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GAVIN NEWSOM, *Governor*



April 16, 2021

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

Honorable Nancy Skinner, Chair
Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, CA 95814
Attention: Hans Hemann

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 2020 and is also available on the [LETF webpage](#).

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 addition, LETF has assessed over \$8.3 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. LETF strives to be nimble and respond effectively to the changing workforce needs and business arrangements. To this end, beginning in March 2020, LETF teams were redirected from their regular operations to participate

in the COVID-19 task force created by the Governor to provide education and enforcement efforts related to employers' COVID-19 requirements. Collaboration across agencies is more important than ever to address these needs. We look forward to continuing our efforts aimed at bolstering competitiveness and protecting all wage earners in California.

Sincerely,

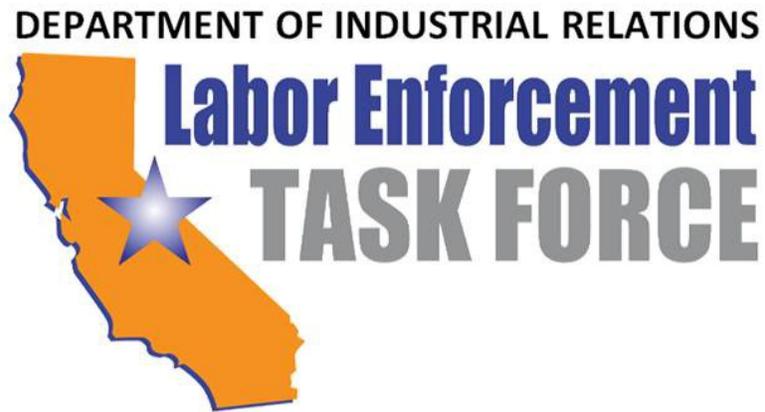


Katrina S. Hagen
Director, California Department of Industrial Relations

cc: Joint Legislative Budget Committee Members:

Senator Nancy Skinner (Chair)
Senator Patricia C. Bates
Senator Anna M. Caballero
Senator María Elena Durazo
Senator John Laird
Senator Jim Nielsen
Senator Richard Pan
Senator Anthony J. Portantino

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Report to the Legislature

March 2021

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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 the 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)
- Department of 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 Newsom. 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.

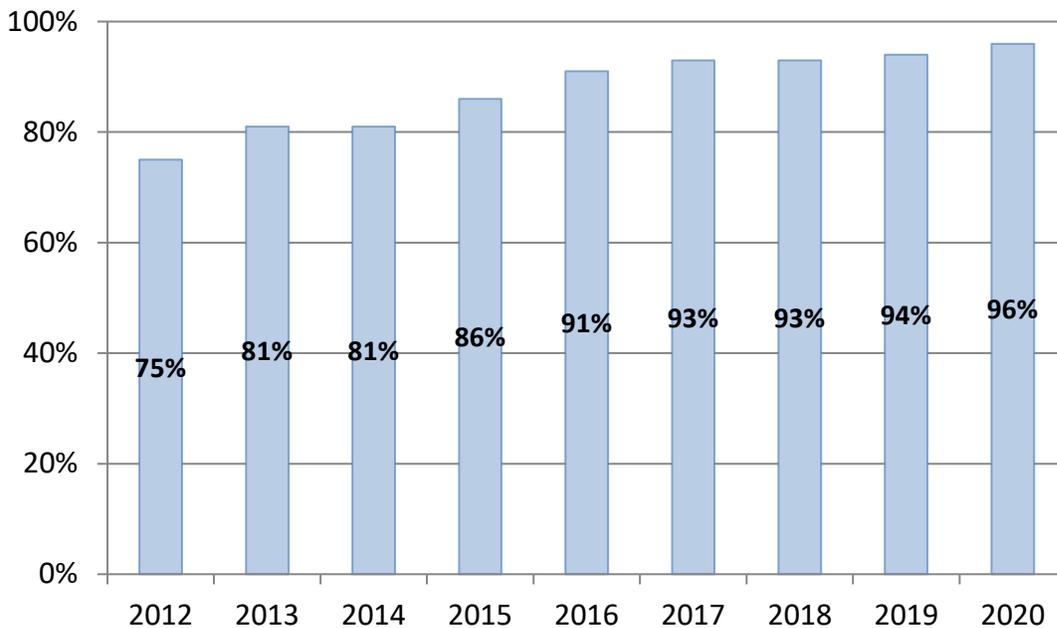
- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses contacts with the local Agricultural Commissioner's office, the local US Department of Agriculture's office, and community-based organizations.
- 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 on the [Labor Enforcement Task Force webpage](#).

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 2019 and 2020, LETF found that an average of 94% and 96%, respectively, 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, 2012–2020



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

	2012-2018	2019	2020*	2020 Non-LETF**	Total
Businesses Inspected	5,671	750	151	186	6,756
% Businesses Out of Compliance	87%	96%	93%	30%	87%
Orders Prohibiting Use (OPUs)	170	12	0	1	183
Total Number of Violations	20,874	3,167	546	152	24,739
% of Violations That Were Serious	15%	15%	16%	14%	15%
% of Programmed Inspections with SWR† Violations	41%	66%	58%	50%	44%
Initial Assessment Amounts	\$20,516,012	\$2,646,963	\$334,170	\$240,528	\$23,737,673

*Totals for 2020 do not reflect information for 29 and 131 Non-LETF inspections that are still pending citation issuance. ** Starting in March 2020 LETF Cal/OSHA staff were redirected to perform Non-LETF inspections. These were mostly COVID-19 related inspections. For more details, see page 7. †Serious, willful, and repeat violations.

Table 2. DLSE Results

	2012-2018	2019	2020	Total
Businesses Inspected	6,049	691	118	6,858
Businesses Out of Compliance	3,167	343	62	3,572
% Businesses Out of Compliance	52%	50%	53%	52%
Number of Workers' Compensation Insurance Violations	2,359	292	53	2,704
Number of Child Labor Violations	84	19	4	107
Number of Deduction Statement Violations	1,761	232	73	2,066
Number of Minimum Wage Violations	238	18	10	266
Number of Overtime Violations	246	14	10	270
Number of Garment Violations	262	34	11	307
Number of Contractor's License (1021/1021.5) Violations	224	9	4	237
Number of Car Wash Registration Violations	138	22	0	160
Number of Rest Period Violations	29	0	1	30
Number of Meal Period Violations	26	1	3	30
Number of Split Shift Violations	26	6	4	36
Number of Misclassification Violations	2	1	0	3
Number of Unlicensed Farm Labor Contractor (1683) Violations	1	0	0	1
Total Number of Violations	5,396	648	173	6,217
Assessment Amounts	\$51,247,392	\$8,413,896	\$1,588,122	\$61,249,410

Table 3. EDD Results

	2012-2018	2019	2020	Total
Businesses Inspected	6,406	781	168	7,355
% of Audit Referrals*	57%	39%	112%†	56%
Estimated Unreported Wages**	\$914,846,780	\$87,087,610	\$47,785,312	\$1,049,719,702
Estimated Unreported Employees	18,359	1,547	925	20,831
Completed Audits	2,583	386	94	3,063
Audit Liability Change	\$79,008,964	\$17,771,220	\$3,663,867	\$100,444,051

*Based on closed LETF cases. **Closed LETF leads. †Percent of Audit Referrals exceeded 100% in 2020 because the referrals number used to calculate % of Audit Referrals includes work in progress from inspections in earlier years.

Table 4. CSLB Results

	2012-2018*	2019	2020	Total
Businesses Inspected	3,017	240	54	3,310
% Businesses Out of Compliance**	37%	47%	56%	38%
Civil Penalties Assessed	\$1,621,950	\$116,250	\$25,200	\$1,763,400

*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

	2012-2018	2019	2020	Total
Businesses Inspected	710	90	33	833
% Businesses Out of Compliance*	26%	23%	36%	26%

*Includes both unlicensed businesses and businesses with delinquent licenses.

Table 6. CDTFA Results

	2012-2018	2019	2020	Total
Businesses Inspected	1,590	173	54	1,817
% Businesses Out of Compliance*	33%	23%	28%	32%

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

C. Effects of COVID-19 Emergency

In March 2020, LETF inspections were postponed indefinitely due to the COVID-19 emergency and the statewide stay-at-home order issued by the State Public Health Officer on March 19, 2020. Therefore, LETF did not conduct joint inspections from April to December 2020 and conducted few inspections in March. However, during this period, DIR staff at DLSE and Cal/OSHA participated in the COVID-19 task force created by the Governor to provide education and enforcement efforts related to employers’ COVID-19 requirements. Table 7 shows the number and type of contacts made by DLSE and Cal/OSHA staff as part of these ongoing task force activities. In addition to these efforts, LETF staff in Cal/OSHA assisted Cal/OSHA district offices in performing heat illness and COVID-19 inspections. LETF staff in DLSE assisted with phone operations and remote audits. DIR management is currently preparing for the resumption of LETF operations in the context of the ongoing pandemic.

Table 7. DIR COVID-19 Task Force Contacts (as of 1/22/2021)

	In-Person	Phone	Mail	Email	Webinar	Other	Type of Contact Not Identified	Total
Cal/OSHA	14,974	1,213	4,934	154,480	2,480	7	201	178,289
DLSE	1,549	58,691	47	1,569	0	2	0	61,858
Total	16,523	59,904	4,981	156,049	2,480	9	201	240,147

D. 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 2021 and other important labor law updates. The mobile versions are readable on smartphones and other mobile devices. All the LETF educational materials are available on the LETF website under [Information for Workers and Employers](#).

The [LETF website](#) is available in English and Spanish. DIR publicizes LETF's efforts and notable cases via speaking engagements, press releases, website features, and email alerts. The public can subscribe to get LETF email alerts at [Get Email Notices](#).

E. 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.

F. Objectives for 2021

Objectives for 2021 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. The COVID-19 pandemic has highlighted the importance of interagency collaboration. LETF will continue to partner with other agencies to provide education and enforcement efforts related to employers' COVID-19 requirements.
- 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.