



State of California

Volume 2

**Pesticide
Use
Enforcement
Program
Standards
Compendium**

Laws

**Labor
Code**

January 1, 2021

California Labor Code

**Excerpts from:
Division 2.
Employment Regulation
and
Supervision
and
Division 5.
Safety in Employment**



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LABOR CODE

Excerpts from Division 2. Employment Regulation and Supervision;

Excerpts from Division 5. Safety in Employment.

Disclaimer:

This document is provided by the California Department of Pesticide Regulation (DPR) as a courtesy to County Agricultural Commissioner (CAC) staff and others.

It includes sections of the California Labor Code (LAB) dealing with farm labor contractors, and jurisdiction and duties for workplace safety incidents. This document reproduces the statutes of the official publication released by the California Legislative Counsel.

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<https://leginfo.ca.gov/faces/codesTOCSelected.xhtml?tocCode=LAB&tocTitle=+Labor+Code++LAB>

and use in conjunction with West's Annotated California Codes publication of the California Labor Code.

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6309. continued

(b) The division shall keep complete and accurate records of all complaints, whether verbal or written, and shall inform the complainant, whenever their identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action, within 14 calendar days of taking any action. The records of the division shall include the dates on which any action was taken on the complaint, or the reasons for not taking any action on the complaint. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to an alleged violation. The division shall furnish the employee or the representative of employees requesting the review a written statement of the reasons for the division's final disposition of the case.

(c) The name of a person who submits to the division a complaint regarding the unsafe condition of an employment or place of employment shall be kept confidential by the division, unless that person requests otherwise.

(d) The division shall annually compile and release on its internet web site data pertaining to complaints received and citations issued.

(e) The requirements of this section do not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times. However, the division shall prioritize investigations of reports of accidents involving death or serious injury or illness and complaints that allege a serious violation over investigations of complaints that allege a nonserious violation.

(Amended by Stats. 2019, Ch. 200, Section 2. (AB 1805) Effective January 1, 2020.)

6310. Retaliation for filing compliant prohibited; offenses

(a) No person shall discharge or in any manner discriminate against any employee because the employee has done any of the following:

(1) Made any oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, their employer, or their representative.

(2) Instituted or caused to be instituted any proceeding under or relating to their rights or has testified or is about to testify in the proceeding or because of the exercise by the employee on behalf of themselves, or others of any rights afforded to them.

(3) Participated in an occupational health and safety committee established pursuant to Section 6401.7.

(4) Reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records that are made or maintained pursuant to Subchapter 1 (commencing with Section 14000) of Chapter 1 of Division 1 of Title 8 of the California Code of Regulations, or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.), except in cases where the employee alleges they have been retaliated against because they have filed or made known their intention to file a workers' compensation claim pursuant to Section 132a, which is under the exclusive jurisdiction of the Workers' Compensation Appeals Board.

6310. continued

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by their employer because the employee has made a bona fide oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, their employer, or their representative, of unsafe working conditions, or work practices, in their employment or place of employment, or has participated in an employer-employee occupational health and safety committee, shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

(c) An employer, or a person acting on behalf of the employer, shall not retaliate against an employee because the employee is a family member of a person who has, or is perceived to have, engaged in any acts protected by this section.

(d) For purposes of this section, “employer” or “a person acting on behalf of the employer” includes, but is not limited to, a client employer as defined in paragraph (1) of subdivision (a) of Section 2810.3 and an employer listed in subdivision (b) of Section 6400.

(e) Notwithstanding Section 6303 or other law, as used in this section, “employee” includes a domestic work employee, except for a person who performs household domestic service that is publicly funded, including publicly funded household domestic service provided to a recipient, client, or beneficiary with a share of cost in that service.

(Amended by Stats. 2020, Ch. 288, Section 1. (AB 2658) Effective January 1, 2021.)

6311. Retaliation for refusal to work in violation of health and safety standards;
action for wages

No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or their fellow employees. Any employee who is laid off or discharged in violation of this section or is otherwise not paid because the employee refused to perform work in the performance of which this code, any occupational safety or health standard, or any safety order of the division or standards board will be violated and where the violation would create a real and apparent hazard to the employee or their fellow employees shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge. Notwithstanding Section 6303 or other law, as used in this section, “employee” includes a domestic work employee, except for a person who performs household domestic service that is publicly funded, including publicly funded household domestic service provided to a recipient, client, or beneficiary with a share of cost in that service.

(Amended by Stats. 2020, Ch. 288, Section 2. (AB 2658) Effective January 1, 2021.)

6311.5. Entering area closed due to menace to public health or safety

(a)(1) Except as noted in paragraph (2), a person who, after receiving notice to evacuate or leave, willfully and knowingly directs an employee to remain in, or enter, an area closed due to a menace to the public health or safety as set forth in Section 409.5 of the Penal Code shall be guilty of a misdemeanor.

(2) This section shall not apply to persons authorized to close an area, or to enter an area that has been closed, pursuant to subdivision (a) or (b) of Section 409.5 of the Penal Code. This exemption includes persons listed in subdivision (d) of Section 409.5 of the Penal Code.

(b) Notwithstanding Section 6303 or other law, as used in this section the term "employee" includes a person employed for household domestic service, including a person who performs household domestic service that is publicly funded, including publicly funded household domestic service provided to a recipient client, or other beneficiary with a share of cost in that service.

(Added by Stats. 2020, Ch. 288, Section 3. (AB 2658) Effective January 1, 2021.)

6312. Discrimination compliant

Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of Section 6310 or 6311 may file a complaint with the Labor Commissioner pursuant to Section 98.7.

(Amended by Stats. 1985, Ch. 1479, Section 7.)

6313. Investigation of industrial accidents, serious exposures, or occupational illnesses; corrective orders

(a) The division shall investigate the causes of any employment accident that is fatal to one or more employees or that results in a serious injury or illness, or a serious exposure, unless it determines that an investigation is unnecessary. If the division determines that an investigation of an accident is unnecessary, it shall summarize the facts indicating that the accident need not be investigated and the means by which the facts were determined. The division shall establish guidelines for determining the circumstances under which an investigation of these accidents and exposures is unnecessary.

(b) The division may investigate the causes of any other industrial accident or occupational illness which occurs within the state in any employment or place of employment, or which directly or indirectly arises from or is connected with the maintenance or operation of the employment or place of employment, and shall issue any orders necessary to eliminate the causes and to prevent reoccurrence. The orders may not be admitted as evidence in any action for damages, or any proceeding to recover compensation, based on or arising out of injury or death caused by the accident or illness.

(Amended by Stats. 2002, Ch. 885, Section 3. (AB 2837) Effective January 1, 2003.)

Chapter 2.5 Hazardous Substances Information and Training
Article 4. Duties

For informational purposes only:

6399.1. Employer compliance with obligations to employees

Compliance with regulations of the Director of Pesticide Regulation issued pursuant to Section 12981 of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer toward his or her employees under this chapter.
(Amended by Governor's Reorganization Plan No. 1 of 1991, Section 150.
Effective July 17, 1991.)