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San Luis Obispo Chapter
 California Landscape Contractors Association
 Representing the Landscaping & Irrigation Industry

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The CLCA SLO Chapter annual kick off dinner at Avila Beach was a great evening with friends old and new. Thank you to our sponsors who helped put together a great event! Troesh Coleman Pacific, Hunter Industries, SiteOne Landscape Supply, Live Earth Products, Air Vol Products, and CLCA Insurance Solutions.



CLCA SLO Kickoff Event



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New Contracting Laws Effective January 1, 2022

Here are highlights of construction-related laws that went into effect January 1, 2022.

AB 569

This bill increases from \$5,000 to \$8,000 the maximum administrative civil penalty CSLB can assess against a licensed contractor for most violations, and from \$15,000 to \$30,000 for the most serious violations relating to unlicensed practice and workers compensation insurance violations. This bill also authorizes CSLB to issue a Letter of Admonishment for more than one violation at a time.

AB 830

This bill defines the responsibilities of the qualifying members of personnel on a contractor's license regarding their duty to supervise the construction operations of the license entity. The bill provides definitions of "bona fide employee" and "actively engaged" for the purposes of a responsible managing employee's duty on a contractor's license. The bill defines the qualifier's duty of "supervision and control" to mean "direct supervision or control or monitoring and being available to assist others to whom direct supervision and control has been delegated." The bill authorizes CSLB to require an applicant for a contractor's license to provide the qualifier's current employment duty statement describing their responsibilities under the license and allows CSLB to take disciplinary action for failing to do so.

SB 607

As it relates to CSLB, this bill increases existing as well as adds new licensing and application maintenance and service fees for support of CSLB effective January 1, 2022.

The bill additionally reorganizes CSLB's fee statute by fee type, including different renewal fee amounts dependent on license entity type (the current sole owner renewal fee of \$450 is not being increased).

AB 246

This bill makes a licensed contractor's unlawful dumping of debris a cause for disciplinary action against the contractor. The bill also reorganizes BPC Section 7110 from paragraph form to an enumerated form to provide clarity and improve readability.

Legislative Update

By Jay Martinez, CLCA Director of Legislation
We've started a new year and with it, our state legislators have returned to Sacramento to present new bills covering all aspects of our lives in California.

Through the end of February, legislators have an opportunity to bring forward new bills for consideration. As is their pattern, many wait until just before the deadline to submit their bills. This year, between the Senate and State Assembly, we anticipate at least 1,000 bills will come forward. CLCA is fortunate to work with our legislative advocate, Tom Sheehy, who helps the CLCA Legislative Committee review the introduced bills, identify ones of interest, and (if necessary) adopt a position of support or opposition.

CLCA's website has a regularly updated list of the bills that we are tracking and any positions we have adopted. You can check this out at: <https://www.clca.org/advocacy/clca-legislation-center/>

CLCA chapters are beginning their programming for the year, and we are already seeing chapters inviting legislative representatives or other government officials to their events. We encourage you to attend these events and get to know your representatives. It will assist with our collective advocacy work, should in person outreach be needed.

Once we see what legislation has been introduced, keep your eye on this space for updates of particular bills of interest to CLCA and the green industry.

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Insubordination:

I Don't Want To, And You Can't Make Me

Steven Cesare, Ph.D. The Harvest Group, Landscape Business Consulting | harvestlandscapeconsulting.com



A business owner from Michigan called me the other day to talk about a disagreement she had with one of her managers. Apparently, in a mode to drive accountability, the owner decided to install a GPS tracking device on all company vehicles; a standard practice for all company vehicles and/or cell phones, adopted by many

landscapers across the country, fully legal, and highly recommended for those of you coming late to the party.

As part of this program rollout, the owner informed all affected staff they must now use only company vehicles and cease driving their personal vehicles while on company business.

One manager openly defied the owner, verbally resisting the new program, alleging the owner was "micro-managing" the team, stating publicly, "I don't want to drive a company vehicle and you can't make me!"

While virtue-signaling his politically correct revulsion of micro-management, I am reasonably confident, somewhere in his histrionic tantrum, he did not want to relinquish his 56 cents/mile reimbursement for the personal use of his car for company business.

First off, monitoring and tracking company resources are not "micro-management." It is called accountability. Kind of like monitoring an employee's use of a gas credit card each month, right?

For the next couple of days, the manager was seen using his personal vehicle while reviewing job sites, visiting clients, and attending off-site meetings. Despite being reminded of the new company policy by the owner, the manager remained defiant.

The owner upset with the manager's childish reaction and rebellious tone, finally called me. I asked the owner if her company had EPLI coverage and if the employee signed the current version of the Employee Handbook. Confidently, she replied "yes" to both points. Going one level deeper, I asked if her Employee Handbook contained a standard of conduct prohibiting insubordination. "Yes," it was included in the Employee Handbook.

In general, aside from state law subtleties, insubordination is typically defined as that situation which occurs "when an employee willfully disobeys or disregards a superior's legitimate directive"; in some cases, abusive language by employees toward supervisors and others can also be considered insubordination. It is commonly understood that companies may not have to maintain a formal policy in place to fire or discipline an insubordinate employee; however, such a policy can be extremely useful if a company must ever need to defend its actions in court.

Play it safe. Include the policy in your Employee Handbook.

With the fundamental elements in place, I recommended the business owner document all the employee's historical comments and actions into a timeline and proceed with a written reprimand of the employee for violating the company policy of only using company vehicles while performing business activities and for demonstrating insubordination.

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ARB Mandates 2024 Phase Out of Gas-Powered Landscape Equipment

Resources Board voted to update California's Small Off-Road Engine Regulations, effectively banning the sale of gas-powered equipment using small off-road engines (SORE), which includes all lawn and landscape equipment in 2024.

These recently updated regulations are part of the state's attempt to reduce greenhouse gas emissions. California also aims to mandate that 100 percent of in-state sales of new passenger cars and trucks are zero-emission by 2035.

The California Landscape Contractors Association coordinated feedback and advocacy from California's landscape professionals who use SORE landscape equipment daily.

"CLCA's members were candid and forthcoming about their concerns for such an accelerated timeline to ban the sale of SORE landscape equipment starting in the model year 2024," said Sandra Giarde, CLCA's executive director. "The reality is that the currently available battery-powered commercial landscape equipment has a way to go before meeting the needs of the full-time landscape professional. California's landscape industry supports the transition to zero-emission equipment, but a 2024 deadline is too soon, given numerous unresolved technological and financial hurdles."

CLCA worked with a national coalition of associations and industry groups to lead the charge for a compromise solution that would have ended the sale of residential landscape SORE by 2024 and allowed commercial SORE to be sold until 2028. This common-sense compromise would give equipment manufacturers enough time to increase performance and improve battery life while bringing down costs for commercial landscape professionals.

"With 85 percent of the SORE landscape equipment in California belonging to residential users, we felt our compromise solution could achieve the state's 2031 emission reduction goals while reducing the impacts on landscape professionals," says Giarde, "We remain disappointed that the board members did not concur."

"Despite today's decision by CARB members," said Paul Hansen, CLCA's State President, "CLCA will continue efforts to ensure adequate funding will be made available for rebate programs and tax credits to ease the transition."

"The Legislature only appropriated \$30 million for rebate programs, which would be about \$15 per piece of equipment for professionals," Giarde said. "With California facing a \$3 billion budget surplus, we will be working to secure additional funds to help landscape professionals make the transition."

As passed, the updated SORE regulation would allow users of gas-powered landscape equipment to continue to use their equipment. However, it would only allow zero-emission equipment to be sold starting in the model year 2024.

Free HR Hotline

California's laws, rules and regulations about the employer/employee relationship are complex. CLCA's Human Resources (HR) Hotline can help.

- What forms are required by law?
- Can I ask if an applicant has a criminal history?
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