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 and 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 1st by the Commissioner.

New Statutory Maximum Penalties

- Serious and Other-than-serious  From $12,726 to $13,047
- Willful and Repeat  From $127,254 to $130,463
- Failure-to-Abate  From $12,726 per day to $13,047 per day
Find the full regulation and compliance materials here:

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