

# THE REPORT

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## CONSTRUCTION WORKERS' COMPENSATION

### Big Changes for Dual-Wage Class Codes

**A**S INFLATION drives up salaries in all sectors, the workers' compensation wage thresholds for construction dual class codes have increased in California as of Sept. 1, 2022.

State Insurance Commissioner Ricardo Lara in July approved the recommendation by the Workers' Compensation Insurance Rating Bureau to increase the wage thresholds for high-wage workers.

The new rates apply to workers' comp policies that incept on or after Sept. 1.


In these dual class codes, workers' compensation rates are different for workers above and below the wage threshold.

Rates are lower for workers whose hourly pay is above the threshold as statistics have shown higher-paid workers in these fields have fewer workplace injuries than those who are paid less.

Often the difference in premium rate between the workers who fall above and below the threshold can be significant.

Below are the new thresholds for each class code, that are now in effect. ❖

CLASS CODE		2021 Per/hour Threshold	2022 Per/hour Threshold (as of Sept. 1)
5027/5028	Masonry	\$28	\$32
5183(1)/5187(1)	Plumbing	\$28	\$31
5183(2)/5187(2)	Refrigeration equipment	\$28	\$31
5183(3)/5187(3)	Heating or air conditioning equipment	\$28	\$31
5185/5186	Auto sprinkler install.	\$29	\$32
5190/5140	Electrical wiring	\$32	\$34
5201(1)/5205(1)	Concrete or cement work (pouring, finishing, patios, sidewalks, driveways, etc.)	\$28	\$32
5201(2)/5205(2)	Concrete or cement work (pouring, finishing of concrete floor slabs)	\$28	\$32
5403/5432	Carpentry	\$35	\$39
5446/5447	Wallboard installation	\$36	\$38
5467/5470	Glaziers	\$33	\$36
5474(1)/5482(1)	Painting, wall-paper install.	\$28	\$31
5474(2)/5482(2)	Waterproofing	\$28	\$31
5474(3)/5482(3)	Painting, water, oil or gasoline storage tanks	\$28	\$31
5484/5485	Plastering, stucco work	\$32	\$36
5538(1)/5542(1)	Sheet metal work	\$27	\$29
5538(2)/5542(2)	Heating, AC ductwork	\$27	\$29
5552/5553	Roofing	\$27	\$29
5632/5633	Steel framing	\$35	\$39
6218(1)/6220(1)	Excavation	\$34	\$39
6218(2)/6220(2)	Grading land	\$34	\$39
6218(3)/6220(3)	Land leveling	\$34	\$39
6307/6308	Sewer construction	\$34	\$39
6315(1)/6316(1)	Water mains, connections construction	\$34	\$39
6315(2)/6316(2)	Gas mains, construction	\$34	\$39



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## COMMERCIAL PROPERTY

# Coverage Grows Scarce in High-Risk Areas

**A**S WILDFIRES grow in number, intensity and scope, the cost of paying for the resulting claims is causing a property insurance crisis in some parts of the state that shows no sign of disappearing anytime soon.

Commercial property insurance rates have skyrocketed for businesses in areas exposed to wildfire risks. Many have received non-renewal notices and have had to secure coverage with the market of last resort, the California FAIR Plan.

Here's what's going on and what your options are if your commercial property policy is non-renewed.

### What insurers are doing

While rates are increasing nominally in most of California's larger cities due to higher construction costs, it's a different story in smaller cities and towns.

Insurers are responding. Some are pulling out of the state or ceasing to write policies in areas they deem high risk and are issuing non-renewal notices.

Those that continue to write business in high-risk areas are taking steps to rein in their risk:

- Increasing rates** – Many carriers have more than doubled rates for at-risk properties.
- Hiking deductibles** – Many carriers are raising deductibles in wildfire-prone areas.
- Stricter terms** – Some insurers are limiting the amount they will pay out if a building is destroyed. That can sometimes be as low as 20% of the value, meaning the rest would have to be covered out of pocket by the property owner.

## Protective measures insurers may require

**Defensible space:** Maintain a defensible space around your building, usually all the way to the property line. You can find a thorough description of how to create a defensible space here.

**Non-combustible materials and other measures:** Use only non-combustible building materials, such as fire-proof shingles for your roof. The insurer may require you to shore up roofs, gutters, vents and siding and ensure there are no gaps that would allow embers to penetrate.

They may require exterior wall cladding made of non-combustible siding materials.

**Reliable water supply:** Insurers are requiring property owners to have clear access to a reliable water supply, including proximity to public hydrants and the possible installation of private-site yard hydrants. The availability of a reliable water supply is critical and should be evaluated frequently.

You may also consider installing a back-up water supply, such as a fire pump and tank.

**Routine clearing:** Insurers are requiring property owners to have a routine property clearing regimen that includes removing dried vegetation from the property and removing debris or other flammable materials. Debris and vegetation are the tinder for large fires.



**Zone 0:** 0-5 feet. No trees, only short bushes, non-combustible ground cover like gravel or paver; remove overhanging branches and dead or dry vegetation.

**Zone 1:** 5 to 30 feet. Space trees, keep branches 10 feet from other trees, remove dead vegetation and shrubbery that is flammable, if near wood structures.

**Zone 2:** 30 to 100 feet. Keep grass mown, space shrubs and trees, remove leaves, debris.

### Your options if canceled

If you've been cancelled by your insurer, we can mount a search for replacement coverage. If all California-licensed insurers that we have access to reject your policy, we have two choices:

**The non-admitted market** – These are insurers that are not licensed in the state of California, but they are viable insurance

companies nonetheless. They can offer policies that may not cover everything a homeowner's policy from an admitted insurer would have. Policies can often be customized for the insured.

**California FAIR Plan** – We can only go to the FAIR Plan if you've thoroughly exhausted the options available through the voluntary market and been denied coverage.

If only one admitted insurance company is willing to write your policy, no matter how steep the premium is, you cannot go to the FAIR Plan for coverage.

Not only are FAIR Plans more expensive, but they offer fewer coverage options and lower policy limits. That said, the limits have doubled in 2022 to \$6.8 million per policy. ❖

# Provide a Financial Legacy

**L**EAVING A FINANCIAL legacy to support your family or a worthy charity shows how much you care. If this is one of your lifetime goals, there are several ways to help you make a real difference in the lives of others.

## Evaluating life insurance

If you're at retirement age your family may not need the death benefit from your fully funded life insurance policy to pay bills. Therefore, you may want to think about renaming the policy beneficiary to a charity or trust.

## Communicating your wishes

Family dynamics and expectations differ in every family. If you plan to make a charitable donation, you might consider how to communicate these wishes to your family. This may be especially important if you're unsure how they feel about your intent for the distribution of your wealth.

In some cases, your financial professional can help you initiate this discussion with family members. Make sure the entire family is on board to avoid misunderstandings later.

## Giving to charity

Whether you're considering making a donation to your alma mater or a religious or nonprofit organization, charitable giving provides assets for organizations that deserve support. Always discuss these gifts with a professional tax advisor to take advantage of the potential tax benefits.

## Writing a will

A will can help ensure that any type of estate is distributed according to your preferences, not based on a state mandate or statute. It doesn't need to be a complicated legal document, but be sure that your intentions are documented.

This may also be a good time to confirm that your life insurance or IRA beneficiaries are current and accurate.

Distributions made through a will are "once and done," providing a directive for your assets. For those with requirements for assets to carry on, a trust may be a possibility, so these assets can continue to provide benefit.

## Establishing a trust

If leaving a legacy to your family is a high priority, consider a family trust. A trust makes it possible to distribute assets based on the grantor's preferences and set a percentage for your grandchildren so they each receive funds on a periodic basis.

These assets can be distributed while the grantor is alive or after that person is gone – perhaps even for generations to come, with a trustee directing the distribution.

One example is a special needs trust. In a family where a son or daughter has special needs, and the parents' assets may be needed for that individual's care, the parents could create a special needs trust to ensure that the assets are available to be distributed.

This could potentially include ways to maximize state benefits given the needs of that child, perhaps 30 to 40 years after a parent's death.



## Planning for life

Planning for your legacy is worth considering whether you're a recent college graduate with a desire to give back to your alma mater, an adult in your 30s who wants to support an important cause or a 60-year-old approaching retirement with assets beyond what you need for your own retirement security.

If you want to pass savings on to your children or grandchildren, working with a financial professional on legacy planning strategies can help make your wishes a reality – in ways that benefit both you and the recipients of your generosity. ❖

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## EMPLOYMENT LEGISLATION

# Law Bars Discrimination Against Cannabis Users

**G**OVERNOR GAVIN Newsom has signed into law legislation that would bar employers from discriminating against employees and job applicants who use cannabis on their time off.

The law amends the California Fair Employment and Housing Act to prohibit discrimination against an individual based on “an employer-required drug screening test” that detects the presence of “nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.”

The new law does not bar employers from drug-testing, but it does impose restrictions on what they can do in response to a positive test.

The law, AB 2188, prohibits employers from discriminating against employees and job prospects, or otherwise penalizing them for either:

- Their use of cannabis off the job and away from work, or
- An employer-required drug test that detects cannabis in their system (from either a hair, blood, urine or bodily fluid sample).

### Employer rights

The law is not a green light for workers to use or possess cannabis on the job. Also, it won't impinge on an employer's rights to maintain a drug-free workplace.

They do also have some leeway in trying to judge someone's impairment, but it comes down to the type of test they use.

### Acceptable tests

There are two types of tests:

- Ones that detect the presence of tetrahydrocannabinol (THC), the chemical compound in cannabis that causes impairment and psychoactive effects.
- Ones that detect the presence of nonpsychoactive cannabis metabolites, which is what is left after the body metabolizes THC. These metabolites do not indicate that an individual is impaired, but only reveal whether they have consumed cannabis recently (up to a month in the case of a urine test).

Under the new law, employers would be authorized to take disciplinary action if a THC test is positive, but not if they detect nonpsychoactive cannabis metabolites in their system. The latter is the more common type of test available.

### Exemptions

There are some exemptions in AB 2188, in particular:

- It does not apply to workers in the building and construction trades. Employers would still be allowed to make employment decisions for

workers and applicants who use cannabis in their off hours and test positive for nonpsychoactive cannabis metabolites.

- The law does not apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the U.S. Department of Defense or other federal agencies.
- The law does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

### The takeaway

Employers have time to change any policies they have in place concerning drug-testing and cannabis use. The law takes effect Jan. 1, 2024.

Remember, you can still take action against someone who is impaired at work. ❖



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