



Workers' Compensation Insurance Stakeholder Meeting

Legislative Proposal to Exempt Certain Licensees from Workers' Compensation Requirements

**November 19, 2024
10:00 a.m. – 11:30 a.m.**

Contractors State License Board
John C. Hall Hearing Room – First Floor
9821 Business Park Drive
Sacramento, CA 95827

and via

Microsoft Teams
[Teams Meeting Access Link](#)

AGENDA

- 1. Introductions**
- 2. Issue** – [Senate Bill 1455](#), the Contractors State License Board's (CSLB) sunset extension bill, delayed the requirement for all licensees to hold workers' compensation (WC) insurance to January 1, 2028, and directed CSLB to establish a process for verifying eligibility for an exemption to WC insurance requirements.
- 3. Review of Draft Legislative Proposal**
 - a. Require WC insurance for all licensed contractors commencing January 1, 2027, (one year prior to the current January 1, 2028, mandatory date) unless otherwise exempted, regardless of classification.
 - b. Allow licensees to file an exemption provided they certify they:
 - i. Do not undertake construction projects costing \$5,000 or more for labor and materials.
 - ii. Have not been disciplined for failure to maintain WC insurance previously.
 - c. Require licensees seeking the WC insurance exemption to:
 - i. Pass a short open book test on WC insurance requirements.
 - ii. Sign under penalty of perjury that they do not have employees, and they understand the penalty for violations.

- d. Establish a minimum administrative fine of \$10,000 for any sole owner licensee found to have employed workers without WC. Establish a minimum administrative fine of \$20,000 for any partnership, corporation, limited liability company, or tribal business licensee found to have employed workers without WC. Establish progressive fine amounts for subsequent violations.
- e. Require licensees found to have violated these provisions to provide proof to CSLB they hold a WC insurance policy before their license is reinstated, or preclude reinstatement for a designated period of time.
- f. Provide that licensees with an inactive license status are not required to hold WC insurance.
- g. Require CSLB to adjust the construction project threshold amount for labor and materials for inflation every three years pursuant to the Consumer Price Index.
- h. Authorize CSLB to conduct compliance checks on licensees who claim an exemption.

BACKGROUND

Pursuant to Business and Professions Code (BPC) section 7125, a contractor must have a certificate of workers' compensation (WC) insurance or certificate of exemption (exemption) on file at all times with CSLB as a condition of licensure. A contractor may file an exemption if they certify they have no employees. Five license classifications are precluded from filing an exemption and must have WC on file regardless of whether they have employees (C-8 Concrete, C-20 Warm-Air Heating, Ventilating and Air-Conditioning, C-22 Asbestos Abatement, C-39 Roofing, and D-49 Tree Service contractors). All licensees, regardless of classification or whether they have employees, will be required to hold WC insurance beginning January 1, 2028.

ISSUE

In 2022, CSLB sponsored [Senate Bill 216](#), requiring WC insurance for four additional classifications (it was already required for roofing) and requiring WC insurance for all licensees starting January 1, 2026. In response to concerns, [SB 1455](#) delayed the requirement for all licensees to hold WC insurance to January 1, 2028, and reinstated the WC exemption, directing CSLB to establish a process for verifying eligibility for the exemption. Further, Senator Bill Dodd, the author of SB 216, has requested CSLB identify a way for contractors to legally avoid purchasing a workers' compensation policy when they truly do not have workers. Two industry stakeholder meetings have failed to develop a viable plan.

STAFF PROPOSAL

Staff propose licensees who claim not to have employees be allowed to file an exemption from WC insurance requirements; however, subject licensees with an exemption on file face steep penalties if it is subsequently determined they do have employees. Specifically, Contractors State License Law should be amended to:

1. Require WC insurance for all licensed contractors commencing January 1, 2027, (one year prior to the current January 1, 2028, mandatory date) unless otherwise exempted, regardless of classification.
2. Allow licensees to file an exemption provided they certify they:
 - a. Do not undertake construction projects costing \$5,000 or more for labor and materials.
 - b. Have not been disciplined for failure to maintain WC insurance previously.
3. Require licensees seeking the WC insurance exemption to:
 - a. Pass a short open book test on WC insurance requirements.
 - b. Sign under penalty of perjury that they do not have employees, and they understand the penalty for violations.
4. Establish a minimum administrative fine of \$10,000 for any sole owner licensee found to have employed workers without WC. Establish a minimum administrative fine of \$20,000 for any partnership, corporation, limited liability company, or tribal business licensee found to have employed workers without WC. Establish progressive fine amounts for subsequent violations.
5. Require licensees found to have violated these provisions to provide proof to CSLB they hold a WC insurance policy before their license is reinstated, or preclude reinstatement for a designated period of time.
6. Provide that licensees with an inactive license status are not required to hold WC insurance.
7. Require CSLB to adjust the construction project threshold amount for labor and materials for inflation every three years pursuant to the Consumer Price Index.
8. Authorize CSLB to conduct compliance checks on licensees who claim an exemption.

JUSTIFICATION

There are concerns about the cost of WC for licensees who do not have employees and derive no benefit from carrying WC insurance. Further, licensed contractors may decide to let their licenses lapse rather than pay for WC insurance, creating a barrier to licensure. However, CSLB's enforcement actions reveal that many licensees with an exemption from WC insurance on file do indeed have workers.

In addition to easing financial burdens for licensees and potential barriers to licensure, reinstating the WC exemption may prevent a loss in revenue and increased workload when the WC for all requirement goes into effect in 2028. A fee study conducted in 2020 by CSLB determined that sole owners make up 60% of CSLB's licensing population. CSLB anticipates a potential decrease of approximately 10% or \$8 million in renewal

revenue due to contractors choosing not to renew their licenses rather than obtain WC insurance. In addition, 118,000 or 49% of licensed contractors have an exemption on file. Further, once the requirement for all licensees to carry WC insurance is in effect, CSLB will need additional staff to handle the increased workload from this population filing WC certificates, adding to CSLB's expenditure levels. WC insurance certificates must be reviewed for accuracy and are often returned for corrections. Additionally, when WC certificates expire or are canceled, CSLB must notify the licensee before suspending the license.

On balance, processing exemptions is less labor intensive. Most WC insurance exemptions are handled electronically, whereas WC insurance certificates require staff review, possible correction, expiration or cancellation notification to the licensee, and possible license suspension and reinstatement. Staffing resources to handle 118,000 WC insurance certificates is far greater than staff resources needed to handle 118,000 exemption forms.

This proposal would allow reasonable exemptions from WC insurance requirements, while deterring licensees from misrepresenting whether they have employees due to significant penalties for violations. It preserves WC insurance requirements under most circumstances so that workers can avail themselves of benefits when they are injured or sickened on the job. In the event a worker gets hurt or ill while working for an illegally uninsured employer, they may be entitled to benefits by the Uninsured Employers Benefit Trust Fund, a program under the Department of Industrial Relations that pursues reimbursement of expenditures from the responsible employer through all available avenues, including filing property liens. Lastly, this proposal would not compromise consumer protection.

RECENT LEGISLATION

[SB 1455](#) (Ashby, Chapter 485, Statutes of 2024) delays provisions requiring all licensees to hold workers' compensation (WC) insurance until January 1, 2028. This bill also requires CSLB to establish a process for a WC insurance exemption.

[SB 216](#) (Dodd, Chapter 978, Statutes of 2022) requires C-8 Concrete, C-20 Warm-Air Heating, Ventilating and Air-Conditioning, C-22 Asbestos Abatement, and D-49 Tree Service contractors to have workers' compensation insurance, regardless of whether they have employees, by January 1, 2023. This bill extends WC insurance requirements to all contractors, regardless of classification or whether they have employees, by January 1, 2026.