

By: Hinojosa

H.B. No. 4445

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain requirements regarding worksite exposures to
3 illness related to public health emergencies; providing a civil
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Title 3, Labor Code, is amended by adding Chapter
7 104A to read as follows:

8 CHAPTER 104A. REQUIREMENTS RELATED TO CASES AND EXPOSURE AT
9 WORKSITES RELATED TO A PUBLIC HEALTH EMERGENCY

10 Sec. 104A.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Workforce
12 Commission.

13 (2) "Public health emergency" means a determination by
14 the commissioner of the Department of State Health Services,
15 evidenced in an emergency order issued by the commissioner, that
16 there exists an immediate threat from a communicable disease,
17 health condition, or chemical, biological, radiological, or
18 electromagnetic exposure that:

19 (A) potentially poses a risk of death or severe
20 illness or harm to the public; and

21 (B) potentially creates a substantial risk of
22 harmful exposure to the public.

23 (3) "Department" means the Department of State Health
24 Services.

1 (4) "Employee" means an individual who is employed by
2 an employer for compensation.

3 (5) "Employer" means a person who employs one or more
4 employees. The term includes a public employer.

5 (6) "Infected individual" means an individual who:

6 (A) has a laboratory-confirmed illness related
7 to a public health emergency; or

8 (B) is ordered by a local health authority, the
9 department, or another governmental entity to isolate or quarantine
10 due to exposure to a disease, health condition, or other illness
11 related to a public health emergency; or

12 (C) dies and whose cause of death is determined
13 to be related to a disease, health condition, or other illness
14 related to a public health emergency.

15 Sec. 104A.002. NOTICE TO EMPLOYEES AND SUBCONTRACTORS
16 REGARDING POTENTIAL EXPOSURE RELATED TO A PUBLIC HEALTH EMERGENCY.

17 (a) Not later than the next calendar day that the employer's
18 worksite is open to employees after the date an employer becomes
19 aware that an infected individual was present at the employer's
20 worksite while infectious, including through receiving notice from
21 an infected employee or the employee's emergency contact, a
22 subcontractor, a health care provider, or a local health authority,
23 the employer shall:

24 (1) provide written notice of potential exposure to
25 any employee, and the employer of any subcontractor, who was
26 present in the same area of the worksite at any time the infected
27 individual was present;

1 (2) provide to each employee described by Subdivision
2 (1) written information regarding any:

3 (A) public health emergency-related benefits to
4 which the employee may be entitled under state or federal law,
5 including workers' compensation benefits;

6 (B) types of leave which may be available to the
7 employee under state and federal law, which may include public
8 health emergency-related leave, sick leave, state-mandated leave,
9 and supplemental sick leave; and

10 (C) applicable anti-retaliation and
11 anti-discrimination protections; and

12 (3) provide to all employees and to employers of any
13 subcontractors information regarding the disinfection of the
14 worksite and the employer's safety plan under any state or federal
15 public health emergency guidelines established.

16 (b) An employer shall provide the notice required under
17 Subsection (a)(1):

18 (1) in English, Spanish, and any other language spoken
19 by a substantial portion of the employees and subcontractors at the
20 employer's worksite; and

21 (2) in a manner that can reasonably be anticipated to
22 be received not later than the next calendar day after the date the
23 employer sends the notice, including by delivering the notice in
24 person or by e-mail or text message.

25 (c) An employer shall maintain records of the notices
26 provided under this section for at least one year.

27 Sec. 104A.003. REPORT REGARDING PUBLIC HEALTH

1 EMERGENCY-RELATED WORKSITE OUTBREAK. (a) This section does not
2 apply to a health care facility, as defined by Section 108.002,
3 Health and Safety Code.

4 (b) Not later than 48 hours after the time an employer
5 becomes aware that the number of illnesses or cases related to a
6 public health emergency at the employer's worksite constitutes a
7 worksite outbreak, as determined by the rules adopted under Section
8 104A.009, the employer shall report the outbreak to the applicable
9 local health authority and provide to the health authority:

10 (1) the name, phone number, occupation, and worksite
11 location of each employee who is an infected individual;

12 (2) the employer's business address; and

13 (3) the North American Industry Classification System
14 (NAICS) code for the worksite at which the infected individuals
15 work.

16 (c) After making a report to a local health authority under
17 Subsection (b) regarding a worksite, an employer must report to the
18 health authority any subsequent illnesses or cases related to the
19 public health emergency at the worksite immediately after the
20 employer becomes aware of the cases.

21 Sec. 104A.004. PUBLIC INFORMATION ABOUT PUBLIC HEALTH
22 EMERGENCY-RELATED WORKSITE OUTBREAKS. (a) A local health
23 authority shall promptly provide to the department any information
24 reported by an employer to the health authority under Section
25 104A.003.

26 (b) The department shall post on the department's Internet
27 website the information received from local health authorities

1 under Section 104A.003 in a manner that allows the public to track
2 the number and frequency of public health emergency-related
3 worksite outbreaks and the number of public health
4 emergency-related illnesses or cases and worksite outbreaks by
5 industry.

6 (c) The commission shall include on the commission's
7 publicly accessible Internet website a clearly marked direct link
8 to the information posted by the department under Subsection (b).

9 Sec. 104A.005. CONFIDENTIALITY OF EMPLOYEE INFORMATION.
10 Personally identifiable employee information collected under this
11 chapter is confidential, is not subject to Chapter 552, Government
12 Code, and may not otherwise be released or made public by any
13 person.

14 Sec. 104A.006. EMPLOYEE DISCLOSURE OF MEDICAL INFORMATION.
15 In complying with this chapter, an employer may not require an
16 employee to disclose medical information unless otherwise required
17 by state or federal law.

18 Sec. 104A.007. RETALIATION PROHIBITED; COMPLAINT;
19 ENFORCEMENT. (a) An employer may not take retaliatory personnel
20 action or otherwise discriminate against an employee because the
21 employee discloses a positive public health emergency-related
22 diagnostic test, a diagnosis of an illness or case related to a
23 public health emergency, or an order to quarantine or isolate due to
24 an illness or case related to a public health emergency.

25 (b) An individual aggrieved by a violation of this section
26 may file a complaint with the commission. A complaint filed under
27 this section is subject to Subchapters E and F, Chapter 21.

1 (c) The commission shall enforce this section in the manner
2 prescribed by Chapter 21 for a violation of that chapter.

3 Sec. 104A.008. ENFORCEMENT OF CERTAIN NOTICE REQUIREMENTS;
4 CIVIL PENALTY. (a) An employer who violates Section
5 104A.002(a)(1) or (3) is subject to a civil penalty not to exceed
6 \$10,000 for each violation.

7 (b) A civil penalty may be recovered in a suit brought by the
8 attorney general, a district attorney, or a county attorney.

9 Sec. 104A.009. RULES; FORMS. (a) The executive
10 commissioner of the Health and Human Services Commission shall
11 adopt rules for determining the number of cases that constitute a
12 public health emergency-related worksite outbreak for purposes of
13 Section 104A.003 based on the number of employees and
14 subcontractors usually at the worksite.

15 (b) The department shall develop and make available
16 standardized forms for providing the notice required under Section
17 104A.002 and the report required under Section 104A.003.

18 SECTION 2. This Act takes effect September 1, 2021.