



## **Virginia Takes a Vital Step to Protect its Workers from COVID-19**

On July 15, Virginia became the first state in the nation to take affirmative steps to protect all its essential workers from the spread of COVID-19. In a new [emergency temporary standard](#), the state imposed specific and detailed requirements for what employers must do to protect their employees. The standard was the result of advocacy by various workers' rights groups, including farmworker serving organizations. This is an important first step to ensuring that the essential workers keeping us all safe, healthy, and fed are themselves protected during the current crisis.

Specifically, the regulations require that all employers, regardless of the type of work their employees perform each day, take certain steps to minimize the spread of COVID-19, including assessing their workplace for risk; developing and implementing policies and procedures through which their employees can report symptoms; ensuring flexibility in sick leave policies; implementing physical distancing requirements; and guaranteeing access to soap and water on the job site. Employers are also required to report the existence any positive COVID-19 cases to other employees who may have been exposed as well as to local health authorities.

Additional requirements vary based on the exposure risk employees are likely to face on the job. For example, tasks such as intubating a patient or performing an autopsy are labeled "very high" risk, while other health care work is designated "high" risk. Agricultural jobs, as well as poultry, meat, and seafood processing jobs, are a "medium" risk. As such, to the extent feasible, agricultural employers must implement policies for prescreening or surveying employees for signs or symptoms of COVID-19; provide face coverings for any workers who have customer-facing jobs or are not able to physically distance; ensure that any air-handling systems are appropriately installed; provide training to employees; and assess whether personal protective equipment is required for any especially hazardous tasks. Where possible, employers must also implement flexible work hours or staggered shifts, increase physical distancing, and install physical barriers between employees' worksites.

As a standard issued by the Virginia Safety and Health Codes Board, these requirements will be [enforced by Virginia's Department of Labor and Industry](#). Employers who fail to comply will be issued citations and ordered to pay [mandatory fines for any serious violations](#). Any employees who believe that their employers have violated the requirements may [file a complaint](#) and request an inspection of the worksite. Moreover, employers are prohibited from retaliating against employees who exercise their rights under these standards, choose to wear their own personal protective equipment, or raise reasonable concerns about the conditions of their workplace. But as with any labor standard, there are serious obstacles to employer compliance, including the political will of the government to take action to enforce the law and the ability of vulnerable

workers, including undocumented workers and guestworkers, to challenge unlawful and unsafe conduct.

Importantly, this standard imposes requirements on subcontractors and protects all workers, including those with temporary jobs and those who are employed through a joint employer relationship.

This regulation is in immediate effect as of July 15, 2020, and is set to expire either within six months, at the expiration of the Governor's state of emergency, when superseded by a more permanent code, or if repealed by Virginia's Safety and Health Codes Board.

Virginia has taken laudable action to ensure that the workers serving our communities are safe and protected. Other states should follow suit.