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How Car Washes Can Respond to COVID-19 Cases in the Workplace

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Agenda

- **Emergency Paid Sick Leave Act**
- **Employee(s) tests positive for COVID-19**
- **OSHA Recordkeeping & Reporting for COVID-19 Cases**



Emergency Paid Sick Leave Act

Emergency Paid Sick Leave

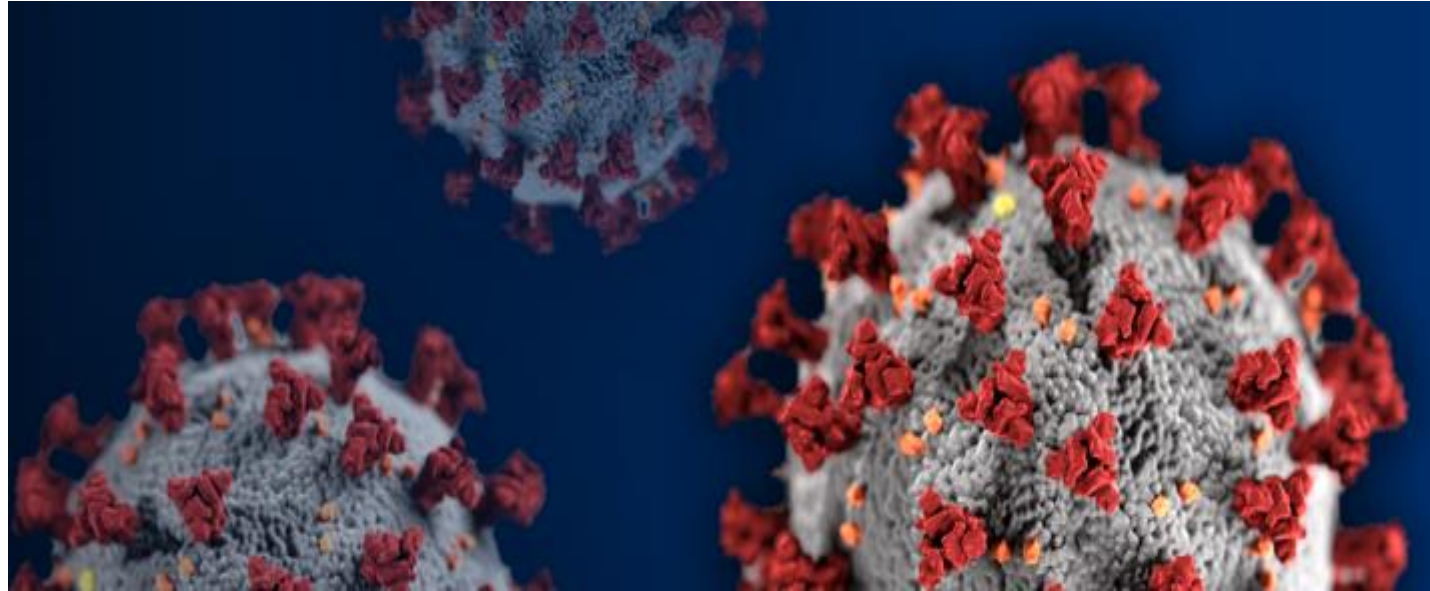
- Private employers with *fewer than 500* employees
 - Small business exemption applies only for leave for child care due to school or place of care closure
- Any employee is eligible (unlike eFMLA, no 30 day wait period)
 - Flexible
- Covered employers must provide paid sick time to the extent that the employee is **unable to work (or telework)** due to a need for leave because the employee:
 1. is subject to a Federal, State, or local **quarantine or isolation order** related to COVID-19;
 2. has been **advised by a health care provider to self-quarantine** due to concerns related to COVID-19;
 3. is **experiencing symptoms of COVID-19** and seeking a medical diagnosis;
 4. is **caring for an individual** who is subject to a quarantine order as described in (1) or has been advised to self-quarantine as described in (2);
 5. is **caring for a son or daughter** of such employee if the **school or place of care** of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions;
 6. is experiencing any other substantially-similar **condition specified by the U.S. Department of Health and Human Services**.



What to do when an employee(s) tests positive for COVID-19



Basic COVID-19 Response Plan



Quarantine
diagnosed
employee

Notify &
isolate exposed
co-workers*

Clean and
disinfect the
workplace

Notify your local
health
department*

Determine when
employees
may return to
work



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Isolate Diagnosed Employee

- Isolate employee if she/he is at work and send home
- If employee is home, the employee must isolate at home until approved to return to work
- CDC states employers should not require proof of positive test or doctor's note before sending an employee home
- Paid sick leave under FFCRA



Notify Potentially Exposed Co-workers

- Contact tracing (**6 – 15 – 48 Rule**) – identify & notify:
 - All individuals who worked in close proximity (within **6 feet**);
 - For a prolonged period of time (at least **15 minutes** per CDC); and
 - During the period of **48 hours** before the symptoms began until the diagnosed employee is cleared to discontinue home isolation)
- Isolate exposed employees with symptoms for at least 10 days
- Exposed critical infrastructure workers without symptoms need not quarantine
- What about notice to others (i.e., entire workplace, customers, vendors)?



Clean and Disinfect the Workplace

“Normal” vs. “Professional” disinfecting



Working with your local health department (LHD)

- **Texas Administrative Code**
 - Any person with knowledge that a person is suspected of having COVID-19 should notify the LHD OR TX Health & Human Services department and provide all information known to them concerning the illness and physical condition of such person
- CDC **recommends** working with your local health department when dealing with diagnosed employees
- Employers should consider reporting diagnosed employees to LHD
 - Special considerations for businesses open to the public (also consider notice to the public)
 - Recommended for “cluster” cases



COVID-19 Return to Work Policy

WHO?	NEXT STEPS	RETURN TO WORK
<p>Employees who test positive for COVID-19 with symptoms.</p> <p><u>AND</u></p> <p>Employees with COVID-19 symptoms but no positive diagnosis.</p>	<ul style="list-style-type: none">• Contact your supervisor or HR immediately to inform them of your test results.• Stay home until 10 days have passed since symptoms appeared.• Follow CDC recommendations while at home.	<p>You may return to work after meeting the criteria for one of the following options:</p> <p><u>Option 1: Symptom-Based Strategy</u></p> <ul style="list-style-type: none">• 3 days with no fever; and• Symptoms improved; and• 10 days since symptoms first appeared.* <p><u>OR</u></p> <p><u>Option 2: Test-Based Strategy</u></p> <ul style="list-style-type: none">• No fever without the use of fever reducing medications; and• Other symptoms have improved (e.g., cough, shortness of breath); and• Employee receives 2 negative tests in a row, 24 hours apart. <p><u>OR</u></p> <p><u>Option 3: Combination</u></p> <ul style="list-style-type: none">• 3 days with no fever; no other symptoms; 10 days have passed since symptoms first appeared;* and• You provide proof of a negative test result after 10 days of isolation.



COVID-19 Return to Work Policy

WHO?	NEXT STEPS	RETURN TO WORK
Employees who test positive for COVID-19 without symptoms (asymptomatic).	<ul style="list-style-type: none">• Contact your supervisor or HR immediately to inform them of your test results.• Stay home until 10 days have passed since test.• Follow CDC recommendations while at home.	<p>If you continue to have no symptoms, you may return to work after:</p> <p><u>Option 1:</u> 10 days have passed since test.*</p> <p><u>OR</u></p> <p><u>Option 2:</u> Test-Based Strategy</p> <ul style="list-style-type: none">• No fever without the use of fever reducing medications; and• Other symptoms have improved (e.g., cough, shortness of breath); and• Employee receives 2 negative tests in a row, 24 hours apart. <p><u>OR</u></p> <p><u>Option 3:</u> Combination</p> <ul style="list-style-type: none">• 10 days have passed since you tested positive for COVID-19; and• You provide proof of a negative test result after 10 days of isolation.



COVID-19 Return to Work Policy

WHO?	NEXT STEPS	RETURN TO WORK
<p>Exposed employees without symptoms in critical infrastructure sectors</p> <p>“Exposed” employees refer to employees who came in close contact (less than 6 feet) for extended periods of time (at least 15 minutes) with the infected employee during the 48hour period before either:</p> <p>(i) the infected employee developed symptoms of COVID-19 or</p> <p>(ii) the infected employee took the COVID-19 test.</p>	<ul style="list-style-type: none"> • Contact your supervisor or HR immediately to inform them of your exposure to COVID-19. • Continue monitoring for COVID-19 symptoms. • If you begin experiencing COVID-19 symptoms while at work, notify your supervisor and go home immediately. • Follow CDC recommendations while at home. 	<p>You may return to work. However, you must follow these practices prior to and during your work shift:</p> <ol style="list-style-type: none"> 1. Pre-Screen: Employers should measure the employee’s temperature (ideally before the individual enters the facility) and assess symptoms prior to them starting work. 2. Regular Monitoring: The employee should self-monitor under the supervision of their employer’s occupational health program. 3. Wear a Mask: The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. 4. Social Distance: The employee should maintain 6 feet and practice social distancing as work duties permit in the workplace. 5. Disinfect and Clean Work Spaces: Clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment routinely.



COVID-19 Testing

- Can you require an employee to take a COVID-19 test . . . ?
 - EEOC says yes
 - *Caveat* – must ensure testing is accurate and reliable
 - Cannot require employees to take antibody test (per EEOC)
- Avoid discrimination claims – test all employees or have a reasonable basis for testing select employees
- Other issues



Other Best Practices

- Temperature & symptom checks
- Face shields (protects eyes, as well as nose and mouth)
- Quarantine after international travel or cruise; avoid non-essential travel
- Document your compliance efforts

OSHA Recordkeeping & Reporting for COVID-19 Cases

OSHA Recordkeeping

- OSHA May 19, 2020 Guidance
- COVID-19 is a recordable illness if:
 1. The case is a confirmed case of COVID-19;
 2. The case is work-related as defined by 29 CFR § 1904.5; and
 3. The case involves one or more of the general recording criteria set forth in 29 CFR § 1904.7.



OSHA Recordkeeping - Work-Relatedness

- COVID-19 illnesses are likely work-related when these circumstances arise and there is no alternative explanation:
 - several cases develop among workers who work closely together;
 - it is contracted shortly after lengthy, close exposure to a particular customer or coworker who has a confirmed case of COVID-19; or
 - job duties include having frequent, close exposure to the general public in a locality with ongoing community transmission.



OSHA Recordkeeping - Work-Relatedness

- An employee's COVID-19 illness is likely not work-related if the employee:
 - is the only worker to contract COVID-19 in her vicinity and her job duties do not include having frequent contact with the general public; or
 - closely and frequently associates with someone outside the workplace who (1) has COVID-19; (2) is not a coworker, and (3) exposes the employee during the period in which the individual is likely infectious.



OSHA Recordkeeping - General Recording Criteria

- OSHA recording criteria:
 - Any work-related fatality.
 - Any work-related injury or illness that results in loss of consciousness, days away from work, restricted work, or transfer to another job.
 - Any work-related injury or illness requiring medical treatment beyond first aid.
 - Any work-related diagnosed case of cancer, chronic irreversible diseases, fractured or cracked bones or teeth, and punctured eardrums.
 - There are also special recording criteria for work-related cases involving: needlesticks and sharps injuries; medical removal; hearing loss; and tuberculosis.



OSHA Reporting

- **COVID-19 Hospitalization** – must be reported within 24 hours after the employee's in-patient hospitalization
- **COVID-19 Fatality** – must be reported within 8 hours after a death that occurred as a result of a work-related incident
- Potential exceptions



Questions



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