

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 216 (Dodd) – As Amended June 1, 2022

Policy Committee:	Business and Professions	Vote:	15 - 0
	Insurance		11 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill expands the license classifications required to obtain and maintain workers' compensation insurance as a condition of licensure with the Contractors State License Board (CSLB) regardless of whether the licensee has employees.

Specifically, this bill:

- 1) Adds, until January 1, 2026, the C-8 (concrete contractors), C-20 (HVAC contractors), C-22 (asbestos abatement contractors) and D-49 (tree service contractors) license classifications to the license classifications required to obtain and maintain workers' compensation insurance, as specified, even if the contractor has no employees, as a condition of being licensed by the CSLB.
- 2) Requires, beginning January 1, 2026, all licensing classifications under the CSLB's jurisdiction to obtain and maintain workers' compensation insurance, as specified, even if that contractor has no employees, as a condition of being licensed by the CSLB.
- 3) Exempts joint ventures from the workers' compensation insurance requirements, as specified.
- 4) Prohibits the CSLB Registrar of Contractors (Registrar) from accepting certificates of exemption from workers' compensation on behalf of a licensee beginning January 1, 2026.

FISCAL EFFECT:

- 1) CSLB anticipates, based on experience with a similar requirement imposed on roofing contractors, a potential decrease in renewal revenue as a result of contractors who choose to not renew their licenses rather than obtain workers' compensation insurance as required by this bill. The exact decrease is unknown, but, for illustration purposes, a 5% decline in the relevant license population would equate to a revenue loss of \$120,000 to \$185,000 (various special funds) annually, for two fiscal years, and then approximately \$1.7 million to \$2.6 million (various special funds) annually, for two fiscal years beginning January 1, 2026, when all CSLB's licensing classifications are included in the bill's requirements. To the extent a revenue loss occurs, it would be a permanent loss and would likely be offset to some degree by an associated reduction in costs to CSLB.

- 2) CSLB anticipates minor and absorbable administrative costs. The mechanism for contractors and insurance companies to electronically submit a workers' compensation insurance certificate is available on CSLB's internet website. CSLB does not anticipate needing additional staff to process the additional certificates for licensees who are currently exempt.

COMMENTS:

- 1) **Purpose.** This bill is sponsored by CSLB. According to the author:

Contractors with an exemption from workers compensation insurance on file with CSLB are routinely found to have employees at active construction sites or in the investigation of consumer complaints. Contractors failing to obtain workers compensation insurance for their employees are placing workers, homeowners, and themselves at risk. By mandating all contractors have a workers' compensation policy, the insurers will play a vital role in determining the appropriate premium and identifying cheaters.

- 2) **Background.** Existing law requires all C-39 roofing contractors to have workers' compensation insurance, regardless of whether they have any employees. All other licensees must carry workers' compensation insurance only if they have at least one or more employees. Applicants and licensees are required to submit to CSLB a valid Certificate of Workers' Compensation Insurance, a valid Certification of Self-Insurance from the Department of Industrial Relations, or a signed exemption certifying that they do not have any employees.

Failure to maintain workers' compensation insurance coverage results in a license being suspended and any work performed while the license is suspended is considered unlicensed and disciplinary action can be taken against a licensee. Existing law states any licensee or agent thereof who violates the workers compensation requirements is guilty of a misdemeanor.

According to CSLB, every year, only about 45% of licensed contractors file proof of workers' compensation insurance with CSLB. The remaining 55% file a "certificate of exemption" with CSLB, claiming to have no employees. CSLB research and enforcement efforts suggest it is unlikely that 55% of licensed contractors have no employees. While CSLB has and will take disciplinary action against a contractor found to have employees with an exemption on file, CSLB does not have sufficient staff to audit the 123,000 contractor license entities who claim to have no employees.

This bill initially adds four specialty contractor license classifications to the requirement of having workers' compensation insurance regardless of whether or not they have employees. Beginning January 1, 2026, this bill requires all CSLB licensees to meet the workers' compensation insurance requirement, regardless of whether or not they have employees.

- 3) **Related Legislation.** AB 2894 (Cooper) requires, beginning July 1, 2023, all active licensees, at the time of renewal, to provide workers' compensation classification codes to CSLB. AB 2894 is pending in the Senate Appropriations Committee.

SB 1064 (Newman) requires structural pest control companies to provide proof of workers' compensation for company registration with or licensure by the California Structural Pest Control Board.

- 4) **Prior Legislation.** AB 2705 (Holden), Chapter 323, Statutes of 2018, subjects an unlicensed person acting as a contractor to existing criminal penalties applied to licensed contractors for not securing the required workers' compensation, and makes this crime subject to the same two-year statute of limitations as for licensees.

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