions, please contact Ian LeMay at (559) 226-6330 or Craig Gonzales at (559) 224-2300.

CALIFORNIA TABLE GRAPE COMMISSION ACCEPTING SCHOLARSHIP APPLICATIONS



The **California Table Grape Commission** has announced there are three types of college scholarships available for students in the table grape growing regions of California to apply for.

Two types of scholarships are offered for field workers: one for \$25,000 for those attending a four-year California university or college and one for \$14,500 for those attending two years of community college followed by two years at a California university or college. A third type of \$25,000 scholarship is for those interested in studying agriculture at a California university or college and building a career in the table grape industry. Three of each scholarship will be awarded.

The deadline for all scholarship applications is Friday, February 11, 2022. For more information please visit (<https://www.grapesfromcalifornia.com/community-outreach/>).