



Joint Enforcement Strike Force





Joint Enforcement Strike Force (JESF) *Combating California's Underground Economy*

“Underground Economy” refers to those individuals and businesses that deal in cash and/or use other schemes to conceal their activities and their true tax liability from government license, regulatory, and tax agencies.

What is JESF?

The JESF is a coalition of California State government enforcement agencies that work together and in partnership with local and federal agencies to combat the underground economy to ensure a level playing field for California businesses. The JESF goals are intended to help restore economic stability and to improve working conditions and consumer and worker protection in the state.

The goals of the JESF are to:

- Eliminate unfair business competition.
- Protect workers by ensuring that they receive all compensation, benefits, and worker protections they are entitled to by law.
- Protect the consumer by ensuring that all businesses are properly licensed and that they adhere to the state's consumer protection regulations.

- Reduce the burden on law-abiding citizens and businesses by ensuring that all businesses and individuals comply with the state's licensing, regulatory, and payroll tax laws.
- Reduce the tax gap by increasing voluntary compliance with the state's payroll tax laws to maximize the state's general and special fund revenues.

The JESF was established by Executive Order to:

- Develop and share information necessary to combat the underground economy.
- Improve the coordination of enforcement activities.
- Develop methods to pool, focus, and target the enforcement resources of all JESF members.

The Underground Economy in California

What does it cost?

The actual size of the underground economy is difficult to measure. Estimates are that underground activity in the United States in 2012 totaled as much as \$2 trillion, according to a study by Edgar Feige, an economist at the University of Wisconsin-Madison. In 2012, the IRS released tax gap estimates for the tax year 2006.

The tax gap is defined as the amount of tax liability faced by taxpayers that is not paid on time. After adjusting for audit and collection activities, the IRS estimates that in 2006 the net national tax gap was approximately \$385 billion. In its March 2015 report, California's Little Hoover Commission indicated, "The underground economy also robs the state of an estimated \$8.5 billion to \$10 billion in uncollected tax revenue, money that could fund education, law enforcement, or long-overdue infrastructure investments or reduce taxes for the majority of Californians who play by the rules."

In January 2005, Barron's Online featured the article, Going Underground, by Jim McTague, states in part:

“America has two economies, and one is flourishing at the expense of the other. First, there's the legitimate economy, in which craftsmen are licensed and employers and employees pay taxes. Then there's the fast-growing underground economy, where millions of workers are paid off-the-books, their incomes largely untaxed.”

Reports on the underground economy indicate it imposes significant burdens on revenue needed to fund critical state programs and businesses that comply with the law. When businesses operate in the underground economy, they gain an unfair, competitive advantage over businesses that comply with labor, licensing, and payroll tax laws. This causes unfair competition in the marketplace and forces law-abiding businesses to pay higher taxes and expenses.

Individuals working in noncompliant businesses can be directly affected. Their working conditions may not meet the legal requirements, which can put them in danger. Their wage earnings may be less than what is required by law, and benefits they are entitled to can be denied or delayed because their wages are not properly reported. Consumers can also be affected when contracting with unlicensed businesses. Licensing provisions are designed to ensure sufficient skill and knowledge to protect consumers.

As illustrated above, the underground economy impacts not only businesses but workers and consumers as well.



What is JESF's Legal Authority?

On October 26, 1993, the Governor signed Executive Order W-66-93, which created the JESF on the underground economy. The Governor subsequently signed Senate Bill 1490, which placed the provisions of the executive order into law as section 329 of the California Unemployment Insurance Code (CUIC), effective January 1, 1995.

The Employment Development Department (EDD) is the lead agency for JESF, and the Director of EDD

or his or her designee, is the chairperson. The JESF is responsible for enhancing the development and sharing of information necessary to combat the underground economy, to improve the coordination of enforcement activities, and to develop methods to pool, focus, and target enforcement resources. The JESF is empowered and authorized to form joint enforcement teams when appropriate to utilize the collective investigative and enforcement capabilities of JESF members.

JESF members includes but is not limited to the following:

- Employment Development Department (EDD)
- Franchise Tax Board (FTB)
- Contractors' State License Board (CSLB)
- Division of Labor Standards Enforcement (DLSE)
- California Department of Tax and Fee Administration (CDTFA)
- California Department of Insurance (CDI)
- California Occupational Safety and Health Administration (Cal/OSHA)

Employment Development Department (EDD)

California employers are required to file payroll reports and pay the associated taxes. Failure to report and pay tax obligations may result in the following actions:

- Investigation of your business by the Compliance Development Operations unit of the EDD.
- Payroll tax audit conducted on your business.
- Assessments levied that include taxes, interest, and penalties up to 120 percent of the amount of contributions.
- Criminal charges instituted in addition to administrative penalties.
- Felony criminal conviction that includes time in jail or prison, fines of up to \$20,000 per charge, or both imprisonment and fine in addition to administrative penalties.
- Criminal and felony charges can include restitution of taxes plus penalties, interest, and cost of the investigation.
- Seizure of current and future assets of your business.

**For general information,
call 1-888-745-3886
or access the EDD website
at www.edd.ca.gov.
To report fraud,
call 1-800-528-1783.**

Franchise Tax Board (FTB)

The FTB is responsible for administering California's income tax programs.

- Filing a false state income tax return or failing to file a state income tax return is punishable by imprisonment in the county jail up to one year or in the state prison for up to three years, fines up to \$50,000 for individuals (\$200,000 for corporations), or both, plus penalties.
- Failure to comply with corporation's income tax obligations can result in the suspension of all corporate powers, rights, and privileges.
- The FTB may take action to seize both current and future assets if you or your business owes delinquent state income taxes.

**For income tax questions,
call 1-800-852-5711
or access the FTB website
at www.ftb.ca.gov.**

Contractors' State License Board (CSLB)

The CSLB licenses California's 300,000 contractors and regulates the construction industry.

Under California law, all home improvement or construction work valued at \$500 or more must be performed by a CSLB-licensed contractor.

Contracting without a license is illegal.

- The first offense for misdemeanor unlicensed activity carries a maximum of six months in county jail or an administrative fine up to \$5,000.
- A second violation carries a mandatory 90 day county jail sentence in addition to fines.
- Third and subsequent convictions carry a mandatory fine of \$5,000 to \$10,000 (or 20 percent of the contract price), and 90 days to one year in county jail.

For questions or to report unlicensed activity, call the CSLB Statewide Investigative Fraud Team:

Northern California: 1-916-255-2924
Central California: 1-559-490-0581
Southern California: 1-562-345-7600

**Contact CSLB at 1-800-321-CSLB
or visit www.cslb.ca.gov.**

Division of Labor Standards Enforcement (DLSE)

If you are an employer with employees, you need to comply with the laws relating to:

- Workers' Compensation Insurance.
- Itemized wage statements.
- Minimum wage.
- Overtime.
- Child labor.

Failing to comply with labor laws can result in penalties assessed against your business and may include:

- Fines of \$250 per worker, per pay period, for failing to issue completed itemized wage statements to the workers.
- Fines of \$1,500 per worker for failing to maintain a current workers' compensation insurance policy for the workers.
- Your business could be issued a Stop Order Assessment and be barred from using employee labor until a valid workers' compensation insurance policy is secured.

For local office locations and phone numbers, go to the DLSE website at www.dir.ca.gov/dlse.

California Department of Tax and Fee Administration (CDTFA)

Under California law, anyone selling tangible, personal property in California must obtain a seller's permit. Sellers of cigarette or tobacco products in California also must obtain a license prior to selling these products.

Sales Tax

It is illegal to engage in business without a seller's permit or after a permit has been suspended or revoked. Violators may be subject to:

- Misdemeanor fines up to \$5,000 and/ or up to one year in county jail.

Cigarette and Tobacco License

It is illegal to sell cigarettes or tobacco products in this state without a license or after a license has been suspended or revoked under the California Cigarette and Tobacco Products Licensing Act of 2003.

Violators may be subject to:

- Seizure of your cigarettes and/or tobacco products.
- Misdemeanor fines up to five times the retail value of the seized cigarettes or tobacco products or \$5,000, whichever is greater, and/or up to one year in county jail.

Individuals found evading business taxes in excess of \$25,000 in a 12-month period may be subject to felony prosecution.

Contact the CDTFA Tax Evasion Hotline at 1-888-334-3300. For questions, call the CDTFA at 1-800-400-7115 or access the CDTFA website at www.cdtfa.ca.gov.

California Department of Insurance (CDI)

California employers are required by law to maintain workers' compensation coverage for their employees. Misrepresentations by employers to insurance carriers in order to receive a reduced premium for workers' compensation coverage and willful failure to secure workers' compensation coverage are violations of the law and could result in criminal sanctions including jail, prison, and fines. Examples of violations investigated by the CDI include:

- Premium fraud-making a false or fraudulent statement for the purpose of reducing premium, rate, or cost of workers' compensation insurance is a violation of section 11760 or 11880 of the Insurance Code. Violation of either of these sections is punishable by up to five years in state prison and a \$50,000 fine.
- Willful failure to secure workers' compensation for one's employees is a violation of section 3700.5 of the Labor Code, a misdemeanor punishable by up to one year in county jail and a \$10,000 fine for the first offense.

Contact the CDI Fraud Division at 1-916-854-5760 or access the CDI website at www.insurance.ca.gov.

California Occupational Safety and Health Administration (CAL/OSHA)

California employers have a legal obligation to provide and maintain a safe workplace for employees.

Failing to provide a safe workplace can result in the issuance of citations for alleged violations of occupational safety and health regulations.

- Serious violations can carry penalties up to \$25,000 each.
- Willful, serious violations can carry penalties up to \$70,000 each.
- In addition, Cal/OSHA has the authority to shut down dangerous equipment and job sites, and may refer cases to district attorneys for criminal prosecution in flagrant cases.

Free resources are available to assist employers with compliance on workplace safety and health regulation. The Cal/OSHA Consultation Service provides on-site visits and compliance assistance including phone support, education outreach, and publications.

**Contact Cal/OSHA at
1-800-963-9424 or access the
Cal/OSHA website at
www.dir.ca.gov.**

Help us Fight Fraud

The JESF has a charge to investigate businesses that avoid paying taxes, many of which are part of the underground economy. If you would like to help us protect workers and create a level playing field for business competition, the EDD offers several methods for reporting such businesses:

- **Impacted Workers:** If you are a worker who has been inappropriately treated as an independent contractor or expected to take cash wages under the table, please contact us to provide information so that we can investigate the business.
- **Impacted Businesses/Competitors:** If you are a business and you have information that indicates that another business, competitor, or supplier is operating in the underground economy, please contact JESF to supply information so that we can investigate the business.

You can elect to remain anonymous when providing information on businesses suspected of operating in the underground economy. Due to confidentiality constraints, JESF can never release information about the business or the investigation results.

**To report fraud, call the JESF hotline
at 1-800-528-1783.**