
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2023 - 2024 Regular

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| Bill No: | AB 336 | Hearing Date: | June 12, 2023 |
| Author: | Cervantes and Megan Dahle | | |
| Version: | April 12, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Elissa Silva | | |

Subject: Contractors: workers' compensation insurance.

SUMMARY: Requires a contractor licensee, at the time of renewal, to certify on a license renewal form the three workers' compensation classification codes for which the highest estimated payroll is reporter, as specified.

Existing law:

- 1) Establishes the CSLB within the Department of Consumer Affairs (DCA) to license and regulate contractors and home improvement salespersons. (Business and Professions Code (BPC) § 7000 *et seq.*)
- 2) Requires the CSLB in consultation with the Director of DCA to appoint a registrar of contractors (registrar) and sunsets the CSLB and its authority to appoint a registrar on January 1, 2024, as specified. (BPC § 7011)
- 3) Requires as a condition of initial licensure, reinstatement, reactivation, renewal or continued maintenance of a license, a current and valid certificate of workers compensation insurance or certification of Self-Insurance, as specified, unless the applicant or licensee meets both of the following conditions:
 - a) Has no employees and filed a statement with the CSLB certifying that they do not employ any person in any manner, as specified; and,
 - b) Does not hold a C-8 (concrete), C-20 (air heating and air conditioning), C-22 (asbestos abatement), C-39 (roofing contractor license), D-49 (tree), and a C-61 (specialty) and sunsets these exemptions on January 1, 2026. (BPC § 7125 (a)(b))
- 4) Requires an insurer, including the State Compensation Insurance Fund, to report to the registrar the name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if applicable, for any policy required, as specified. (BPC § 7125(d)).
- 5) Requires a workers' compensation insurer to report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer, if specified conditions are met. (BPC § 7125(d)(2))

- 6) States that willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar against the licensee. (BPC § 7125 (d)(3))
- 7) Requires the registrar to remove the C-39 classification from a license unless a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance is received by the registrar, for any license on or after January 1, 2013, as specified. (BPC § 7125 (f)(1))
- 8) Requires a license to be automatically suspended for a license that is a C-39 Classification removed as specified in (7) above and has been found by the registrar to have employees and to lack a valid Certificate of Workers Compensation of Self-Insurance, for any licensee who is licensed after January 1, 2013. (BPC § 7125 (f)(2))
- 9) Requires the registrar to remove the C-8, C-20, C-22, or D-49 classification from a license unless a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance is received by the registrar, for any license on or after July 1, 2023, as specified.
- 10) Requires a license to be automatically suspended for a license that is a C-8, C-20, C-22, or D-49 classification removed as specified in (9) above and has been found by the registrar to have employees and to lack a valid Certificate of Workers Compensation of Self-Insurance, for any licensee who is licensed after July 1, 2023.

This bill:

- 1) Requires, at the time of renewal, all active licensees who have on file a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or who are required to provide those certificates, as specified, to certify on the license renewal form for the three workers' compensation classification codes for which the highest estimated payroll is reported on the policy.
- 2) States that for number 1) above, if the licensee has fewer than three classification codes reported on the policy, the licensee must provide every classification code reported on the policy.
- 3) States that the CSLB is not required to verify or investigate the accuracy of the licensee's classification code or codes provided by the licensee, and is not liable for any codes misreported by a licensee.
- 4) Prohibits a license from being renewed unless the licensee complies with the requirements of reporting workers' compensation classification codes as specified in 1) above, unless the documentation and information is not provided with the renewal form but is received within 30 days after notification by the CSLB of the renewal rejection, the registrar may grant a retroactive renewal, as specified.
- 5) States that a renewal that is still incomplete after 30 days of the rejection notification is not eligible for retroactive renewal as specified in 4) above.

- 6) Requires the CSLB to update the public license detail on its internet website with the classification code or codes certified by the licensee when it updates public licensee detail.
- 7) Delays implementation of this bill until January 1, 2024.

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, “CSLB estimates one-time information technology costs of \$227,500 to make changes to its enterprise licensing system and website to be able to receive and post additional workers compensation classification code data.”

COMMENTS:

1. **Purpose.** The District Council of Iron Workers of California is the sponsor of this bill. According to the author,

“This bill is seeking to remedy the lack of transparency about the classification codes each contractor uses to acquire or maintain a license through the Contractors State License Board (CSLB).

Evidence 1#: “The Contra Costa County District Attorney's Office said in a statement unlicensed contractors pose a threat to consumers by failing to acquire skills and licensure when hired to perform home improvement or construction projects. Some unlicensed contractors illegally require excessive down payments for construction or landscaping projects, and frequently fail to begin or complete projects once they receive money. Consumers are often unaware unlicensed contractors have not completed background checks and frequently don't carry workers' compensation insurance for their employees - which increases liability risks to consumers.” <https://www.danvillesanramon.com/news/2023/02/10/jury-convicts-unlicensed-contractor>.”

Evidence #2: “The District Attorney’s Office prosecutes criminal violations of the contractors’ laws including unlicensed contractors, unauthorized use of someone else’s license number, requesting more than a 10% deposit, failure to have workers’ compensation insurance and even theft for failing to deliver services or materials that were paid for by the homeowner. These crimes are especially common when it comes to installing solar panels, building accessory dwelling units — commonly referred to as granny flats — or building swimming pools.” <https://thecoastnews.com/com>.”

2. **Background.**

Contractors and CSLB. The CSLB is responsible for the implementation and enforcement of the Contractors’ State License Law (the laws and regulations related to the licensure, practice and discipline of the construction industry in California). All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost, including both labor and materials, of one or more contracts on the project is \$500 or more.

The CSLB licenses and regulates approximately 289,000 licensees in 44 licensing classifications and 2 certifications, and registers approximately 25,000 Home Improvement Salespersons. Each licensing classification specifies the type of contracting work permitted in that classification. To obtain licensure in each classification, applicants are required to take and pass both a trade examination and a law and business examination. Licensees may not perform work outside of a classification without having the appropriate license to do so, unless they are a “B” general contractor who is able to take a prime contract or subcontract for projects involving other trades as long as framing and carpentry (the C5 trade) is not counted among those other trades.

As a condition of initial licensure and to maintain an active license, all license classifications are required to have on file with the CSLB, a current and valid Certificate of Workers’ Compensation Insurance or Certification of Self-Insurance in the applicant’s or licensee’s business name, unless they qualify for an exemption by certifying to the CSLB that they do not have any employees, and the licensee does not hold a C-8, C-20, C-22, C-61, D-49 or C-39 designation. (BPC § 7125(b)). As a result of SB 216 (Dodd, Chapter 978, Statutes of 2022), effective July 1, 2026, all license classifications will be required to have a Certificate of Workers’ Compensation Insurance on file with the CSLB, unless they are a specific joint venture.

Failure to maintain workers’ compensation insurance coverage will result 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. BPC § 7126 specifically states that any licensee or agent thereof, who violates the workers compensation requirements, under existing law, is additionally guilty of a misdemeanor.

Further, under current law, (LAB §§ 3700, 3700.5) all employers in this state are required to obtain workers’ compensation. Workers’ compensation insurance provides basic benefits, including medical care, temporary disability benefits, permanent disability benefits, supplemental job displacement benefits and a return-to-work supplement, and death benefits.

Employers purchase workers’ compensation insurance either from a licensed insurance company or through the State Compensation Insurance Fund. Employers may also have the option to self-insure for workers’ compensation. As noted on the California Department of Insurance’s website, “Workers’ compensation premium calculations are based on how employees are classified according to their specific work duties and the rate assigned to each corresponding employee classification. Classifications that group distinct and identifiable occupations, industries, or business are developed and assigned codes by the Workers’ Compensation Insurance Rating Bureau of California and approved by the Insurance Commissioner. Workers’ compensation insurers generally use these classification codes when writing workers’ compensation policies.”

The CSLB does not determine the coverage amount that is required for an entity to obtain workers’ compensation insurance. As part of the licensure and renewal

process, the CSLB simply verifies that the applicant or licensee has the required workers' compensation insurance on file. This bill seeks to address a concern raised by industry, where some contractor licensees may have workers' compensation coverage, but not under the appropriate classification code for the type of construction work performed.

As a result, this bill will require as part of the licensure renewal process, the licensee to provide the CSLB with the workers' compensation classification code or codes, which are provided on the licensee's policy for the three classification codes for which the highest estimated payroll is reported on the policy. If the licensee has fewer than three classification codes reported on the policy, the licensee will be required to provide all the classification codes reported on the policy. This bill would further require the CSLB to make those codes available on its internet website whenever it updates the public license detail. Currently, as part of the CSLB's license look-up on its internet website, there is a section that notes whether the licensee has workers' compensation coverage, and notes the coverage provider. By providing the classification codes related to workers' compensation coverage, the CSLB along with other regulatory entities, and members of the public, including industry stakeholders would be able to determine if the classification code and workers' compensation insurance match the current work offered by the licensee in an effort to ensure that employers have the appropriate coverage for the type of construction work being performed in California.

Because the CSLB does not determine whether or not the workers' compensation coverage is sufficient to the reported employees, this bill specifies that the CSLB is not required to verify the accuracy of the classification codes reported by the licensee, only that the licensee reports the codes as required. This bill would specifically prohibit a license from being renewed if it did not contain the appropriate classification codes; however, this bill does provide a 30-day period for a licensee to submit the information in order to obtain a retroactive renewal. In order to provide time for licensees to comply, this bill delays implementation until July 1, 2024. Any renewal received after July 1, 2024 will need to include the classification codes in order to renew.

- 3. Related Legislation.** AB 1204 (Holden of 2023) prohibits a contractor from contracting with two or more subcontractors in the same license classification for the same work at the same jobsite, unless the subcontractor has employees who perform work in that license classification. (Status: *This bill is currently pending in the Senate Committee on Business, Professions and Economic Development*)

AB 2894 (Cooper of 2022) would have required, beginning January 1, 2023, all active licensees, at the time of renewal, to provide workers' compensation classification codes, to the CSLB. (Status: *This bill was held in the Senate Committee on Appropriations*)

SB 216 (Dodd, Chapter 978, Statutes of 2022) expands the license classifications required to have a certificate of workers' compensation insurance on file with the CSLB to include a Concrete contractor (C-8), a Warm-Air Heating, Ventilating and Air-Conditioning contractor (C-20,) and a Tree Service contractor (D-49) until

January 1, 2025; and, beginning January 1, 2025, extends that requirement to include all licensure classifications under the jurisdiction of the CSLB.

SB 1064 (Newman, Chapter 190, Statutes of 2022) requires structural pest control companies to provide proof of workers' compensation for company registration with or licensure by the California Structural Pest Control Board.

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

AB 996 (Cunningham and Brough of 2018) would have required the CSLB to adopt an enhancement feature on its Internet Web site to allow consumers to monitor the status and progress of a workers' compensation certification, as specified, and view the time elapsed from when the CSLB received the certification until a final disposition has been approved. (Status: *This bill was held in the Senate Committee on Appropriations*).

AB 2219 (Knight, Chapter 389, Statutes of 2012) deleted the sunset date, thereby extending indefinitely the law requiring roofing contractors who hold a C-39 classification to maintain workers' compensation insurance, whether or not they have employees, and makes additional changes to law regarding C-39 contractors.

AB 878 (Berryhill, Chapter 686, Statutes of 2011) required a workers' compensation insurer to report to the CSLB a licensed contractor whose insurance policy it cancels, as specified.

AB 397 (Monning, Chapter 546, Statutes of 2011) required a licensed contractor with an exemption for workers' compensation insurance to recertify the exemption upon license renewal or provide proof of workers' compensation insurance coverage.

AB 2305 (Knight, Chapter 423, Statutes of 2010) extended the sunset date, from January 1, 2011 to January 1, 2014, on the law requiring a roofing contractor to obtain and maintain workers' compensation insurance, even if he or she had no employees, and extended the parallel sunset date requiring the Department of Insurance to report on this effect.

AB 881 (Emmerson and Sharon Runner, Chapter 38, Statutes of 2006) required all licensed roofers to have workers compensation insurance, authorized the Registrar to remove the roofing classification from a contractor license for failure to maintain workers' compensation insurance, and required insurers who issue workers compensation policies to roofing contractors to perform annual audits of these policyholders.

4. **Arguments in Support.**

District Council of Iron Workers, State Building and Construction Trades Council of California and California-Nevada Conference of Operating Engineers writes in

support, “Unfortunately, some unscrupulous contractors do not purchase the appropriate workers' compensation policies for the type of work they are performing. This allows for unfair competition as law-abiding contractors carry the burden of this unfunded liability on the workers compensation program.”

California Labor Federation writes in support, “This small change will provide significant benefits as it will make it easier for regulators to identify insurance fraud and hold violators accountable. It will also disincentivize the game playing that undermines fair competition and erodes worker protections in the construction industry.”

American Subcontractors Association of California writes in support, “...requires all licensees to have on file with the Contractors State License Board (CSLB) a valid Certificate of Workers Compensation Insurance (or certificate of self-insurance) in order to obtain a license renewal. In addition, the licensee’s classification code(s) shall also be disclosed on the CSLB’s website.”

SUPPORT AND OPPOSITION:

Support:

District Council of Iron Workers (sponsor)
Subcontractors Association-California
California Labor Federation, AFL-CIO
International Union of Operating Engineers, Cal-Nevada Conference
State Building and Construction Trades Council of CA

Opposition:

None received.

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