



# **Agritourism and COVID**

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# DISCLAIMER

- I am not an employment lawyer and this is not intended to be legal advice.
- Seek counsel with an employment lawyer and/or insurance agent if you have any specific questions about your business.

# CORONAVIRUS AND AGRICULTURE

- Phase III Guidelines cover safety measures for your customers and employees.
- Department of Labor and Industry Emergency Temporary Standard more strict regulations for employees.
- Some precautions are included in both, but the ETS is more extensive covering employees.

# **CORONAVIRUS AND AGRICULTURE**

- Phase III Guidelines for all businesses.
- CDC and USDOL Guidelines for farm labor and employees
- VDACS Guidelines for Horse Shows and Livestock Auctions
- VDACS Guidance on Farmers Markets
- Comply with everything feasibly possible and DOCUMENT, DOCUMENT, DOCUMENT

# FUNDING AVAILABLE

- AFID Grants
- Rebuild Virginia Fund
- CARES Act Programs
  - PPP
  - EIDL
  - USDA Commodity and Specialty Grants

# ETS TIMELINE

- Governor Northam's Executive Order 63 instructs Commissioner of Labor and Industry to develop regulations for all businesses covered under VOSH.
- DOLI releases draft regulations on **June 12, 2020**.
- The Health and Safety Codes Board met 4 times virtually between June 24 and July 15.
- The Virginia Health and Safety Codes Board adopted the ETS on **July 15**. It was published in the **RTD** on **July 27**.

# EMPLOYERS OF ALL SIZES AND RISK LEVELS

- Conduct exposure assessment
  - Assess workplace for hazards and job tasks that could expose employees to COVID-19
  - Classify each employee according to the hazards they are potentially exposed to:
    - “very high”
    - “high”
    - “medium”
    - “lower”
- Develop policies for employees to report COVID-19 symptoms, return to work policy

# **EMPLOYERS OF ALL SIZES AND RISK LEVELS**

- Notifications if an employer receives confirmation of a positive test
  - Notify employees within 24 hours of positive test
  - Notify other employers that have access to the farm
  - Notify VA Department of Health
  - Notify VA Department of Labor and Industry

# DEFINITION: MEDIUM RISK

- *Poultry, meat, and seafood processing*
- *agricultural and hand labor*
- *commercial transportation of passengers by air, land, and water;*
- *on campus educational settings in schools, colleges, and universities;*
- *daycare and afterschool settings; restaurants and bars; grocery stores, convenience store, and food banks;*
- *drug stores and pharmacies; manufacturing settings, indoor and outdoor construction settings; correctional facilities, jails, detentions centers, and juvenile detention centers; retail stores; call centers; package processing settings; veterinary settings; personal care, personal grooming , salons, and spas; sports,*
- *entertainment, movie, theater, etc., venues ; homeless shelters; fitness, gym, and exercise facilities; airports, and train and bus stations; etc.*

# **VERY HIGH, HIGH AND 11 MEDIUM EMPLOYEES+ REQUIRE WRITTEN RESPONSE PLAN**

- Employers with at least 11 medium risk employees and higher designations are required to have a written COVID-19 response plan and must designate a COVID-19 manager in charge of implementing the plan.
- Any employers that employ those with “medium”, “very high” or “high” risk employees must provide training for all employees and have a written certification documenting this training.

# **VERY HIGH, HIGH AND 11 MEDIUM EMPLOYEES+ REQUIRE WRITTEN RESPONSE PLAN**

- PPE Assessment
  - Provide any required PPE as determined by your plan
  - Employees engaging with the public must wear a face covering.
- Transportation counts!
  - Have to ensure social distancing while transporting customers or employees on the farm.
  - If social distancing is not possible, then PPE must be worn in the vehicle.

# MEASURES WITHIN FEASIBILITY

- Create a return to work policy for those employees that test positive or show symptoms of COVID-19. This can be test based or symptom based.
- Screen employees for COVID Symptoms prior to the start of the shift.
- Increased sanitary measures.
- Provide hand sanitizer or hand washing stations.
- Limit non-essential visitors to the farm.
- Mandatory social distancing for employees or proper face coverings.

# **TIMELINE FOR COMPLIANCE**

- ETS cannot conflict with Governor's EOs or Phases
- Employers must train employees on ETS within 30 days
- Employers must train employees on response plan within 60 days
- Employers must prepare response plan within 60 days

# ENFORCEMENT & CIVIL ACTION

- Department of Labor and Industry violations of Virginia Occupation of Safety and Health penalties would apply based on the severity of the infraction.
- Rates are adjusted by CPI-U every August 1<sup>st</sup> by the Commissioner.

## New Statutory Maximum Penalties

- |                                  |  |
|----------------------------------|--|
| • Serious and Other-than-serious | From \$12,726 to <b>\$13,047</b>                 |
| • Willful and Repeat             | From \$127,254 to <b>\$130,463</b>               |
| • Failure-to-Abate               | From \$12,726 per day to <b>\$13,047 per day</b> |

# RESOURCES

Find the full regulation and compliance materials here:

<https://www.doli.virginia.gov/covid-19-outreach-education-and-training/>

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