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# NEWS

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# ALERT

Business and Economy

## Top 10 California Laws, Regs for 2023

**A** SLEW OF new laws and regulations that affect California businesses are taking effect for 2023.

Last year was a busy one, with ground-breaking new laws on employee pay disclosures, a law prohibiting discrimination against cannabis-using employees and another expanding the circumstances when employees can take leave to care for a loved one.

The following are the top 10 laws and regulations that employers in the Golden State need to stay on top of.

### 1. Pay disclosure

This sweeping law in part requires more disclosure of pay information by employers. Until this year, employers had only been required to provide the pay scale for a position upon reasonable request by a job applicant. SB 1162 goes a step further by:

- Requiring employers, upon request by a current employee, to provide the pay scale of the position they are employed in.
- Requiring employers with 15 or more workers to include pay scale in any job postings for open positions.
- Requiring employers to maintain records of job titles and wage rate history for each employee while employed for the company, as well as three years after their employment ceases.

Note: The law defines “pay scale” as the salary or hourly wage range that the employer “reasonably expects” to pay for the position.

Penalties range from \$100 to \$10,000 per violation. This law took effect Jan. 1, 2023.

### 2. State of emergency and staff

This new law, SB 1044, bars an employer, in the event of a state of emergency or emergency condition, from taking or threatening adverse action against workers who refuse to report to, or leave, a workplace because they feel unsafe.

“Emergency condition” is defined as:

- Conditions of disaster or extreme peril to the safety of persons or property caused by natural forces or a criminal act.
- An order to evacuate a workplace, worksite or worker’s home, or the school of a worker’s child due to a natural disaster or a criminal act.

SB 1044 also bars employers from preventing employees from using their mobile phones to seek emergency assistance, assess the safety of the situation or communicate with another person to confirm their safety.

The law, which took effect Jan. 1, 2023, does not cover first responders and health care workers.

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## Automotive Aftermarket Services

# WISHES YOU A HAPPY NEW YEAR!



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# Law Bars ‘Discrimination’ Against Cannabis-Using Employees

## 3. Cannabis use and discrimination

This law bars employers from discriminating in hiring, termination or other conditions of employment based on employees using cannabis while off duty.

The bill’s author says the legislation is necessary because THC (tetrahydrocannabinol), the active ingredient in marijuana, can stay in a person’s system after they are no longer impaired. As a result, drug testing may detect THC in an employee’s system even if they used it weeks earlier and it is having no effect on their job performance.

AB 2188 does not require employers to permit employees to be high while working.

The bill would exempt construction trade employees and would not preempt state or federal laws that require employees to submit to drug testing. This law takes effect Jan. 1, 2024.

## 4. Leaves of absence

The California Family Rights Act and the state’s paid sick leave law allow employees to take leave to care for a family member, defined as a spouse, registered domestic partner, child, parent, parent-in-law, grandparent, grandchild or sibling.

The definition has been expanded to include “any individual related by blood or whose association with the employee is equivalent of a family relationship” as of Jan. 1.

## 5. Contractor workers’ comp

Starting July 1, the following contractors must carry workers’ compensation coverage regardless of if they have employees or not:

- Concrete (C-8 license),
- Heating and air conditioning (C-20),
- Asbestos abatement (C-22), and
- Tree service (D-49).

Starting Jan. 1, 2026, all licensed contractors must have coverage.

## 6. OSHA citation postings

Under current law, employers that receive citations and orders from OSHA are required to post them in or near the place the violation occurred, in order to warn employees about a potential hazard.

Starting Jan. 1, 2023, they must post the notice not only in English, but also: Spanish, Chinese (Cantonese, Mandarin), Vietnamese, Tagalog, Korean, Armenian and Punjabi.

## 7. Permanent COVID standard

Cal/OSHA has a permanent COVID-19 prevention standard that will sunset in 2024. The new standard, which replaces the temporary emergency standard the agency had implemented, should provide more certainty for prevention procedures and practices.

Here are the main takeaways:

- Employers are no longer required to pay employees while they are excluded from work due to COVID-19, or to screen employees daily.
- Employers must still notify and provide paid testing to employees who had a close contact in the workplace.
- Employers can now incorporate written COVID-19 procedures into their Injury and Illness Prevention Programs.

## 8. CalSavers expanded

SB 1126 requires any person or entity with at least one employee to either provide them with access to a retirement program like a 401(k) plan or enroll them in the state-run CalSavers program.

Prior to this new law only companies with five or more employees that do not offer a retirement plan were required to enroll their workers in CalSavers.

## 9. Bereavement leave

Employers with five or more workers are required to provide up to five days of bereavement leave upon the death of a family member, under a new law that came into effect on Jan. 1.

This leave may be unpaid, but the law allows workers to use existing paid leave available to them, such as accrued vacation days, paid time off or sick leave. Employers are authorized to require documentation to support the request for leave.

## 10. PFL wage replacement

This law was passed last year, but does not take effect until 2025. Existing California law allows employees to apply for Paid Family Leave and State Disability Insurance, both of which provide partial wage replacement benefits when employees take time off work for various reasons under the California Family Rights Act.

Starting in 2025, low-wage earners (those who earn up to 70% of the state average quarterly wage) will be eligible for a higher percentage of their regular wages under the state’s PFL and SDI benefit programs. ❖



# Coverage That Can Save Your Firm from Calamity

**A**S UNPREDICTABLE weather like the pummeling rains that hit the West Coast in early 2023 grows across the country, businesses that are not properly insured could be left paying for damage to their properties out of pocket.

With flooding events increasing, it's noteworthy that many companies located in or near flood zones do not carry commercial flood insurance, without which any damage their properties sustain won't be covered.

Damage from flooding, including inundation generated by a hurricane-generated storm surge, typically is not covered under a standard commercial policy, including a commercial package policy or a business owner's policy.

Companies located in flood plains will usually carry some flood insurance, but 30% of all floods in the U.S. occur outside such areas. As the recent storms in California illustrate, even businesses and homes located outside of flood plains are at risk.

## What does flood insurance cover?

First off: If your commercial property is located in a high-risk flood area and you have a mortgage from a federally regulated or insured lender, you are required to purchase a flood insurance policy. But as mentioned above, properties outside of designated flood zones can also flood.

Insurance covers damage to your building and contents caused by flooding. Also, damage from mold and mildew resulting from the after-effects of a flood is typically covered.

After a flood, the policyholder is responsible for taking reasonable and appropriate mitigation actions to eliminate mold and mildew.

On the other hand, if water comes from above – for instance from rain or melting snow overflowing gutters and leaking onto your inventory – your commercial property insurance policy should cover the damage.

## What's my risk for flooding?

Location is the most important factor for weighing your risk. Is your business situated in or near a flood zone? Flood map search tools can be found online.

If not in a flood zone, is it near the coast or a river, lake or stream? As seen in the past, even areas with low flood risk can also be inundated during particularly heavy storms.

Also consider in which parts of the building your businesses equipment and inventory are located. Anything housed on a lower floor, for instance, will be at greater risk.

## Where can I get coverage?

The main source for coverage is the National Flood Insurance Plan, a federally backed program. There are also a handful of private carriers that offer flood insurance. We can help you secure the best coverage for your needs and situation

Feel free to call us about your options and a review of your property.

## Premiums and policy limits

Commercial flood insurance premiums can cost a few hundred dollars a month up to several thousand a year. The best way to calculate the amount of coverage you need and what you require from a flood insurance policy is to consult us.

Policies typically provide up to \$500,000 of coverage for your building and up to \$500,000 for its contents.

You can purchase what's called excess insurance coverage to rebuild properties valued above those limits. This type of coverage usually includes protection against business interruption.

## Think ahead

Don't wait too long. Most flood policies won't take effect until 30 days after the purchase, so you can't wait until a threat surfaces to make this decision. ❖



# 8 Tips to Shorten the Life of Industrial Injury Claims

**O**NE WORKERS' compensation claim can send your experience modifier spiraling out of control if the injured employee stays away from work for an extended period of time.

The longer they are off work, the more costly the claim becomes, which can affect your future premiums. The best way to reduce claims costs is to get them closed at the earliest and safest time for the worker.

Here are eight ways to support your injured workers and get claims closed:

## 1. Report accidents promptly

Require workers to report accidents immediately, no matter how minor.

While some injuries require just first aid that can be taken care of using first aid supplies (which you should have on hand as per OSHA requirements), others are more serious.

If you are unsure whether first aid can fix the problem, it's best to send the worker to a doctor.

## 2. Accompany worker to the clinic

Ask a supervisor to accompany the injured employee to the industrial clinic you have pre-chosen. There are good reasons for doing this, including:

- There are reports of lawyers soliciting employees going into and out of clinics.
- You gain useful feedback regarding the length of time it takes to be seen and how sanitary the clinic is. A filthy clinic does not send a good message to your employees.
- Having someone along shows you care about the worker's well-being.

## 3. Investigate the accident

As soon as an accident is reported, investigate to determine what

happened. Identify witnesses and separate and interview them one at a time to fully understand the whole story.

## 4. Explain the process

Explain the workers' comp process and file the necessary claim forms.

Answer the worker's inquiries quickly and designate someone as their primary contact.

## 5. Don't leave them hanging

One reason that injured workers get an attorney is that they feel abandoned by their employer. Assign a supervisor to visit with the employee on a regular basis to keep them motivated to return to work and to answer any questions they have.

Positive, encouraging messages of the employee's value to the company are often the best medicine.

## 6. Return them to work

Have a return-to-work program in place. If the physician clears the individual to return to work or for light duty with restrictions, make sure the worker, their supervisor and fellow employees understand the restrictions.

## 7. Have insurance with a doctor network

Establish relationships with doctors who have expertise in occupational medicine and understand the value of returning injured employees to work.

## 8. Monitor the claim

We can help you monitor the claim to ensure it's on track.

You can also make a point of regularly reaching out to the claims adjuster as well as the employee. ❖

