

**SUMMARY OF CALIFORNIA LABOR CODE SECTIONS 6310 AND 6311
WHICH PROTECT WORKERS WHO MAKE SAFETY COMPLAINTS
OR REFUSE TO WORK IN UNSAFE CONDITIONS**

Statute	Prohibited discharge or discrimination for:	Remedy	Admin. Exhaust. Req'd?	SOL	Principal Case(s)	Notes
Cal. Labor Code §6310	<ul style="list-style-type: none"> • Making an oral or written complaint to DOSH, other governmental agency, his or her employer or representative regarding unsafe working conditions or practices • Instituting or causing to be instituted any proceeding relating to his or her rights • Testifying or about to testify in a proceeding • Exercising rights on behalf of himself, herself or others 	<ul style="list-style-type: none"> • Considered a “make whole” remedy, including: <ul style="list-style-type: none"> ○ Reinstatement ○ Reimbursement for lost wages and benefits ○ Pay raise, transfer, promotion ○ Purge of adverse statements in personnel file • Willful refusal to restore an employee or former employee who has been determined to be eligible for rehiring or promotion is a misdemeanor 	No, but “may” file via §98.7	3 yrs, CCP §338; If filed with DLSE, must file within 6 months, unless can show good cause	<i>Cabesuela v. Browning-Ferris Industries</i> , (1998) 68 Cal.App.4 th 101; <i>Hentzel v. Singer Co.</i> , (1982) 138 Cal.App.3d 290; <i>Freund v. Nycomed Amersham</i> , (2003) 347 F.3d 752.	Employee need not show that the workplace is actually unsafe; employee must have reasonable and good faith belief that it is unsafe. Employee may pursue a claim under §6310 and for the tort of wrongful termination simultaneously. <i>Boston v. Penny Lane Centers, Inc.</i> (2009) 170 Cal App 4th 936.
Cal. Labor Code §6311	Protects against lay off or discharge: <ul style="list-style-type: none"> • Refusing to perform work which would violate the Labor Code, including §6400, an occupational safety or health code, standard or order, where the violation would create a real and apparent hazard to the employee or his or her fellow employees 	<ul style="list-style-type: none"> • Reimbursement for wages “for the time the employee is without work as a result of the layoff or discharge” • Reinstatement not stated in the statute, but “make whole” remedy should be sought 	No, but “may” file via §98.7	3 yrs, CCP §338; If filed with DLSE, must file within 6 months, unless can show good cause	<i>Fusco v. Sonoma County Junior College Dist.</i> (2010, ND Cal) 2010 US Dist LEXIS 7363	Claims do not require that a specific safety regulation or order was violated, but may be based on the general obligation of an employer to provide a safe and healthful workplace under L.C. 6400 <i>et seq.</i>