

LEGISLATIVE REVIEW

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NEW ORDER UPDATES BUSINESS GUIDANCE EFFECTIVE UNTIL JULY 1, 2020

Gov. Mike DeWine announced Friday that State Health Director Dr. Amy Acton signed two new orders. One updated order contains many of the same provisions already in place under the order it replaces. The order updates **business guidance** on operations, social distancing and more and the other updates language regarding the sale of spiritous liquor.

OSHA REVERSES COURSE, REQUIRES EMPLOYERS TO TRACK COVID-19 CASES

The U.S. Occupational Safety and Health Administration announced last week a significant reversal of previous policy on an employer's obligation to record work-related cases of COVID-19 on OSHA injury and illness logs. The new requirements went into effect Tuesday, May 26.

As with the previous guidance, OSHA acknowledged that it will be difficult to establish that a particular COVID-19 case is "work-related." But the new guidance does place additional obligations on most employers to conduct an investigation and to make a reasonable determination as to whether the illness was transmitted on the job.

It should be noted that the new guidance applies only to employers currently subject to OSHA's recordkeeping requirements. Due to employee size limitations, many home builders are exempt from most of the new requirements.

Employers who are subject to OSHA's recordkeeping requirements must record a case of COVID-19 as job-related if:

1. It is a confirmed case of the virus (a positive test),

2. It is “work-related” in that an event or exposure in the work environment either contributed to or caused an employee to contract the virus, and
3. It results in death, days away from work, restricted work or transfer, or medical treatment beyond first aid.

Employers who have no recordkeeping obligations need only report work-related COVID-19 illnesses resulting in an employee’s death or in-patient hospitalization, amputation, or loss of an eye. But those employers must still investigate positive tests to determine if the case is work-related.

OSHA will consider the “reasonableness” of an employer’s investigation when determining compliance. The new guidance concedes that employers are not expected to undertake extensive medical inquiries, given privacy concerns and most employers’ lack of medical expertise. However, in most circumstances, employers should complete the following steps when they learn of a COVID-19 case:

- Ask the employee how they believe they contracted the illness.
- Discuss with the employee, while respecting privacy concerns, the activities both inside and outside of work that may have led to the illness.
- Review the employee’s work environment for potential COVID-19 exposure.

OSHA recognizes that determining the work-relatedness of a COVID-19 diagnosis is difficult for most employers, and noted that it would consider certain types of evidence that weigh in favor or against work-relatedness. For example, it is likely the virus was contracted at work if several cases develop among workers who work closely together and there is no alternative explanation. Conversely, if only one worker at a site tests positive, it is likely not work-related.

LEGISLATIVE UPDATES

HB 246 PUCO OCC (VITALE, N.) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.

The House Public Utilities Committee Thursday adopted a substitute version of Rep. Nino Vitale's closely watched bill (**HB 246**) to "modernize and reform" the Public Utilities Commission of Ohio and the Ohio Consumers' Counsel. (**Substitute Bill**)

In doing so, the panel replaced the single-sentence placeholder bill with a version that includes a host of provisions. Among the numerous items added to HB 246 was language from a bill (**HB 20**) prohibiting condominium, homeowners and neighborhood associations from imposing unreasonable limitations on installing solar collector systems on roofs or exterior walls. OHBA has been watching HB 20, and is currently reviewing all the other utility provisions included in the substitute bill.

SB 308 CIVIL IMMUNITY (HUFFMAN, M.) To revise the law governing immunity from civil liability and professional discipline for health care providers during disasters or emergencies, to provide qualified civil immunity to service providers providing services during and after a government-declared disaster, and to declare an emergency. The Senate Judiciary Committee continues to hear testimony and adopted a substitute last week.

HB 606 CIVIL IMMUNITY (GRENDALL, D.) To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency. HB 606 bars civil action related to deaths, injuries or losses tied to transmission of COVID-19 in cases without reckless or intentional conduct. Other provisions in the emergency legislation, which passed 83-9, attempt to shield the state and local governments from coronavirus-related suits.

HB 380 CONSTRUCTION PAYMENTS (Cross, J., Sweeney, B.) To require owners of construction projects to pay a contractor within thirty-five days of receiving a request for payment. No hearings of HB 380 are currently scheduled for this week.

SB 212 PROPERTY TAXATION (Schuring, K.) To authorize townships and municipal corporations to designate areas within which new homes and improvements to existing homes are wholly or partially exempted from property taxation. There are no hearings of SB 212 currently scheduled for this week.

Feel free to contact OHBA with any questions or concerns at (614)228-6647