

DEPARTMENT OF INDUSTRIAL RELATIONS

Office of the Director
1515 Clay Street, 17th Floor
Oakland, CA 94612
Tel: (510) 286-7087 Fax: (510) 622-3265



Keely Martin Bosler, Director
Department of Finance
915 L Street
Sacramento, CA 95814

Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, CA 95814
Attention: Jennifer Troia

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Senator Richard Pan
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Subject: Labor Enforcement Task Force Report to the Legislature

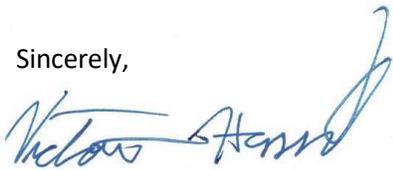
Pursuant to the Budget Act of 2012 (Assembly Bill 1464 , Chapter 21, Statutes of 2012), the Department of Industrial Relations (DIR) is pleased to report to the Director of Finance and the Joint Legislative Budget Committee on the accomplishments of the Labor Enforcement Task Force (LETF). This report covers activity from 2012 through 2018 and is also available at www.dir.ca.gov/letf.

The LETF mission is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers; to create an environment in which legitimate businesses can thrive; and to support the collection of all California taxes, fees, and penalties due from employers. DIR coordinates with the Labor Commissioner's Office, Cal/OSHA, the Employment Development Department, the Contractors State License Board, and other partner agencies to identify bad actors, share information, and conduct joint enforcement. The LETF teams target noncompliant employers for inspection using referrals and data-matching techniques. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access through cooperation.

The enforcement results in this report underscore the success of this effort. Over the past two years, nine out of ten businesses inspected were found to be out of compliance by at least one LETF partner agency. In fact, two in five joint LETF inspections in 2018 resulted in violations with **every agency** participating in the inspection, corroborating the notion that operators in the underground economy are often out of compliance with the law in more than one area. In addition, LETF has assessed over \$7.8 million in wages due to workers.

California is a leader in innovation, fostered by evolving technologies and a dynamic, skilled workforce. Protecting **all** workers from wage theft, unsafe working conditions, and other labor abuses is more important than ever. In support of our thriving economy, compliant employers require a fair business environment that is free of scofflaws devising new schemes to avoid their responsibilities. Although LETF has made great strides in combating the underground economy, more work remains to be done. As we strive to be nimble and respond effectively to the changing workforce needs and business arrangements, LETF will expand partnerships and coordination across agencies. We look forward to continuing our efforts to bolster competitiveness and protect **all** wage earners in California.

Sincerely,



Victoria Hassid
Chief Deputy Director

Attachment

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Report to the Legislature

March 2019

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The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment in which legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers. Task force members include the following:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (Cal/OSHA)
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Insurance (CDI)
- California Department of Tax and Fee Administration (CDTFA)
- Bureau of Automotive Repair (BAR)
- Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

Established in January 2012, LETF is administered by DIR, as directed by Governor Brown. DIR developed executive and strategic operations teams to operate, evaluate, and monitor the program. This report covers activities since LETF's inception.

A. Targeting Methods: Value Added by the LETF

LETF is tasked with ensuring efficacy, resource maximization, and the avoidance of overlap in agency enforcement. Targeted inspections are the most effective approach for meeting these central objectives. To accurately target noncompliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams comprise staff from the member agencies listed above, customized for inspections in each industry. On its own, each agency does not have access to the full range of data and other information that the LETF teams can access collectively.

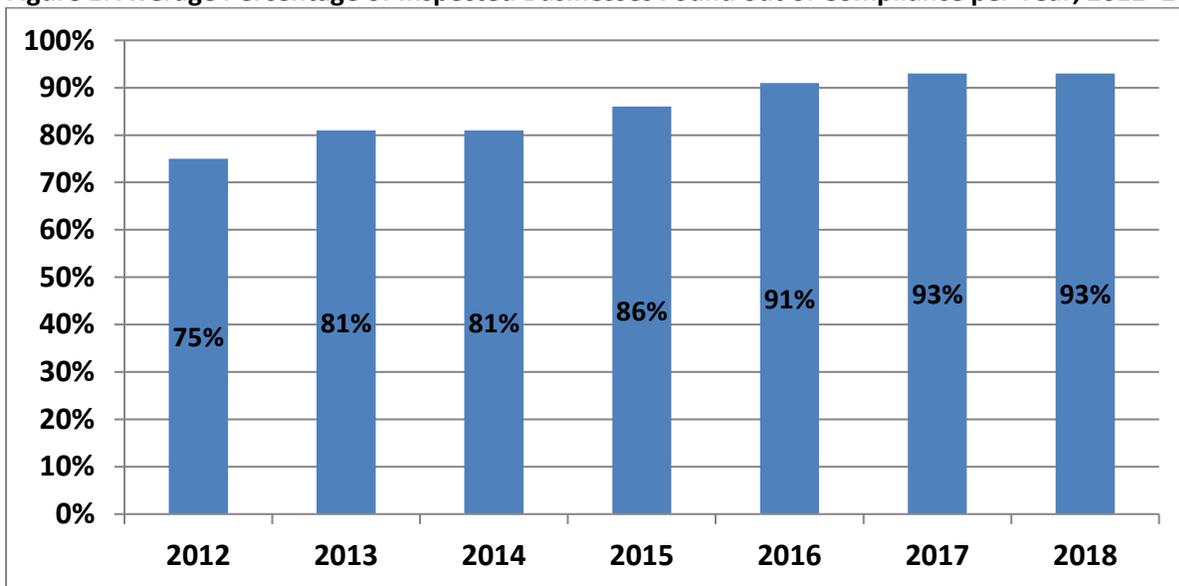
- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses contacts with the local Agricultural Commissioner's office, the local US Department of Agriculture's office, and community-based organizations.
- EDD uses complaint data and their Automated Collection Enhancement System (ACES) that includes multiple databases, including tax and DMV records. Their data on taxpayers are protected by federal privacy laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, DIR receives complaints and tips submitted directly by the public to identify potential targets. The public may report through the LETF hotline, the LETF online form, or the LETF email address, as provided online at [Labor Enforcement Task Force \(LETF\)](#)

LETF targeting protocol involves a multiphase process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to EDD for screening to learn if the employer is registered with EDD and to determine how many employees the employer has reported. The target lists are screened through the Workers' Compensation Insurance Rating Bureau (WCIRB) to determine if the employer is adequately insured. In addition, LETF screens business names using other agency databases to match on a variety of fields that may indicate areas of noncompliance. The results are added to the business profile and used to prioritize and prepare inspectors for joint enforcement action.

As illustrated in Figure 1, LETF continues to improve the effectiveness of targeted joint enforcement by focusing on inspecting noncompliant businesses. In 2017 and 2018 LETF found that an average 93% of businesses inspected each month were found to be out of compliance by at least one LETF partner agency. Figure 1 shows that successful targeting is based on enforcement results (and should not be misinterpreted to represent noncompliance in the overall business community).

Figure 1. Average Percentage of Inspected Businesses Found out of Compliance per Year, 2012–2018



B. Joint Enforcement Activity: Value Added by the LETF

Working together with combined authority, LETF teams have access to a fuller range of enforcement tools than does each agency on its own:

- DLSE has the authority under Labor Code section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- Cal/OSHA has the authority to issue citations for serious, willful, and repeat (SWR) violations. Cal/OSHA may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.
- EDD has authority under Section 1092 of the California Unemployment Insurance Code to require employers to provide records for inspection at any time during the employing unit’s business hours.
- CSLB is able to suspend contractors’ licenses until penalties issued by DLSE and state payroll taxes, penalties, and interest due to EDD are paid or formal arrangements have been made to pay off the liability due in installments. Penalties are far more likely to be paid promptly when the license is suspended until payment is made.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, one LETF inspection has less impact on business operations than multiple separate inspections by the individual agencies. Second, when several agencies working together find egregious employer misconduct, the ensuing publicity has a deterrent effect that is much more powerful than that of a single agency’s enforcement.

Tables 1–6 show enforcement results by year for participating agencies.

Table 1. Cal/OSHA Results

	2012-2016	2017	2018*	Total
Businesses Inspected	4,172	741	758	5,671
% Businesses Out of Compliance	85%	97%	96%	88%
Orders Prohibiting Use (OPUs)	122	26	22	170
Total Number of Violations	13,766	3,630	3,368	20,764
% of Violations That Were Serious	15%	18%	15%	16%
% of Programmed Inspections with SWR** Violations	34%	46%	46%	37%
Initial Assessment Amounts	\$12,226,562	\$3,709,590	\$2,701,425	\$18,637,577

*Totals for 2018 do not reflect information for 200 inspections that are still pending citation issuance.

** Serious, willful, and repeat violations

Table 2. DLSE Results

	2012-2016	2017	2018	Total
Business Inspected	4,506	792	751	6,049
Businesses Out of Compliance	2,411	408	348	3,167
% Businesses Out of Compliance	54%	52%	46%	52%
Number of Workers' Compensation Insurance Violations	1,751	339	269	2,359
Number of Child Labor Violations	47	18	19	84
Number of Deduction Statement Violations	1,261	253	247	1,761
Number of Minimum Wage Violations	166	46	26	238
Number of Overtime Violations	190	33	23	246
Number of Garment Violations	150	64	48	262
Number of Contractor's License (1021/1021.5) Violations	187	23	14	224
Number of Garment Registration Violations	128	15	5	148
Number of Car Wash Registration Violations	74	38	26	138
Number of Rest Period Violations	13	7	9	29
Number of Meal Period Violations	16	1	9	26
Number of Split Shift Violations	19	3	4	26
Number of Misclassification Violations	1	0	1	2
Number of Unlicensed Farm Labor Contractor (1683) Violations	1	0	0	1
Total Number of Violations	4,004	840	700	5,544
Assessment Amounts	\$35,339,002	\$7,749,381	\$8,159,009	\$51,247,392

Table 3. EDD Results

	2012-2016	2017	2018	Total
Businesses Inspected	4,805	841	760	6,406
% of Audit Referrals*	58%	59%	52%	57%
Estimated Unreported Wages**	\$692,867,734	\$122,997,873	\$98,981,173	\$914,846,780
Estimated Unreported Employees	14,539	2,181	1,639	18,359

	2012-2016	2017	2018	Total
Completed Audits	1,712	420	451	2,583
Audit Liability Change	\$49,596,107	\$14,224,261	\$15,188,596	\$79,008,964

*Based on closed LETF cases. **Closed LETF leads.

Table 4. CSLB Results

	2012-2016*	2017	2018	Total
Businesses Inspected	2,442	287	288	3,017
% Businesses Out of Compliance**	37%	31%	44%	37%
Civil Penalties Assessed	\$1,470,300	\$74,100	\$77,550	\$1,621,950

*Totals for 2012 followed different methodology than totals for the other years, which both reflect joint inspection results when CSLB partnered with at least one other LETF enforcement partner.

**Includes violations for contracting without a license, contracting with an expired or suspended license, illegal advertising, and other violations.

Table 5. BAR Results

	2012-2016	2017	2018	Total
Businesses Inspected	409	131	170	710
% Businesses Out of Compliance*	36%	14%	12%	26%

*Includes both unlicensed businesses and businesses with delinquent licenses.

Table 6. CDTFA Results

	2012-2016	2017	2018	Total
Businesses Inspected	1,190	195	205	1,590
% Businesses Out of Compliance*	36%	25%	18%	33%

*Includes businesses operating without a seller's permit and leads generated by CDTFA.

C. Education and Outreach

LETF uses multiple education and outreach methods to ensure that employers know their responsibilities and workers know their rights. LETF has designed and produced effective educational materials for workers and employers in coordination with other agencies. LETF produced the widely referenced employee handbook "All Workers Have Rights in California", which is available in English, Spanish, Chinese, Korean, and Vietnamese and covers topics such as minimum wages and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. LETF has

also produced fact sheets to help employers understand and follow labor, licensing, and payroll tax laws. The fact sheets have been designed for employers in specific industries, including agriculture, automotive, construction, garment, landscaping, and restaurants. Printable and mobile versions of these materials for workers and employers have been recently updated to reflect the minimum wage increases in 2019 and other important labor law updates. The mobile versions are readable on smartphones and other mobile devices. All the LETF educational materials are available at the LETF website: [Information for Workers and Employers](#).

The LETF website is available in English and Spanish at www.dir.ca.gov/letf. DIR publicizes LETF's efforts and notable cases via speaking engagements, press releases, website features, email alerts, as well as social media, such as Facebook and Twitter. The public can subscribe to get LETF email alerts at [Get Email Notices](#).

D. Recommended Changes to Statutes

Though LETF does not currently have any active plans for legislation, Task Force partners are continuously looking for ways to improve effectiveness and interagency collaboration.

E. Objectives for 2019

Objectives for 2019 include the following:

1. **Continue to foster interagency collaboration.** LETF will continue to work with various enforcement partners to facilitate information sharing (as permitted by the law), refine joint operation protocols, and combine resources in order to streamline interagency collaboration, focus on operators in the underground economy, and avoid duplication of efforts.
2. **Strengthen and increase engagement with community partners.** Working with a wide range of community partners is essential for LETF to understand and combat the multifaceted nature of the underground economy. LETF aims to strengthen existing partnerships and develop new ones with community partners, such as worker advocates, employer groups, and union representatives.
3. **Expand outreach and education.** LETF will continue to work with partners to raise awareness about the widespread harmful effects of the underground economy. Additionally, LETF seeks to promote compliance by partnering with employer groups and educating employers in multiple industries on their responsibilities and on how to remain in compliance with labor laws.