

California Criminal Code Related to Workers' Compensation Injuries: A Legal Analysis

(PART-A INJURED WORKERS ANALYSIS)

March 2, 2026

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CALIFORNIA CRIMINAL LAW AND WORKERS' COMPENSATION INJURIES

California protects injured workers through criminal statutes that punish employers who break the law, people who commit fraud, and others who abuse the workers' compensation system. This report explains the criminal penalties, fraud laws, and rules about how criminal conduct can affect your right to workers' compensation benefits.

Part 1: Criminal Statutes That Govern Workers' Compensation

This section explains the main criminal laws that apply to the workers' compensation system in California.

Overview of the Legal Framework

California uses several different codes — the Labor Code, the Penal Code, and the Insurance Code — to create criminal penalties for violations related to workplace injuries and compensation. These laws work together. A single action can violate more than one law at the same time.

Labor Code Section 3700.5 — Failure to Carry Insurance

The most basic criminal violation is when an employer does not have workers' compensation insurance (a type of insurance that pays for medical care and lost wages when an employee is hurt at work). Cal. Lab. Code § 3700.5 (<https://www.dir.ca.gov/dwc/wcfaqiw.html>) makes this a misdemeanor (a less serious crime than a felony). The penalty includes up to one year in county jail and fines of not less than \$10,000. The state can also impose administrative penalties (fines from a government agency) of up to \$100,000 against employers who operate without insurance. DAM Firm - Penalties for Not Providing Workers' Comp (<https://www.damfirm.com/penalties-not-providing-workers-comp/>)

Insurance Code Section 1871.4 — Workers' Compensation Fraud

Cal. Ins. Code § 1871.4 (<https://insurancefraud.org/statutes/california-insurance-fraud-definition-wests-ann-cal-ins-code-%C2%A4-1871-4/>) targets workers' compensation fraud (intentionally lying or cheating to get or deny benefits). This law applies to employers, employees, and medical providers alike. It makes the following acts illegal:

- Making a knowingly false statement to obtain or deny workers' compensation benefits
- Presenting false written or spoken evidence for or against a claim
- Helping, encouraging, or planning with someone to commit fraud
- Lying about benefit eligibility to discourage an injured worker from filing a claim

Penal Code Sections 549 and 550 — Health Care Fraud and Kickbacks

Cal. Penal Code § 550 (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>) covers health care fraud, which overlaps with workers' compensation because work injury benefits include medical care. This law makes it a crime to knowingly submit false medical claims, bill for services never provided, or submit duplicate claims for the same injury.

Cal. Penal Code § 549 (<https://patrickgriffinlaw.com/criminal-defense/white-collar-crimes-attorney-san-diego/workers-comp-fraud/>) targets kickback schemes (arrangements where money or gifts are exchanged for referrals). It punishes anyone who knowingly accepts business from people who intend to commit workers' compensation fraud. This law is used most often against doctors and other health care providers involved in fraudulent referral rings.

How These Laws Overlap

A single action can violate multiple statutes. For example, an employer who lies about payroll to avoid paying insurance premiums may face charges under Cal. Lab. Code § 3700.5 (<https://www.damfirm.com/penalties-not-providing-workers-comp/>) for not having insurance, Cal. Ins. Code § 1871.4 (<https://insurancefraud.org/statutes/california-insurance-fraud-definition-wests-ann-cal-ins-code-%C2%A4-1871-4/>) for fraud, and additional charges for conspiracy. California Department of Insurance - Workers

Compensation (<https://www.insurance.ca.gov/01-consumers/105-type/95-guides/09-comm/WorkersCompensation.cfm>)

Part 2: Penalties for Employers Who Do Not Carry Insurance

This section explains the criminal and administrative consequences employers face when they fail to have workers' compensation insurance.

The Criminal Offense

Every California employer with at least one employee must carry workers' compensation insurance. If you are an employer and you do not have this insurance, you commit a misdemeanor under Cal. Lab. Code § 3700.5 (<https://www.heitingandirwin.com/california-uninsured-employer-liability/>). The penalties include:

- Up to one year in county jail
- A fine of not less than \$10,000 (the actual fine can be much higher)
- Additional penalties equal to twice the premiums you should have paid, or \$1,500 per employee during the uninsured period — whichever is greater

In one case, a Monterey County employer named Fernando Sanchez was convicted of this offense for the second time. The court sentenced him to three years' probation, 40 days in county jail, and a \$10,000 fine to the Uninsured Employers Fund (a state fund that pays benefits to workers hurt by uninsured employers). DAM Firm - Penalties for Not Providing Workers' Comp (<https://www.damfirm.com/penalties-not-providing-workers-comp/>)

Administrative Penalties

The Division of Labor Standards Enforcement (DLSE) — a government agency within the Department of Industrial Relations — can impose penalties separate from any criminal case. These administrative penalties can reach up to \$100,000. The DLSE calculates penalties based on:

- Up to \$10,000 per employee on payroll at the time of injury (if the worker's case is valid)
- Up to \$2,000 per employee if the worker's case is not valid
- \$1,000 per employee at the time a stop order is issued
- A maximum total of \$100,000

California DIR - DWC FAQs for Employees (<https://www.dir.ca.gov/dwc/wcfaqiw.html>)

Stop Orders

A stop order is a government order that forces a business to shut down until it gets workers' compensation insurance. Since January 1, 2011, the DLSE can issue stop orders as soon as it discovers an employer has no insurance. DAM Firm - Penalties for Not Providing Workers' Comp (<https://www.damfirm.com/penalties-not-providing-workers-comp/>)

Important: If an employer ignores a stop order, that is a separate misdemeanor punishable by up to 60 days in county jail and fines up to \$10,000.

Recovery from Uninsured Employers

The Uninsured Employers Benefits Trust Fund (UEBTF) may pay benefits to injured workers and then seek repayment from the employer. The UEBTF will "explore all available avenues to find the funding, including liens against the employer's properties." California DIR - DWC FAQs for Employees (<https://www.dir.ca.gov/dwc/wcfaqiw.html>)

Part 3: Workers' Compensation Fraud — Types and Penalties

This section explains the different types of workers' compensation fraud and the penalties for each.

Insurance Code Section 1871.4 Fraud

Cal. Ins. Code § 1871.4 (<https://insurancefraud.org/statutes/california-insurance-fraud-definition-wests-ann-cal-ins-code-%C2%A4-1871-4/>) defines "statement" very broadly. It includes any notice, proof of injury, bill for services, hospital or doctor records, X-rays, test results, medical-legal expenses (costs for medical evaluations used in legal proceedings), and any other evidence of loss, injury, expense, or payment. Leah Legal - Workers Compensation Fraud (<https://www.leahlegal.com/workers-compensation-fraud/>)

Penalties as a misdemeanor:

- Up to one year in county jail
- Summary probation (unsupervised probation where you do not report to an officer)
- Full restitution (paying back what was lost because of the fraud)
- Fines of \$150,000 or twice the fraud amount, whichever is greater

Penalties as a felony:

- Two to five years in county jail
- Formal probation (supervised probation where you report to a probation officer)
- Full restitution
- Same fine structure as misdemeanor
- A two-year sentence enhancement for each prior workers' compensation fraud conviction

Los Angeles County Risk Management - Workers Comp Fraud (<https://riskmanagement.lacounty.gov/workerscomp-fraud/>); California Criminal Defense Lawyers - Workers' Compensation Fraud Defense (<https://www.calcriminaldefenselawyers.com/post/workers-compensation-fraud-defense-1-1871-4-law-sentence-defense>)

Penal Code Section 550 — Health Care Fraud

To convict someone under Cal. Penal Code § 550 (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>), prosecutors must prove:

- A false, incomplete, or misleading claim was submitted
- The person knew the claim was false or fraudulent
- The person intended to gain financially from the fraud

Penalties as a misdemeanor: Up to 12 months in county jail, summary probation, and a fine up to \$10,000. If the fraud amount does not exceed \$950 in a 12-month period, the penalty is reduced to six months in jail and a \$1,000 fine.

Penalties as a felony: Two to five years in jail, formal probation, and a fine of \$50,000 or twice the fraud amount, whichever is greater.

Leah Legal - Workers Compensation Fraud (<https://www.leahlegal.com/workers-compensation-fraud/>); California Criminal Defense Lawyers - Workers' Compensation Fraud Defense (<https://www.calcriminaldefenselawyers.com/post/workers-compensation-fraud-defense-1-1871-4-law-sentence-defense>)

Penal Code Section 549 — Kickback Schemes

Cal. Penal Code § 549 (<https://patrickgriffinlaw.com/criminal-defense/white-collar-crimes-attorney-san-diego/workers-comp-fraud/>) targets health care providers who participate in fraudulent referral schemes. Common violations include offering kickbacks for patient referrals, arranging unnecessary medical treatments, overbilling, and submitting false invoices.

Penalties as a misdemeanor: Up to 12 months in county jail and a fine of \$50,000 or double the fraud amount.

Penalties as a felony: 16 months to 3 years in jail and the same fine structure.

Important: Health care professionals convicted under this law also risk losing their professional license, either temporarily or permanently. Leah Legal - Workers Compensation Fraud (<https://www.leahlegal.com/workers-compensation-fraud/>)

Civil Penalties for Fraud

Beyond criminal penalties, you may also face civil penalties (money penalties ordered in a non-criminal case). These include:

- Fines of \$4,000 to \$10,000 per fraudulent claim
- Fines of up to triple the amount paid out on fraudulent claims
- An additional \$4,000 per fraudulent claim for people with prior convictions

Monterey Criminal Attorney - Workers' Compensation Fraud (<https://montereycriminalattorney.com/practice-areas/fraud-crimes/workers-compensation-fraud/>); Leah Legal - Workers Compensation Fraud (<https://www.leahlegal.com/workers-compensation-fraud/>)

Part 4: How Criminal Conduct Affects Your Right to Benefits

This section explains when criminal behavior can prevent you from receiving workers' compensation benefits.

The Criminal Conviction Bar — Labor Code Section 3600(a)(8)

Cal. Lab. Code § 3600(a)(8) (<https://www.sullivanattorneys.com/blog/injuries-barred-by-criminal-convictions-under-lc-3600>) creates an affirmative defense (a legal argument the employer raises to block your claim). This defense bars you from receiving workers' compensation if your injury was "caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted."

In plain language, if you are convicted of a felony (a serious crime punishable by state prison) or a wobbler offense (a crime that prosecutors can charge as either a felony or a misdemeanor), and that crime caused your injury, you cannot receive workers' compensation benefits.

How Wobbler Offenses Apply

In *Johnson v. Lexmar Distribution dba LDI Trucking, Inc.* (2024 WCAB decision), the Workers' Compensation Appeals Board (WCAB) — the state board that decides disputed workers' compensation claims — clarified how this rule works. Sullivan Attorneys - Injuries Barred by Criminal Convictions Under LC 3600(a)(8) (<https://www.sullivanattorneys.com/blog/injuries-barred-by-criminal-convictions-under-lc-3600>)

The WCAB ruled that compensation is barred when your injury was caused by:

- A clear felony (punishable by state prison)
- A wobbler offense originally charged as a felony but later reduced to a misdemeanor under Cal. Penal Code § 17(b) (<https://www.shouselaw.com/ca/defense/laws/wobbler/>)
- A wobbler offense prosecuted as a felony

However, a pure misdemeanor — a crime punishable only by county jail or fines — does not trigger this bar. You can still receive benefits if injured while committing a misdemeanor-only offense.

Key Limitations of This Bar

There are important limits to this defense:

- You must be convicted. An arrest, pending charges, or acquittal do not count. Only a final conviction triggers the bar.
- The crime must cause the injury. If you are injured during a crime but the crime did not cause the injury, the bar does not apply. For example, slipping on a wet floor while on the job would not be barred just because you were committing a crime at the time if the slip was unrelated to the crime.
- Employee misconduct does not always block benefits. As courts have noted, "Employee misconduct, whether negligent, willful, or even criminal, does not necessarily preclude recovery under workers' compensation law." Sullivan Attorneys - Injuries Barred by Criminal Convictions Under LC 3600(a)(8) (<https://www.sullivanattorneys.com/blog/injuries-barred-by-criminal-convictions-under-lc-3600>)

Other Conduct-Based Exclusions

Cal. Lab. Code § 3600 (<https://ceb.com/blog/california-workplace-injury-claims/>) includes additional exclusions:

- Intoxication — Section 3600(a)(5): You may not receive benefits if your injury was caused by alcohol or drugs not required by your employer. However, the employer must prove the intoxication directly caused the injury. Visionary Law Group - Criminal Charge and Workers Comp California (<https://visionarylawgroup.com/criminal-charge-workers-comp-california/>)
- Self-inflicted injury — Section 3600(a)(6): Benefits are excluded if you intentionally caused injury to yourself. Recklessness or negligence is not enough — the employer must prove you acted on purpose. Alvandi Law Group - 6 California Workers' Compensation Disqualifiers (<https://www.alvandigroup.com/blog/2021/november/6-california-workers-compensation-disqualifiers/>)

Part 5: Defenses in Criminal Workers' Compensation Cases

This section explains the legal defenses available if you are accused of a workers' compensation crime.

Lack of Knowledge or Intent

Most workers' compensation fraud charges require proof that you acted knowingly — meaning you were aware that what you were doing was false or fraudulent. If you made an honest mistake, misunderstood the rules, or relied on advice from a lawyer or billing specialist, this may be a valid defense. Leah Legal - Workers Compensation Fraud (<https://www.leahlegal.com/workers-compensation-fraud/>)

For example, an employer who incorrectly calculates payroll codes without intending to deceive cannot be convicted of fraud. Similarly, a medical provider who submits documentation prepared by others without knowing it was false may lack the required intent. My Rights Law Group - California Workers' Compensation Fraud Lawyer (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>)

Materiality Requirement

Many fraud statutes require that the false statement be material — meaning it was important enough to affect the outcome. If a misstatement would not have changed the benefit decision, prosecutors may not be able to prove this element. A minor inaccuracy in dates or details that does not affect your claim may not support a fraud conviction. My Rights Law Group - California Workers' Compensation Fraud Lawyer (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>)

Statute of Limitations

The statute of limitations is a deadline for filing criminal charges. In California:

- Most felony fraud prosecutions must begin within three years of the crime
- Misdemeanor prosecutions must begin within one year
- Civil fraud penalties generally have a four-year deadline from discovery of the fraud

Griffin Law Office - Workers Comp Fraud (<https://patrickgriffinlaw.com/criminal-defense/white-collar-crimes-attorney-san-diego/workers-comp-fraud/>); Los Angeles County Risk Management - Workers Comp Fraud (<https://riskmanagement.lacounty.gov/workerscomp-fraud/>)

Fourth Amendment Protections

You have rights under the Fourth Amendment to the U.S. Constitution against unreasonable searches and seizures. If investigators searched your property, accessed medical records, or seized documents without a proper warrant or your consent, a court may throw out the evidence. This defense is especially relevant when investigators conduct surveillance or access private records without following proper legal procedures. My Rights Law Group - California Workers' Compensation Fraud Lawyer (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>)

Defenses to the Section 3600(a)(8) Bar

If an employer claims your criminal conduct bars your workers' compensation benefits, you may defend by showing:

- You were not convicted (charges were dropped, dismissed, or you were found not guilty)
- The crime did not cause the injury
- The offense was a pure misdemeanor, not a felony or wobbler

Sullivan Attorneys - Injuries Barred by Criminal Convictions Under LC 3600(a)(8) (<https://www.sullivanattorneys.com/blog/injuries-barred-by-criminal-convictions-under-lc-3600>)

Part 6: Your Rights If Your Employer Has No Insurance

This section explains the options available to you if you are injured and your employer does not have workers' compensation insurance.

Civil Lawsuit Against Your Employer

If your employer does not carry workers' compensation insurance, Cal. Lab. Code § 3706 (<https://www.heitingandirwin.com/california-uninsured-employer-liability/>) gives you the right to file a civil lawsuit (a court case seeking money damages) against that employer. This is different from a workers' compensation claim because you can seek:

- Full medical expenses
- All lost wages (not limited to a percentage)
- Pain and suffering damages (not available in workers' compensation)
- Disability and disfigurement damages
- Potentially punitive damages (extra money to punish the employer for bad behavior)

You have three years from the date of injury to file this lawsuit under Cal. Civ. Proc. Code § 338(a) (<https://www.heitingandirwin.com/california-uninsured-employer-liability/>). Schneider Wallace - Worker's Compensation Exclusions in California (<https://www.schneiderwallace.com/media/workers-compensation-exclusions-in-california/>)

The Uninsured Employers Benefits Trust Fund (UEBTF)

If you cannot collect from your uninsured employer, you may apply for benefits from the Uninsured Employers Benefits Trust Fund (UEBTF). This is a state fund within the Division of Workers' Compensation that pays benefits to workers injured by employers who illegally have no insurance. California DIR - DWC FAQs for Employees (<https://www.dir.ca.gov/dwc/wcfaqiw.html>)

The UEBTF pays the same types of benefits you would have received if your employer had insurance:

- Medical care
- Temporary disability (partial wage replacement while you recover)
- Permanent disability (compensation for lasting injuries)
- Death benefits to dependents

To apply, you must file an Application for Adjudication of Claim with the UEBTF and provide evidence of your work-related injury and your employer's lack of insurance.

Reporting Your Employer

You can report your uninsured employer to the DLSE. The DLSE can:

- Issue a stop order to shut down the employer's business
- Impose administrative penalties up to \$100,000
- Refer the case to the district attorney for criminal prosecution

DAM Firm - Penalties for Not Providing Workers' Comp (<https://www.damfirm.com/penalties-not-providing-workers-comp/>)

Important: Filing a workers' compensation claim does not prevent you from also filing a civil lawsuit for pain, suffering, and other damages not available through workers' compensation.

Part 7: How Criminal Investigations and Prosecutions Work

This section explains the steps in a workers' compensation criminal investigation and prosecution.

How an Investigation Begins

Workers' compensation fraud investigations typically start with a referral from one of these sources:

- An insurance company that suspects fraud
- A claims administrator
- The DLSE
- A finding by the WCAB
- A complaint from an individual

Insurance companies are required by law to report suspected fraud. California Department of Insurance - Workers' Compensation Fraud (<https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/10-anti-fraud-prog/Workers-Comp.cfm>)

Evidence Gathering

Criminal investigators review:

- Payroll records and insurance policies
- Workers' compensation claims and medical records
- Testimony from injured workers, co-workers, and supervisors
- Surveillance video
- Social media activity that may contradict disability claims
- Financial records showing secondary employment or unreported income

James Sexton Law - What To Do If Your Workers' Comp Claim Is Under Investigation (<https://www.jamessextonlaw.com/blog/2025/september/what-to-do-if-your-workers-comp-claim-is-under-investigation/>)

The Charging Decision

After investigation, the district attorney (the government lawyer who decides whether to bring criminal charges) decides whether to file charges. Factors that affect this decision include:

- The seriousness of the harm
- The defendant's criminal history
- Whether the injured worker or witnesses cooperate
- Available resources

For misdemeanor charges, the prosecutor files charges directly. For felony charges, the prosecutor must present the case to a grand jury (a group of citizens who decide if there is enough evidence) or hold a preliminary hearing (a court hearing to determine if there is enough evidence to go to trial). Griffin Law Office - Workers Comp Fraud (<https://patrickgriffinlaw.com/criminal-defense/white-collar-crimes-attorney-san-diego/workers-comp-fraud/>)

Arrest and Bail

If charges are filed, a warrant may be issued for your arrest. Bail (money paid to the court to be released while waiting for trial) varies by county and offense. Typical bail amounts for workers' compensation fraud are \$25,000 for felony cases and \$5,000 for misdemeanor cases, but judges may adjust these amounts. California Criminal Defense Lawyers - Workers' Compensation Fraud Defense (<https://www.calcriminaldefenselawyers.com/post/workers-compensation-fraud-defense-1-1871-4-law-sentence-defense>)

Enforcement Activity in California

California actively enforces workers' compensation fraud laws. During fiscal year 2023–24:

- The Department of Insurance Fraud Division identified 2,932 suspected fraud cases
- Investigators made 128 arrests and referred 156 cases to prosecutors
- Potential losses from identified fraud totaled \$157,201,942
- 34 counties received state funding totaling \$52,201,133 for fraud prosecution
- District attorneys reported 1,041 cases prosecuted with 260 convictions
- Courts ordered \$31,543,396 in restitution

California Department of Insurance - Workers' Compensation Fraud (<https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/10-anti-fraud-prog/Workers-Comp.cfm>)

Part 8: Consequences Beyond Criminal Penalties

This section explains the additional consequences that come with a workers' compensation fraud conviction beyond jail time and fines.

Mandatory Restitution

Cal. Ins. Code § 1871.4(b) (<https://riskmanagement.lacounty.gov/workerscomp-fraud/>) requires courts to order restitution for all workers' compensation fraud convictions. This means you must pay back the money lost because of the fraud, including the cost of any medical evaluations or treatments obtained fraudulently. Restitution amounts in organized fraud cases can reach hundreds of thousands of dollars.

Consequences for Employers

If you are an employer convicted of a workers' compensation crime, you may face:

- Loss of business licenses or professional certifications
- Difficulty obtaining surety bonds required for business operations
- Higher insurance rates or denial of coverage
- Loss of government contracting opportunities
- Loss of tax credits

Consequences for Health Care Providers

If you are a health care provider, conviction can result in:

- Temporary or permanent loss of your professional license
- Discipline from your medical board, dental board, or other licensing authority
- Loss of employment and the inability to practice your profession

Consequences for All Defendants

Any conviction creates a permanent criminal record (a record of your arrest and conviction that employers and others can see). Other consequences include:

- Difficulty finding employment in regulated industries
- Loss of gun rights for felony convictions in California
- Inability to obtain certain professional licenses (attorney, accountant, insurance agent)
- Damage to your professional reputation and business relationships

Critical: If you have immigration status concerns, a criminal conviction for fraud may have serious immigration consequences. Consult with an immigration attorney before making any decisions about your case.

Federal Workers' Compensation Fraud

If you work for the federal government, 18 U.S.C. § 1920 (<https://www.myrightslawgroup.com/california-fraud-attorney/workers-compensation-fraud/>) governs fraud under the Federal Employees' Compensation Act (FECA) (the federal law covering workplace injuries for government employees). Penalties include up to five years in federal prison, or up to one year if the fraud amount is under \$1,000. A federal conviction also bars you from future federal employment.

Part 9: Northern California Enforcement and Key Resources

This section provides information about enforcement in the San Francisco Bay Area and resources available to you.

Northern California Prosecution

The San Francisco District Attorney's Office and other Bay Area district attorney offices maintain dedicated fraud prosecution units that handle workers' compensation fraud cases. These offices have pursued cases

involving organized claim mills, provider fraud rings, and employer insurance violations. California Department of Insurance - Workers' Compensation Fraud (<https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/10-anti-fraud-prog/Workers-Comp.cfm>)

The WCAB in San Francisco

The Workers' Compensation Appeals Board (WCAB) has offices in San Francisco at 455 Golden Gate Avenue, 9th Floor. The San Francisco WCAB serves Northern California, including the Central District. The WCAB decides disputed workers' compensation claims and can impose penalties when fraud is identified. California DIR - WCAB (https://www.dir.ca.gov/wcab/wcab_petitionforreconsideration.htm)

Important: The WCAB does not prosecute criminal cases. However, if the WCAB suspects fraud during a hearing, it may refer the matter to law enforcement for criminal investigation. California DIR - WCAB About (https://www.dir.ca.gov/wcab/about_wcabf.htm)

DLSE Enforcement in Northern California

The DLSE office serving Northern California can:

- Investigate complaints about employers without insurance
- Issue stop orders immediately upon discovering a violation
- Impose administrative penalties
- Refer cases to district attorneys for criminal prosecution

The DLSE pursues both criminal referrals and administrative penalties at the same time, creating strong enforcement pressure on employers who break the law. DAM Firm - Penalties for Not Providing Workers' Comp (<https://www.damfirm.com/penalties-not-providing-workers-comp/>)

Recommendations If You Are an Injured Worker

1. Report your work injury to your employer immediately
2. Complete and file the required DWC 1 claim form (California DIR - Workers' Compensation Claim Form (<https://www.dir.ca.gov/dwc/dwcform1.pdf>)) as soon as possible
3. Keep honest and accurate records of your injury and medical treatment
4. If your employer does not have insurance, file a complaint with the DLSE and consider applying to the UEBTF
5. Consider hiring a workers' compensation attorney — you can find information at the California DIR Attorney Page (<https://www.dir.ca.gov/dwc/attorney.htm>)

Recommendations If You Are an Employer

1. Maintain workers' compensation insurance at all times through a licensed carrier
2. Ensure your payroll records are accurate and your employees are classified correctly
3. Report all workplace injuries within the required timeframes using Form 5020 (<https://www.dir.ca.gov/dosh/doshreg/form5020.pdf>)
4. Review your workers' compensation policies regularly with legal counsel
5. Check your coverage requirements at the Contractors State License Board (<https://www.cslb.ca.gov/contractors/maintainlicense/workerscompensation.aspx>)

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California Criminal Code Related to Workers' Compensation Injuries: A Legal Analysis

(PART-B LEGAL ANALYSIS)

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March 2, 2026

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California Criminal Code Related to Workers' Compensation Injuries: A Comprehensive Legal Analysis

Executive Summary

California's workers' compensation system is governed not only by civil labor statutes but also by an extensive criminal legal framework that addresses employer violations, insurance fraud, and criminal conduct affecting compensability. This report provides a comprehensive analysis of the criminal provisions applicable to workers' compensation matters, including penalties for failure to maintain required insurance, criminal fraud statutes, and how criminal conduct intersects with workers' compensation eligibility. The research reveals that California enforces worker protection through multiple criminal statutes, including misdemeanor and felony offenses carrying imprisonment and substantial fines. Employers face criminal liability under Labor Code Section 3700.5 for failure to secure workers' compensation insurance, while fraud offenses under Penal Code Sections 549-550 and Insurance Code Section 1871.4 address fraudulent claims by workers, employers, and medical providers. Additionally, Criminal Law Section 3600(a)(8) bars compensation for injuries caused by certain criminal convictions. This legal landscape reflects California's dual commitment to protecting injured workers while preventing abuse of the system. The research identifies that as of March 2026, prosecutorial discretion in immigration matters has largely been eliminated, but for workers' compensation matters, enforcement remains robust through criminal statutes, civil penalties, and administrative actions by the Division of Labor Standards Enforcement (DLSE) and the Department of Industrial Relations (DIR).

I. Legal Framework: Criminal Statutes Governing Workers' Compensation

A. Statutory Authority and Hierarchy

The California workers' compensation criminal framework derives from multiple sources of legal authority, creating a comprehensive system of criminal penalties for violations related to workplace injuries and compensation. The primary statutory authorities include the California Labor Code, California Penal Code, and California Insurance Code. Understanding the hierarchy and interaction of these statutes is essential for practitioners and affected parties.[1][2][4]

The most fundamental criminal prohibition appears in California Labor Code Section 3700.5, which establishes that failure to maintain workers' compensation insurance is a misdemeanor offense.[1][4] This statute carries imprisonment of up to one year in county jail and/or fines of not less than \$10,000.[1][4] The statutory language provides: "It is a criminal offense for an employer not to have workers' compensation coverage. California Labor Code Section 3700.5 provides that the failure to maintain Workers' Compensation insurance is a misdemeanor, punishable by imprisonment for up to one year in the county jail, and/or fines of not less than \$10,000.00." [1] Beyond the statutory minimum fine of \$10,000, the state also maintains the authority to impose administrative penalties of up to \$100,000 against illegally uninsured employers.[4]

California Insurance Code Section 1871.4 addresses workers' compensation fraud committed by any party to the workers' compensation system, including employers, employees, and medical providers.[2][5] The statute defines unlawful conduct broadly to encompass "(1) Make or cause to be made a knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code. (2) Present or cause to be presented a knowingly false or fraudulent written or oral material statement in support of, or in opposition to, a claim for compensation for the purpose of obtaining or denying any compensation." [2] Additionally, subsection (4) criminalizes "Make or cause to be made a knowingly false or fraudulent statement with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim." [2]

California Penal Code Section 550 addresses health care fraud that overlaps with workers' compensation claims.[6][9] Since workers' compensation benefits include medical care coverage, Penal Code Section 550 applies to fraudulent medical claims submitted for work-related injuries.[6] The statute criminalizes knowingly submitting false medical claims, submitting duplicate claims for the same injury, and related fraudulent conduct in the health care context.[6]

California Penal Code Section 549 addresses a specific form of workers' compensation fraud involving commercial bribery and kickback schemes.[3][6] This statute criminalizes knowingly accepting business from those whom the defendant knows or ought to know intend or likely may intend to commit workers' compensation fraud, particularly when health care providers solicit referrals through improper inducements.[3][6]

The interaction between these statutes creates overlapping liability. A single course of conduct may violate multiple statutes simultaneously. For example, an employer who misrepresents payroll to avoid workers' compensation premiums may face charges under Labor Code Section 3700.5 for failure to maintain proper insurance, Insurance Code Section 1871.4 for fraud, and potentially under additional statutes addressing commercial bribery or conspiracy.[15]

B. Regulatory Framework and Implementing Regulations

Beyond statutory provisions, the California Code of Regulations provides the administrative framework for workers' compensation requirements and enforcement. 8 California Code of Regulations implements the statutory provisions of the Labor Code and Insurance Code, establishing requirements for insurance carriers, claims administrators, and employers.[15]

The Division of Labor Standards Enforcement (DLSE), operating under the Department of Industrial Relations (DIR), possesses regulatory authority to establish penalties and investigation procedures for employers violating workers' compensation insurance requirements.[4][10] Under California Labor Code Section 3700.5 and related provisions, the DLSE may issue stop orders that close down business operations until workers' compensation insurance is secured.[4][10] These stop orders are themselves enforceable through criminal penalties-violation of a stop order constitutes a misdemeanor punishable by up to 60 days in county jail and/or fines of up to \$10,000.[4]

The California Department of Insurance maintains regulatory authority over insurance fraud matters, including workers' compensation fraud.[25] The California Insurance Fraud Program, established in 1991, created a mechanism for funding investigation and prosecution of workers' compensation insurance fraud through assessments on employers and insurers.[25] During fiscal year 2023-24, the Fraud Division identified and reported 2,932 suspected fraud cases, assigned 291 new cases, made 128 arrests, and referred 156 cases to prosecuting authorities, with potential losses amounting to \$157,201,942.[25]

C. Key Statutory Provisions: Labor Code Section 3600(a)(8) and Criminal Conduct

A critical intersection between criminal law and workers' compensation eligibility appears in California Labor Code Section 3600(a)(8), which establishes an affirmative defense barring compensation when "the injury is caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted." [11][14] This provision creates a criminal-law-triggered bar to workers' compensation benefits, meaning that certain criminal convictions can eliminate an employee's eligibility for benefits even if the injury was work-related.

The application of Section 3600(a)(8) has been clarified by the Workers' Compensation Appeals Board (WCAB) in recent decisions. In *Johnson v. Lexmar Distribution dba LDI Trucking, Inc.*, the WCAB determined that Penal Code Section 17(b) applies to "wobbler" offenses-crimes that may be prosecuted either as misdemeanors or felonies.[11] The statute therefore bars compensation for injuries caused by the commission of either a felony or a crime that qualifies under Penal Code Section 17(b) as a wobbler offense.[11] This means that an employee injured while committing a crime that can be charged as either a felony or misdemeanor at the prosecutor's discretion may lose compensation eligibility.

However, Section 3600(a)(8) does not categorically bar compensation for all criminal conduct. As the courts have noted, "Employee misconduct, whether negligent, willful, or even criminal, does not necessarily preclude recovery under workers' compensation law." [11] The statute applies specifically to convictions, not mere allegations or arrests. An employee who is accused of criminal conduct but not convicted may still pursue workers' compensation benefits if the injury otherwise meets the requirements of the Labor Code.[11] Additionally, the criminal activity must have directly caused the injury to trigger the bar; if the injury merely occurred during criminal activity but was not caused by it, the defense may not apply.

II. Criminal Penalties for Failure to Maintain Workers' Compensation Insurance

A. Primary Criminal Offense Under Labor Code Section 3700.5

The most straightforward criminal violation in California's workers' compensation system involves the failure to maintain required insurance coverage. Labor Code Section 3700.5 makes it a misdemeanor for any employer to fail to maintain workers' compensation insurance or to fail to secure the payment of workers' compensation benefits.[1][4] The statute applies to all California employers with at least one employee, with

only narrow statutory exceptions for sole proprietorships with no employees and certain other specified categories.[1][10]

The criminal penalties for a Section 3700.5 violation include imprisonment of up to one year in county jail and/or fines of not less than \$10,000.[1][4] Critically, the statute establishes a minimum fine-the fine is not "up to" \$10,000 but rather "not less than" \$10,000, meaning the actual fine imposed may substantially exceed the statutory minimum.[4] In practice, fines often include calculation of premiums that should have been paid. For example, in the case cited in the source materials, Fernando Sanchez, a Monterey County employer, was convicted of failure to secure workers' compensation insurance for the second time. The court imposed a sentence of three years' probation, 40 days in county jail, and a \$10,000 fine to the Uninsured Employers Fund, plus the requirement to maintain workers' compensation insurance for all employees going forward.[4]

The severity of penalties may increase based on the duration of non-compliance and the number of employees affected. Labor Code Section 3700.5 provides for penalties of "either twice the amount the employer would have paid in workers' comp premiums during the uninsured time (determined according to subdivision) or the sum of \$1,500 per employee during the uninsured time - whichever is greater." [4] This provision ensures that penalties correlate with the scale of the violation, making sustained non-compliance increasingly costly.

B. Administrative Penalties and Stop Orders

Beyond criminal penalties, California law provides for substantial administrative penalties that may be imposed separately from criminal prosecution. The DLSE possesses authority to assess penalties of up to \$100,000 against employers found to have violated workers' compensation insurance requirements.[4][10] The DLSE calculates these penalties using a formula that considers the premium amount, the number of employees, and the nature of the violation.

Specifically, when an injured employee files a workers' compensation claim with the Workers' Compensation Appeals Board and the judge finds the employer guilty of illegally failing to secure insurance, the uninsured employer may face penalties of up to \$10,000 per employee on the payroll at the time of the original worker's injury (if the worker's case is compensable), or \$2,000 per employee if the case is not compensable, up to a maximum of \$100,000.[4] At the time of issuance of a stop order by the DLSE, the DLSE also assesses penalties of \$1,000 per employee on payroll, up to \$100,000.[4]

Stop orders represent a particularly severe administrative consequence. Effective January 1, 2011, the DLSE can issue a stop order at the time of discovering the non-compliance issue.[4] A stop order prohibits the employer from using employee labor until workers' compensation coverage is obtained.[4] The order effectively shuts down business operations. Failure to observe a stop order is itself a criminal misdemeanor punishable by up to 60 days in county jail and/or fines of up to \$10,000.[4]

The Uninsured Employers Benefits Trust Fund (UEBTF) may also pursue reimbursement from an illegally uninsured employer for expenditures made on behalf of injured workers. The UEBTF will "explore all available avenues to find the funding, including liens against the employer's properties." [4][10] This creates additional civil consequences that extend beyond criminal penalties and may result in liens against real property and other assets.

C. Felony Enhancement Provisions

While the base offense of failing to maintain workers' compensation insurance is a misdemeanor under Section 3700.5, certain circumstances may elevate the charge to felony status or trigger enhanced sentencing. California's sentencing structure, particularly under Penal Code Section 1170(h), allows judges to enhance sentences in certain circumstances. Additionally, if an employer's non-compliance results in severe injury or death to an employee, prosecutors may pursue more serious charges related to the underlying injury rather than the insurance violation alone.

The failure to secure insurance as a predicate offense can support aggravated charges if combined with other misconduct. For instance, an employer who knowingly fails to maintain insurance while exposing employees to abnormally dangerous conditions, or who engages in concealment or fraud regarding the nature of the business or employee classification, may face enhanced penalties.[4]

III. Workers' Compensation Fraud: Statutes, Elements, and Penalties

A. Insurance Code Section 1871.4: Employer and Provider Fraud

California Insurance Code Section 1871.4 provides the primary statutory basis for prosecuting workers' compensation fraud by employers, employees, and health care providers.[2][5][6] The statute defines several unlawful acts, each constituting a separate offense:

First, subsection (a)(1) criminalizes making or causing to be made "a knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation." [2] This provision addresses deliberate misstatements made to insurance companies, employers, or claims administrators.

Second, subsection (a)(2) criminalizes presenting or causing to be presented "a knowingly false or fraudulent written or oral material statement in support of, or in opposition to, a claim for compensation." [2] This provision covers not only initial fraudulent claims but also fraudulent evidence or arguments made in support of or opposition to benefit determinations.

Third, subsection (a)(3) addresses conspiracy and assistance, criminalizing anyone who "knowingly assists, abets, conspires with, or solicits a person in an unlawful act under this section." [2] This provision extends liability beyond the principal fraudster to anyone facilitating the fraud.

Fourth, subsection (a)(4) addresses a specific form of fraud targeting workers: making "a knowingly false or fraudulent statement with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim." [2] This provision protects workers from employer and insurer tactics designed to prevent legitimate claims.

For purposes of the statute, "statement" is defined broadly to include "but not limited to, a notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray, test results, medical-legal expense as defined in Section 4620 of the Labor Code, other evidence of loss, injury, or expense, or payment." [2] This expansive definition captures falsified documentation, manipulated medical records, and fabricated evidence.

Penalties for Insurance Code Section 1871.4 violations vary based on whether the offense is charged as a misdemeanor or felony. As a misdemeanor, conviction results in up to one year in county jail, summary probation, full restitution, and fines of \$150,000 or twice the value of the fraud, whichever is greater. [5][6] As a felony, conviction results in two to five years in county jail, formal probation, full restitution, and the same fine structure. [5][6] The statute also provides that the court may charge the defendant the cost of investigation at the court's discretion. [5]

For defendants with prior felony convictions for workers' compensation fraud or similar offenses, California Insurance Code Section 1871.4(c) provides for an additional two-year enhancement for each prior conviction. [6][17]

B. Penal Code Section 550: Health Care Fraud

California Penal Code Section 550 addresses health care fraud, which overlaps substantially with workers' compensation fraud because workers' compensation benefits include medical treatment coverage. [6][9] The statute criminalizes several forms of health care fraud relevant to workers' compensation:

Section 550(a) addresses submitting false claims for medical benefits covered by workers' compensation insurance. Specifically, it criminalizes knowingly:

Preparing or causing to be prepared a fraudulent claim for workers' compensation benefits covering medical expenses;

Purposefully submitting a workers' compensation health care claim for a medical service that was never used;

Intentionally submitting two or more claims for a single health care expense covered by workers' compensation insurance. [6]

Prosecution requirements for Penal Code Section 550 require proof that:

A false, incomplete, or misleading claim was submitted to the workers' compensation insurance system;

The defendant was aware of the nature of the claim as false or fraudulent;

The defendant intended to derive financial gain from the fraud claim by defrauding the workers' compensation program of undeserved benefits.[6]

Penalties for Penal Code Section 550 violations depend on the amount of the fraud and whether the charge is filed as a misdemeanor or felony.[6][17] For misdemeanor convictions, the penalty is up to 12 months in county jail, summary probation, and a maximum fine of \$10,000.[6][17] However, if the fraud amount does not exceed \$950 within a 12-month period, the offense is charged as a misdemeanor with reduced penalties of six months in jail and a \$1,000 fine.[6][17]

For felony convictions, the penalty is two to five years in jail, formal probation, and a fine of \$50,000 or twice the amount of the fraud claim, whichever is greater.[6][17]

C. Penal Code Section 549: Solicitation and Kickback Schemes

California Penal Code Section 549 addresses a specific category of workers' compensation fraud involving kickbacks, commercial bribery, and improper referral schemes. Section 549 criminalizes knowingly accepting business, soliciting business, or referring business with knowledge or reckless disregard that the person knows or intends to violate Penal Code Section 550 or Insurance Code Section 1871.4.[3][6] This statute is primarily enforced against health care providers, including doctors, chiropractors, physical therapists, and other medical professionals who participate in fraudulent referral rings.

Typical Penal Code Section 549 offenses include health care providers offering kickbacks or inducements to solicit referrals of injured workers, arranging unnecessary medical treatments, over-billing for services, or agreeing to submit fraudulent bills in exchange for compensation from the referring party.[3][6] These schemes often involve attorneys and medical providers working in coordination to maximize fraudulent claims.

Penalties for Penal Code Section 549 violations are severe. As a misdemeanor, conviction results in up to 12 months in county jail and a fine of \$50,000 or double the amount of the fraud claim, whichever is greater.[6] As a felony, conviction results in 16 months to 3 years in jail and the same fine structure.[6] Unlike some wobbler offenses, Section 549 is treated as a misdemeanor for first-time offenders but becomes a felony for subsequent offenders, creating incentive for prosecutors to pursue felony charges against repeat violators.[16]

Additionally, health care professionals convicted under Section 549 face non-criminal professional consequences, including potential loss of professional license, either temporarily or permanently.[6] This creates a dual sanction system where criminal penalties are supplemented by professional discipline.

D. Civil Penalties for Workers' Compensation Fraud

Beyond criminal penalties, California law provides for substantial civil penalties that may be imposed independently of criminal prosecution. California Insurance Code Section 1871.4(b) and related provisions establish civil liability for fraudulent conduct. Civil penalties may include:

Fines of \$4,000 to \$10,000 per fraudulent claim submitted;

Fines of up to triple the amount workers' compensation insurance paid out for medical and/or legal expenses on fraudulent claims;

For those with prior convictions under Penal Code Section 549 or Insurance Code Section 1871.4, an additional \$4,000 per fraudulent claim.[6][16]

These civil penalties are imposed by civil courts or the workers' compensation appeals board and may be imposed even if criminal prosecution does not result in conviction. The civil standard of proof (preponderance of the evidence) is lower than the criminal standard (beyond a reasonable doubt), making civil penalties more likely to be imposed.[5]

Importantly, restitution is mandatory in criminal cases. Insurance Code Section 1871.4(b) requires that the court "shall be ordered, including restitution for any medical evaluation or treatment services obtained or provided." [5] Restitution is not limited to direct financial losses but also includes the cost of medical services obtained fraudulently.

IV. Current Criminal Law Landscape and Trends in Enforcement

A. Recent Enforcement Activity and Prosecution Trends

As of March 2026, California continues aggressive enforcement of workers' compensation criminal statutes. The Department of Insurance Fraud Division reported significant activity during fiscal year 2023-24, identifying 2,932 suspected fraud cases, assigning 291 new cases, making 128 arrests, and referring 156 cases to prosecuting authorities.[25] The potential loss amount associated with identified fraud was \$157,201,942 during that fiscal year, demonstrating the scale of resources diverted from legitimate compensation to fraudulent claims.[25]

District attorneys' offices throughout California maintain dedicated workers' compensation fraud prosecution units. During fiscal year 2023-24, 34 counties received state funding totaling \$52,201,133 for workers' compensation fraud investigation and prosecution.[25] These district attorneys reported 1,313 investigations, 336 arrests, and prosecution of 1,041 cases with 1,168 defendants, resulting in 260 convictions.[25] Restitution ordered in connection with these convictions totaled \$31,543,396, with \$11,682,851 actually collected.[25]

B. Prosecution Priorities and Case Selection

Prosecutors exercise discretion in selecting which cases to pursue and at what charge level. While Labor Code Section 3700.5 violations (failure to maintain insurance) are often prosecuted in cases where injured employees file claims with the Uninsured Employers Benefits Trust Fund, not all violations result in prosecution. The nature and degree of harm, the defendant's prior criminal history, the cooperation of the injured worker or third-party complainant, and resource constraints all influence prosecution decisions.

Fraud cases involving organized schemes-such as "claim mills" that recruit workers to file phony claims or organized rings of providers offering kickbacks-receive heightened prosecutorial attention.[5] Los Angeles County, in particular, has reported that "organized workers' compensation fraud involving doctors and lawyers have been an ongoing problem, especially in Southern California. Fraud rings have made a practice of recruiting people to file phony work injury claims." [5] These rings typically involve medical clinics or legal referral centers that refer patients to providers in on the scheme, creating systematic fraud affecting multiple claims.

Provider fraud (medical professionals billing fraudulently), premium fraud (employers misrepresenting payroll), and applicant fraud (workers fabricating or exaggerating injuries) remain the most commonly prosecuted categories, though "claim mills" represent a significant enforcement focus.[5]

C. Specialized Investigation Units and Multi-Agency Coordination

California's enforcement approach involves specialized investigation units coordinated across multiple agencies. The Department of Insurance maintains a dedicated Fraud Division that investigates suspected fraud committed by insurance agents, brokers, public adjusters, and other market participants.[25] The Division of Labor Standards Enforcement within the Department of Industrial Relations conducts investigations of employers failing to maintain required insurance.[4][10]

District attorneys in counties with significant workers' compensation fraud activity often maintain dedicated investigators or prosecution units focused on these crimes. The California District Attorneys Association provides training, resources, and coordination to support local prosecution efforts.[25]

D. Impact of Current Policy Environment

As of January 2026, it should be noted that the Doyle memorandum, which previously provided guidance on prosecutorial discretion in immigration matters, is no longer in effect and has not been replaced by current Department of Justice guidance.[Personalization note] However, prosecutorial discretion remains relevant to workers' compensation fraud cases, particularly in determining whether to charge offenses as misdemeanors or felonies, whether to pursue enhancement allegations, and resource allocation decisions.

Within the workers' compensation system specifically, there has been no comparable reduction in enforcement discretion. The Legislature has made workers' compensation fraud a felony and established the mechanism for funding enforcement and prosecution, demonstrating a strong policy commitment to enforcement.[25] District

attorneys continue aggressive pursuit of these cases, and conviction rates remain relatively high for cases that proceed to trial.

V. San Francisco Bay Area and Northern California Enforcement Context

A. Northern California Prosecutorial Patterns

Northern California, encompassing the San Francisco, Oakland, and surrounding areas served by the San Francisco District Attorney's Office and other Bay Area district attorney offices, has maintained consistent enforcement of workers' compensation fraud statutes. The Bay Area has experienced significant workers' compensation fraud activity, particularly involving organized schemes targeting the medical system.

The San Francisco District Attorney's Office maintains a dedicated fraud prosecution unit that includes workers' compensation fraud cases. The office has pursued cases involving organized claim mills, provider fraud rings, and employer insurance violations. The frequency of prosecution in Northern California reflects both the scale of economic activity in the region and the significant workers' compensation system activity supporting the region's large workforce.[25]

B. Workers' Compensation Appeals Board in San Francisco

The Workers' Compensation Appeals Board (WCAB) maintains a significant presence in San Francisco, with offices located at 455 Golden Gate Avenue, 9th Floor.[35] The Board's San Francisco location serves Northern California, including the Central District. The WCAB adjudicates workers' compensation claims and exercises authority to impose penalties and sanctions in cases where fraudulent claims are identified or criminal conduct is alleged to affect compensability under Labor Code Section 3600(a)(8).[26]

Importantly, the WCAB itself does not prosecute criminal cases; rather, the Board adjudicates compensability and benefit disputes while potentially referring criminal matters to appropriate law enforcement agencies. However, the Board's findings regarding compensability and the credibility of claims can trigger criminal referrals when fraud is suspected.[22]

C. Stop Orders and DLSE Enforcement in Northern California

The Division of Labor Standards Enforcement office serving Northern California maintains authority to issue stop orders against employers violating workers' compensation insurance requirements. The DLSE can conduct investigations based on complaints from injured workers or referrals from insurance carriers. Once a violation is discovered, the DLSE may issue a stop order effective immediately, closing down business operations until coverage is obtained.[4][10]

In Northern California, DLSE enforcement has resulted in significant penalties against non-compliant employers. The DLSE maintains active investigation capacity and pursues both criminal referrals to district attorneys and administrative penalties simultaneously, creating dual enforcement pressure on violating employers.

VI. Defenses and Limitations in Criminal Workers' Compensation Cases

A. Lack of Knowledge or Intent

A critical element of most workers' compensation fraud offenses is the defendant's knowledge or intent. For Insurance Code Section 1871.4 violations, the defendant must have acted "knowingly" and with intent to defraud. This requirement means that honest mistakes, misunderstandings, or reliance on advice of counsel may provide viable defenses.[6] For example, an employer who honestly but incorrectly calculates payroll classification codes cannot be convicted of fraud if there was no intent to misrepresent the information.[6]

Similarly, for health care provider fraud under Penal Code Section 550, the defendant must have "knowingly" submitted false claims. If a medical provider relied on billing instructions from a claims administrator or submitted documentation provided by others without awareness of its falsity, the knowledge element might be negated.[9]

B. Materiality Requirement

Many workers' compensation fraud statutes require that the false statement be "material"-that is, having significance to the outcome. If a defendant exaggerates or embellishes injury details in a way that would not

have changed the claim outcome, prosecutors may struggle to prove materiality.[9] For instance, if a claimant states they showed symptoms of a condition for two weeks when it actually developed ten days earlier, this immaterial misstatement may not support a fraud conviction even if technically false.[9]

Courts have recognized that materiality is a meaningful limitation on fraud prosecutions, particularly in cases involving minor inaccuracies or borderline misstatements that did not affect benefit determinations.

C. Statute of Limitations

Workers' compensation fraud prosecutions are subject to applicable statutes of limitations. Most felony prosecutions must be commenced within three years of the commission of the offense, while misdemeanor prosecutions must be commenced within one year.[3] However, the statute of limitations may be extended in certain circumstances, such as when the defendant conceals the crime or the continuing nature of the fraudulent conduct extends the limitations period.

For civil fraud penalties under Insurance Code Section 1871.4, the statute of limitations is generally four years from discovery of the fraud.[5]

D. Fourth Amendment Protections

Criminal defendants retain Fourth Amendment protections against unreasonable searches and seizures even in the context of workers' compensation fraud investigations. If investigators conduct searches without proper warrants or consent, or if they violate privacy rights in obtaining documentary evidence, defendants may move to suppress evidence obtained in violation of the Fourth Amendment.[9] This defense is particularly relevant when investigators conduct surveillance, access medical records without authorization, or seize documents from medical offices or employer premises without proper legal process.

E. Affirmative Defenses Under Labor Code Section 3600

For cases involving alleged criminal conduct affecting compensability under Labor Code Section 3600(a)(8), the statute bars compensation only when an employee has been "convicted" of a crime causing the injury. An acquittal, dismissal, or pending charges do not trigger the statutory bar.[11] Additionally, the criminal conduct must have actually caused the injury; if the injury merely occurred during criminal activity, the defense may not apply.[11]

VII. Intersection of Criminal Conduct and Workers' Compensation Eligibility

A. Labor Code Section 3600(a)(8): The Criminal Conviction Bar

Labor Code Section 3600(a)(8) creates the most direct intersection between criminal law and workers' compensation eligibility. The statute provides that compensation shall not be granted for an injury "caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted." [11][14]

This provision operates as an affirmative defense that bars compensability entirely if proven. Unlike other exclusions that limit the amount of benefits, Section 3600(a)(8) eliminates eligibility altogether if the injury was caused by criminal conduct for which the employee was convicted. The burden of proof falls on the employer/insurer to establish the affirmative defense by a preponderance of evidence before the Workers' Compensation Appeals Board.[11]

B. Application of Penal Code Section 17(b) to Wobbler Offenses

The critical development in Section 3600(a)(8) jurisprudence involves the treatment of "wobbler" offenses—crimes that may be prosecuted either as felonies or misdemeanors. In *Johnson v. Lexmar Distribution dba LDI Trucking, Inc.* (2024), the WCAB clarified that Section 3600(a)(8) bars compensation for injuries caused by commission of a felony or "a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code." [11]

Penal Code Section 17(b) establishes that a court may designate wobbler offenses as misdemeanors by imposing a punishment other than state prison or by declaration as a misdemeanor after granting probation. The WCAB concluded that Section 3600(a)(8) bars compensation when the injury was caused by commission of:

A clear felony (punishable by state prison);

A misdemeanor that was originally prosecuted as a felony but later reduced to a misdemeanor pursuant to Penal Code 17(b);

A wobbler offense prosecuted as a felony.[11]

However, pure misdemeanors-crimes punishable only by county jail and/or fines-do not trigger the Section 3600(a)(8) bar.[11] This interpretation creates a meaningful distinction: an employee injured while committing a misdemeanor-level offense (not eligible for state prison time) can still recover workers' compensation, whereas an employee injured while committing a felony or a wobbler prosecuted as a felony cannot.

C. Requirement of Conviction

A critical limitation on Section 3600(a)(8) is that the statute requires a "conviction" for the bar to apply. An arrest alone, pending charges, or acquittal does not trigger the bar. This requirement protects employees who are falsely accused or acquitted of criminal charges from losing workers' compensation benefits.[11] The conviction must be final and not subject to reversal on appeal, though conviction by plea agreement satisfies the requirement.

D. Causation Requirement: Criminal Act Must Cause the Injury

The statutory language requires that the injury be "caused by the commission" of a crime, creating a causation requirement beyond mere temporal proximity. If an employee is injured during a time when a criminal act is occurring but the injury is not caused by the criminal conduct, the bar does not apply.[11] For example, an employee injured by slipping on a wet floor while engaging in criminal activity on premises would likely not be barred from benefits if the slip-and-fall injury was not caused by the criminal conduct.[11]

E. Intoxication and Willful Misconduct Exclusions

Beyond criminal conduct specifically, Labor Code Section 3600 includes additional exclusions relevant to criminal or quasi-criminal behavior. Labor Code Section 3600(a)(5) provides that compensation is not provided if "the injury was caused by the influence of alcohol or controlled substances not provided, required, or suggested by the employer, or by the influence of intoxication." [7][8][14] However, employers bear the burden of proving that intoxication directly caused the injury, which can be difficult to establish.[7][14]

Labor Code Section 3600(a)(6) excludes coverage for "all injuries where the employee has intentionally caused or attempted to cause injury to himself or herself." [7][8][14] This provision requires proof of intentionality and is narrowly construed; recklessness or negligence insufficient to establish intent.[8]

VIII. Procedural Roadmap: Criminal Investigation and Prosecution

A. Initiation of Investigation

Workers' compensation fraud investigations typically begin with a referral from an insurance company, claims administrator, DLSE report, WCAB finding, or individual complaint. Insurance companies are required to report suspected fraud, which triggers investigation by the Department of Insurance Fraud Division or referral to local district attorneys.[25]

When an uninsured employer is discovered through an injured worker's claim, the DLSE initiates investigation and may issue a stop order within days of discovery. If criminal conduct is suspected (such as intentional failure to maintain insurance combined with misrepresentation of employee status), the matter may be referred to a district attorney for criminal investigation.[4]

B. Investigation Procedures and Evidence Gathering

Criminal investigators examine payroll records, insurance policies, workers' compensation claims, medical documentation, testimony from workers and supervisors, and surveillance video when available. Investigators may conduct interviews with the injured worker, co-workers, employers, and health care providers.[22]

For fraud cases, investigators review claims for inconsistencies between reported injuries and surveillance evidence, prior claim history, medical records for signs of exaggeration, and financial records for evidence of

secondary employment or income while claiming total disability.[22] Digital investigation techniques may include analysis of social media activity showing the claimant engaging in activities contradicting disability claims.

C. Charging Decision and Grand Jury Process

Upon completion of investigation, the district attorney decides whether to file criminal charges. For misdemeanor charges (such as Labor Code Section 3700.5 violations or less-serious fraud), the prosecutor may file a charging document directly. For felony charges, California requires either grand jury indictment or preliminary hearing establishing probable cause.[3]

The prosecutor presents evidence to the grand jury or at the preliminary hearing, and must establish probable cause to believe the defendant committed the alleged offense. Defendants have the right to cross-examine evidence presented in preliminary hearings, though grand jury proceedings are *ex parte* (one-sided).[3]

D. Arrest and Bail Proceedings

Upon authorization to proceed, arrest warrants are issued or the defendant may be taken into custody. Bail amounts for workers' compensation fraud vary by county and offense severity. In San Bernardino County, the scheduled bail is \$25,000 for felony cases and \$5,000 for misdemeanor cases, though judges may increase or decrease bail based on flight risk, criminal history, ties to the community, and other factors.[17]

Defendants have the right to bail hearings where they may argue for release on their own recognizance or reduced bail. The determination of bail considers the seriousness of the offense, strength of the evidence, and the defendant's personal characteristics and ties to the community.[17]

IX. Remedies Available to Injured Workers When Employer Lacks Insurance

A. Civil Action Against Uninsured Employer

When an employer fails to maintain workers' compensation insurance and an employee suffers injury, California Labor Code Section 3706 provides that "if an employer fails to secure the payment of compensation, any injured employee or his dependents may bring an action at law against such employer for damages." [1][12] This provision creates civil liability beyond workers' compensation, allowing injured workers to pursue personal injury lawsuits with uncapped damages.[12]

The civil action is governed by California Code of Civil Procedure Section 338(a), which provides a three-year statute of limitations from the date of injury to bring a civil lawsuit against an uninsured employer—longer than the typical negligence statute of limitations.[1][12] This extended period reflects the Legislature's intent to protect injured workers from unscrupulous employers by ensuring adequate time to discover the injury and the employer's lack of insurance.

Damages available in civil actions against uninsured employers include all remedies available in ordinary negligence cases: medical expenses, lost wages, lost capacity to work, pain and suffering, disability, disfigurement, and potentially punitive damages for willful or malicious conduct.[1][12] Unlike workers' compensation benefits, which provide wage replacement limited to a percentage of pre-injury earnings, civil damages may include full compensation for lost wages and unlimited pain and suffering damages.[1][12]

B. Uninsured Employers Benefits Trust Fund (UEBTF)

When an injured worker cannot recover from an uninsured employer in a civil action, California Labor Code Section 3716 establishes the Uninsured Employers Benefits Trust Fund (UEBTF).[10] The UEBTF is a special unit within the Division of Workers' Compensation that may pay workers' compensation benefits to injured workers who are injured while working for illegally uninsured employers.

The UEBTF pays workers' compensation benefits—including medical care, temporary disability, permanent disability, and death benefits—equivalent to what would have been available had the employer maintained insurance.[10] The employee must file an Application for Adjudication of Claim with the UEBTF, presenting evidence of the work-related injury and the employer's lack of insurance.[10]

Critically, the UEBTF pursues reimbursement from the responsible employer through all available legal avenues. The UEBTF may file liens against employer property, pursue collection actions, and coordinate with

district attorneys for criminal prosecution of the uninsured employer.[4][10] If the UEBTF pays benefits and subsequently recovers funds from the employer, the recovered funds are deposited back into the Trust Fund.[4]

C. Criminal Referral and Prosecution

Injured workers or their representatives may report uninsured employers to the DLSE, which may initiate criminal investigation and refer cases to district attorneys for prosecution.[4][10] Criminal prosecution of the employer does not directly provide additional compensation to the injured worker but may result in restitution ordered as a criminal sentence, which the court may direct to the injured worker or the UEBTF.

Additionally, conviction of the employer may make civil collection easier by establishing liability through judicial determination in the criminal proceeding.

D. Remedies for Underinsured Employers

An employer who maintains workers' compensation insurance but with coverage limits insufficient to cover the injured worker's benefits is not subject to criminal penalties but may face civil liability under certain circumstances. If the employer misrepresented the scope of work or employee classification to the insurer, the insurer may deny coverage, leaving the employee with a civil claim against the employer.[15]

X. Criminal Penalties: Sentencing Considerations and Collateral Consequences

A. Sentencing Structure and Enhancement Provisions

Penal Code Section 1170(h) governs sentencing for felony workers' compensation offenses. For Insurance Code Section 1871.4 felony violations, judges may sentence defendants to 16 months, two years, or three years imprisonment in county jail.[17] The judge selects among these terms based on aggravating and mitigating factors established by California law and common-law principles.

California law provides for sentence enhancements when prior convictions exist. Insurance Code Section 1871.4(c) provides for a two-year enhancement for each prior felony conviction for workers' compensation fraud or similar offenses.[6][17]

B. Probation as Sentence Alternative

Rather than imposing jail time, judges may impose probation sentences for both misdemeanor and felony convictions. For misdemeanor Insurance Code Section 1871.4 violations, courts typically impose summary probation (unsupervised) with conditions including fines and restitution.[5][17] For felony violations, formal probation (supervised by a probation officer) may be imposed with conditions including submission to search, prohibition on certain conduct, and completion of programs or treatment.[6]

However, probation in workers' compensation cases almost always includes payment of fines and restitution as conditions, making probation a financial obligation even if the defendant avoids incarceration.[6][17] Failure to pay ordered fines or restitution may result in violation of probation and imposition of jail time.

C. Restitution Requirements

Insurance Code Section 1871.4(b) mandates restitution for all workers' compensation fraud convictions: "Restitution shall be ordered, including restitution for any medical evaluation or treatment services obtained or provided. The court shall determine the amount of restitution and the person or persons to whom the restitution shall be paid." [5][17]

Restitution is calculated to compensate victims for direct losses caused by the fraudulent conduct. For employer fraud cases, restitution may be ordered to the insurance carrier that paid fraudulent benefits or to the UEBTF. For worker fraud cases, restitution is typically ordered to the workers' compensation insurance carrier or self-insured employer. Restitution amounts can reach into hundreds of thousands of dollars in organized fraud cases.

D. Collateral Consequences Beyond Criminal Penalties

Conviction of workers' compensation fraud carries substantial collateral consequences beyond the criminal penalties of imprisonment, fines, and restitution:

For Employers: Criminal conviction may result in loss of business licenses or professional certifications. Certain professions, particularly in construction and health care, require background checks that reveal fraud convictions, making licensure more difficult. Surety bonds required for business operations may become unavailable or prohibitively expensive after conviction. Insurance coverage for liability, professional errors, and directors-and-officers liability may be denied or rates substantially increased. Employment-related tax credits and government contracting opportunities may be unavailable to convicted employers.

For Health Care Providers: Criminal conviction for workers' compensation fraud or related offenses may result in loss of professional license, either temporarily or permanently. Medical boards, dental boards, chiropractic boards, and other professional licensing authorities treat fraud convictions as grounds for license denial, suspension, or revocation. Loss of Medical license ends the defendant's career in medicine. Even temporary license suspension during criminal proceedings can result in loss of employment and income.

For All Defendants: Conviction creates a permanent criminal record accessible to employers, affecting future employment prospects. Professional advancement in regulated industries becomes impossible. Immigration consequences may apply to defendants with immigration status issues (though this is primarily relevant to workers not employers). Professional reputation is damaged, affecting business relationships and community standing. Felony convictions carry loss of gun rights in California. Certain professional licensures (attorney, accountant, insurance agent, etc.) become permanently unavailable.

XI. Special Considerations: Multi-Jurisdictional Enforcement and Federal Crimes

A. Federal Workers' Compensation Fraud

While most workers' compensation fraud prosecutions occur under state law, federal law also addresses fraud affecting federal programs. 18 U.S. Code Section 1920 governs fraud affecting federal employees' compensation under the Federal Employees' Compensation Act (FECA). The statute penalizes knowing and willful falsification or concealment of material facts or making false statements to support claims of work-related injury or illness for federal employees.[9]

Conviction of federal workers' compensation fraud carries imprisonment of up to five years in federal prison, or if the fraud amount does not exceed \$1,000, imprisonment of up to one year.[9] Federal conviction also prevents future federal employment.[9]

B. Interstate Coordination

California workers' compensation fraud investigations may involve out-of-state actors. Employees injured in California may have prior claims in other states; employers may be headquartered out-of-state; medical providers may maintain offices across multiple states. District attorneys coordinate with out-of-state prosecutors and the Federal Bureau of Investigation for significant cases involving interstate fraud schemes.

Large organized fraud rings are increasingly investigated under federal RICO statutes (Organized Crime Control Act) when the scheme involves multiple predicate acts across state lines or in multiple jurisdictions.[3]

XII. Conclusion and Strategic Implications

A. Summary of Criminal Legal Framework

California's workers' compensation system is enforced through a comprehensive criminal legal framework that addresses employer insurance violations, fraudulent claims, and criminal conduct affecting compensability. The primary criminal statutes include Labor Code Section 3700.5 (failure to maintain insurance), Insurance Code Section 1871.4 (fraud by any party), Penal Code Sections 549-550 (health care fraud and kickback schemes), and Labor Code Section 3600(a)(8) (criminal conduct bar to compensation).

Penalties are substantial: misdemeanor convictions carry up to one year imprisonment and fines starting at \$10,000; felony convictions carry two to five years imprisonment and fines up to \$150,000 or twice the fraudulent amount; administrative penalties reach \$100,000; and criminal convictions trigger collateral consequences including loss of professional licenses, business disruption, and permanent employment impacts.

B. Implications for Employers

Employers must maintain continuous workers' compensation insurance coverage or face criminal exposure. Section 3700.5 violations are strictly enforced through criminal prosecution, administrative penalties, and stop orders that shut down business operations. Employers cannot avoid criminal liability through ignorance or inadvertence; maintaining current insurance is a mandatory legal obligation.

Additionally, employers must ensure accurate payroll reporting, proper employee classification, and compliance with all reporting requirements. Misrepresentation of payroll, intentional employee misclassification, and failure to report injuries trigger fraud investigations under Insurance Code Section 1871.4.

C. Implications for Employees and Workers

Employees injured at work retain strong legal protections even if employed by uninsured employers. Both civil actions and the UEBTF provide alternative recovery mechanisms when employers fail to maintain insurance. Filing a workers' compensation claim does not restrict the employee's right to pursue civil litigation for pain and suffering, lost earning capacity, and other damages not available under the workers' compensation statute.

However, employees should be aware that fraudulent claims result in criminal prosecution, imprisonment, fines, and collateral consequences affecting employment, professional licenses, and immigration status. Honest reporting and documentation of work injuries protects both the worker and the system.

D. Implications for Health Care Providers

Medical professionals must maintain scrupulous ethical standards in workers' compensation cases. Kickback schemes, unnecessary treatments, fabricated claims, and provider-initiated fraud schemes result in criminal prosecution under Penal Code Sections 549-550, professional license loss, and imprisonment. Healthcare providers found to have engaged in fraud rings lose their professional licenses and face imprisonment alongside civil liability.

E. Recommendations for Practitioners and Stakeholders

For Employers: Maintain continuous insurance coverage through licensed carriers, ensure accurate payroll documentation, classify employees correctly, report all injuries within required timeframes, and conduct regular workers' compensation compliance audits. Engage employment counsel to review workers' compensation policies and procedures.

For Injured Workers: Report work injuries immediately to the employer, complete and file required claim forms promptly, maintain honest documentation of injury details and medical treatment, and consider legal representation if compensation is delayed or denied.

For Medical Providers: Maintain ethical standards, refuse kickback schemes, submit accurate documentation, and maintain clear records distinguishing legitimate treatment from fraud.

For Insurers and Claims Administrators: Maintain thorough investigation protocols for suspicious claims, refer suspected fraud to law enforcement, maintain proper documentation of all benefit decisions, and engage in regular employee training on fraud detection and prevention.

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