

Common Mistakes Employers Make with Worker's Compensation Insurance

- ❶ **Not securing workers compensation insurance at all.** Failure to get insurance subjects the employer to misdemeanor criminal prosecution for being willfully uninsured. (Labor Code § 3700.5)
- ❷ **Under-reporting the number of employees or the amount of pay to the insurance company.** Under-reporting subjects the employer to felony criminal prosecution for premium fraud. (Insurance Code § 11880(a)).
- ❸ **Misclassifying employees to the insurance company.** Misclassification of workers subjects the employer to felony criminal prosecution for premium fraud. (Insurance Code § 11880(a)).
- ❹ **Claiming that the workers are not employees.** Disclaiming employment subjects the employer to criminal prosecution for being willfully uninsured or for premium fraud. (Labor Code § 3700.5 and Insurance Code § 11880(a)).
- ❺ **Mistakenly believing that no one will find out.** Workers' Compensation Insurance is affordable and these crimes are easy to detect and prosecute. So, it's not worth the risk.

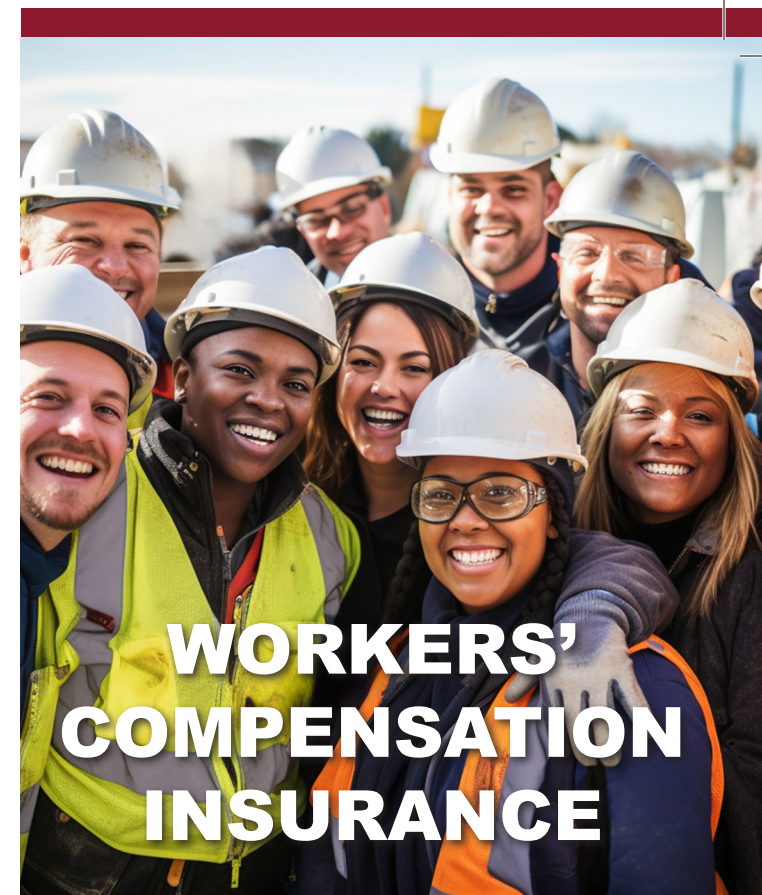
Helpful Contact Information

For further information please consult the following resources. Many of your questions may be answered on-line.

- **California Department of Insurance (CDI)**
insurance.ca.gov
- **California Department of Industrial Relations (DIR)**
dir.ca.gov
- **California State Compensation Insurance Fund (SCIF)**
statefundca.com
- **Marin County District Attorney's Office**
Attn: Insurance Fraud Unit
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
415.473.6450
co.marin.ca.us/da

Free Presentations Upon Request

The Marin County District Attorney's Office will give free presentations about workers' compensation insurance upon request.



What Every Employer Should Know



Lori E. Frugoli
District Attorney
Marin County

The Workers' Compensation System is Good for Employers & Employees

The Workers' Compensation System is good for both employers and employees for many reasons, including the following:

- 1 Employers and employees avoid the normal court system, which can be extremely costly and involve lengthy delays.
- 2 Work-related injuries and illnesses are processed regardless of fault in a systematized and standardized manner, thereby reducing the costs to employers.
- 3 Employees and employers promptly resolve work-related injuries through speedy resolution of claims.

The Role of the DA's Office

We strive to protect and serve the citizens of Marin County by detecting and prosecuting crimes that occur in our county. We value the many diverse businesses that exist in our community and we seek to ensure that all business owners and workers in the county abide by the law. All employers are required to carry workers' compensation insurance for all employees. The Marin County District Attorney's Office enforces the laws governing workers' compensation.

All Employers Must Have Workers' Compensation Insurance

All employers have a legal obligation to secure workers' compensation insurance for all employees, even if you have just one temporary employee.

Criminal Penalties

It is a criminal offense for an employer to be unlawfully uninsured. It is a misdemeanor, punishable by up to one year in the county jail, and a minimum fine of \$10,000. (California Labor Code § 3700.5)

Liabilities

If an employer does not have the requisite workers compensation insurance and an employee gets injured on the job, then in addition to the possible criminal sanctions above the employer would be responsible for paying all benefits to the injured worker out-of-pocket and may be subject to additional liability.

Are There Exceptions?

Employers should start with the assumption that they must carry workers' compensation Insurance for all of their employees. There is an option to self-insure (usually for large companies) and other very limited exceptions. Consult an attorney or insurance agent to see if an exception might apply to your business.

How Can Employers Get Workers' Compensation Insurance?

Many licensed insurance companies offer workers' compensation insurance policies.

insurance.ca.gov/0100-consumers

The California's State Compensation Insurance Fund (SCIF) is the largest provider of workers' compensation insurance in California and offers workers' compensation Insurance policies to all California employers.

statefundca.com



Is Workers' Compensation Insurance Different from Disability Insurance or Health Insurance?

Yes.

Workers' Compensation Insurance only addresses occupational or work related injuries and illnesses. Disability Insurance and Health Insurance cover situations other than work-related injuries or illnesses. So, you may be required to secure other, additional insurance policies for your employees beyond the mandatory workers' compensation insurance.