

## **There's a New Sheriff in Town – OSHA Is Getting Serious About COVID-19 Fines**

Article By:

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As we previously [reported](#), OSHA recently launched a [National Emphasis Program](#) (NEP), focusing efforts on workplace COVID-19 concerns. The NEP guidance specifies that OSHA will be directing heightened enforcement efforts on companies that put the largest number of workers at serious risk of contracting the coronavirus, such as hospitals, assisted living centers, and other health care and emergency response providers treating COVID-19 patients. The NEP guidelines also note that in an anti-retaliation effort, OSHA will be targeting establishments where employees have complained about unsafe or unhealthy environments.

As the owner of a Lynn, Massachusetts, tax preparation service quickly found out this week, OSHA is serious about these efforts – and the NEP guidelines apply to businesses beyond hospitals or nursing homes. Specifically, Liberty Tax Service was slapped with a \$136,532 fine after an OSHA investigation made a determination of coronavirus-related negligence on March 17, 2021, mere days after the NEP was launched.

The company was cited by OSHA for:

- Failing to provide adequate means of ventilation at the workplace
- Prohibiting employees and customers from wearing face coverings in the workplace
- Requiring employees to work within six feet of each other and customers for multiple hours while not wearing face coverings
- Failing to implement controls such as physical barriers, pre-shift screening of employees, enhanced cleaning, and other methods to reduce the potential for person-to-person transmission of COVID-19

In response to the citation, OSHA Regional Administrator Galen Blanton in Boston commented, “Stopping the spread of this virus requires business’ support in implementing COVID-19 Prevention Programs, and ensuring that staff and customers wear face coverings and maintain physical distance from each other.” Blanton then added, “This employer’s willful refusal to implement basic

safeguards places her employees at an increased risk of contracting and spreading the coronavirus.”

This example from Massachusetts is not the only strong indication that we can expect heightened COVID-19-related OSHA activity in the months to come. Just last week, on April 9, 2021, President Biden nominated Douglas Parker as Assistant Secretary for OSHA. Parker is currently the chief of California’s Division of Occupational Safety and Health, which has been issuing coronavirus-related citations throughout the state since implementing a COVID-19 emergency temporary standard. We can expect to see Parker taking his experience in implementing these measures in California and proceeding in a similar vein at the federal level.

In addition, individual states beyond California are passing their own legislation imposing enforceable workplace safety standards aimed at preventing the spread of COVID-19. For example, Maryland legislators have sent the [COVID-19 Workplace Safety Bill](#) to Gov. Larry Hogan’s desk and, if he signs it, Maryland will become the sixth state to enact such laws. On the other hand, a number of state governors and legislatures are attempting to prohibit businesses from mandating mask-wearing by their customers and employees, which will place employers in a potential quandary when faced with possible fines from the federal OSHA.

Bottom line: Employers in all sectors need to be vigilant about following COVID-19-related safety protocols and taking employee health complaints seriously in order to avoid potentially steep OSHA fines.

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