



## Parking Cash-Out An Informational Guide

California encourages employees to use alternative ways to get to work instead of driving by requiring employers with 50 or more employees to implement parking cash-out programs in nonattainment areas. This applies to employers providing parking subsidies to employees who must also offer employees the option to “cash out” the parking subsidy in lieu of a parking space.

In 1992, California first enacted this requirement to reduce vehicle commute trips and emissions and encourage employees to take transit, bike, walk, or carpool to work.<sup>1</sup> In 2009, SB 728 (Lowenthal) amended the parking cash-out requirement to broaden its scope and authorize cities, counties, and air quality management districts to establish and impose fines for failure to comply with parking cash-out.<sup>2</sup> Since that time, very few agencies have enforced parking cash-out within their respective jurisdictions due to the ambiguity in determining parking subsidies.<sup>3</sup> As a result, in 2022, AB 2206 (Lee) amended the parking cash-out requirement to clarify how to calculate parking subsidies for the parking cash-out program. Throughout this time, some studies<sup>4,5,6</sup> have shown that cash allowances in lieu of parking may encourage employees to find alternate means of commuting to work, such as public transit, carpooling, vanpooling, bicycling, or walking. In addition, these studies indicate the potential opportunity to improve air quality and reduce traffic congestion by reducing vehicle trips and emissions at a city level.

The California Air Resources Board (CARB or Board) is the state agency authorized by state law to enforce the parking cash-out law with civil penalties. State law also

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<sup>1</sup> Carpooling, E. P. P. D., Out, D. C., Out, P. C., & Out, P. C. Parking Cash Out.

<sup>2</sup> Assembly Bill 2109, Katz, Chapter 554, Statutes of 1992; Senate Bill 728, Lowenthal, Chapter 359, Statutes of 2009; Assembly Bill 2206, Lee Chapter 866, Statutes of 2022.

<sup>3</sup> Peyton, J. (2022, June 29). *Proposed “parking cash-out” bill aims to level the commute playing field for Non-Drivers*. SPUR. <https://www.spur.org/news/2022-06-29/proposed-parking-cash-out-bill-aims-level-commute-playing-field-non-drivers>

<sup>4</sup> Shoup, D.C., & Wilson, R. W. (1992). Employer-paid parking: the problem and proposed solutions.

<sup>5</sup> Shoup, D.C. (1997). Evaluating the effects of a parking cash-out: eight case studies.

<sup>6</sup> Kaufman, M., Choe, J., Grant, M., Greenberg, A., & Sethi, S. (2018). *Transportation Benefits of Parking Cash out, Pre-Tax Commuter Benefits, and Parking Surtaxes* (No. 18-06020).

authorizes air districts, cities, and counties to enforce the law with civil penalties if they adopt an ordinance to do so.

CARB staff has developed this informational guide to help employers determine whether employers are subject to the requirements of the law and how to implement it, to help employees understand their employer's requirements, and to help the general public understand the parking cash-out program in California. In addition, the guide summarizes the law and answers general questions about implementing a parking cash-out program. Please note that this document is **neither a regulation nor an executive order and does not have the force and effect of law nor constitute legal advice**. This information does not provide a defense to, protection against, or immunity from potential enforcement action by CARB or any other agency with authority to enforce requirements regarding parking cash-out programs in California. Individuals are encouraged to seek independent legal counsel if they have any questions about legal interpretations of and compliance with statutes described in this document.

## CARB Contact

For questions, you can contact a California Air Resources Board staff person at [PCO@arb.ca.gov](mailto:PCO@arb.ca.gov). A local air district, ridesharing organization, or transportation management agency may also be able to answer questions.

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## Frequently Asked Questions: Parking Cash-Out Law

The following contains answers to questions about the parking cash-out law requirements and implementation. The law does not apply to all employers or all employees.

### Employer Applicability and Implementation

1. *Which employers are subject to the parking cash-out law?*

The law applies to employers (public or private) that:

- Employ at least 50 persons in the state;
- Have worksites in an air basin designated nonattainment for any state ambient air quality standard under Health and Safety Code section 39608 (see [CARB web page with Maps of Current State and Federal Area Designations](#)); and
- Provide a parking subsidy to employees.

2. *When must an employer implement the parking cash-out law? When does the program end?*

The law is in effect and has no sunset date. Therefore, an employer subject to the statutory requirements must comply continuously.

3. *How can an employer implement parking cash-out requirements?*

An employer who meets the criteria to have a parking cash-out program under the law could take the following implementation steps, as appropriate:

1. Determine whether the employer is subject to the requirements.
2. Determine which specific employees are eligible. (See *Employee Eligibility*, page 5.)
3. Calculate the appropriate cash allowance for each eligible employee. (See *Cash Allowance*, page 6.)
4. Inform eligible employees. (See *Informing Employees*, page 7.)
5. Implement parking cash-out for employees based on their selected travel choice.

4. *Does the law apply to an employer if it employs at least 50 persons, but fewer than 50 of the people are located at worksites in California?*

No. The law only applies to employers who employ 50 persons or more at worksites in California.

Example 1: If a company employs 100 people, and only 20 people are located at worksites in California, then the law does not apply to the company.

Example 2: If a company employs 100 people and 60 people work at three worksites in California, then the law applies to the company. Note that at least one of these worksites must be in an air basin designated nonattainment. However, that worksite may have any number of employees; it is not the case that at least 50 employees must be at worksites *in nonattainment basins* in California.

5. *What workers paid by the employer count as “employees” toward the 50-person criterion?*

Any persons determined to be statutory employees or common law employees under California law should be counted toward the 50-employee threshold for purposes of parking cash-out requirements. CARB recommends employers seek legal counsel if they have questions about whether or not they employ statutory or common law employees.

6. *What are the nonattainment in California under Health and Safety Code section 39608?*

Every region in California is a nonattainment area for one or more pollutants except for Lake County (see [CARB web page with Maps of Current State and Federal Area Designations](#)). Therefore, all employers except for those in Lake County could be subject to parking cash-out if the other criteria apply.

7. *What is a “parking subsidy”?*

A parking subsidy is defined in the statute as the “difference between the price, if any, charged to an employee for the use of a parking space not owned by the employer and made available by the employer to that employee and the market rate cost of parking.” (Health & Safety Code section 43845(a)(5)). Examples of when parking cash-out may be required based on this definition include:

- If the space is owned by the employer and offered to the employee for free, no parking cash-out program is required.
- If the employer leases the space, it may be subject to parking cash-out requirements if it meets the applicability criteria highlighted in Question 1 above.
- If an employer provides another subsidy (for example, transit passes) and leases parking space, then the employer may still be subject to parking cash-out so long as a parking space is not owned and is used by employees. Furthermore, if the subsidy provided by the employer is not equivalent to the market rate cost of parking established by Health & Safety Code section 43845(a)(3), then the employer may still be subject to parking cash-out.

8. *Do employers have to offer cash out if a parking space is included (“bundled”) in the building lease?*

An employer with a building lease that includes parking space may be subject to parking cash-out requirements. It is subject to parking cash-out if it offers a parking subsidy to employees using those spaces. For example, if the employer charges employees less than the market rate cost for the use of parking spaces or offers it to them for free, that would constitute a subsidy. The only exceptions are an employer who has employee parking in a lease executed **on or before January 1, 1993**, that has not expired since that execution, and the lease does not permit the employer to reduce, without penalty, the number of parking spaces subject to the lease. In that case, the employer is not subject to parking cash-out requirements.

9. *How does the parking cash-out law apply if an employer permits a hybrid/remote work arrangement?*

The parking cash-out law does not specify any change in the requirements related to hybrid/remote employee work arrangements. Employers subject to parking cash-out requirements must implement a program for any employees who are offered parking subsidies as defined in the law. Note that the parking cash-out law does not include a calculation for pro-rating the subsidy based on the number of days that an employee would access parking. Therefore, the employer is not likely required to provide a pro-rated amount for the cash allowance based on the number of in-office days.

10. *What if an employer discontinues parking subsidies?*

If an employer ceases to offer employees a parking subsidy, it is no longer subject to the law.

11. *Can an employer make commuting by an alternate mode other than driving alone a condition of accepting the cash allowance? How does this relate to the ability to establish guidelines for neighborhood parking?*

The law provides that employers may develop guidelines to avoid neighborhood parking problems (see *Neighborhood Parking Problems*, pg 9), and employers may require employees to comply with the guidelines to receive the parking cash-out allowance. The statute does not give requirements of what the guidelines must contain. Requiring employees to participate in some form of verifiable trip reduction activity would be a reasonable employer policy to prevent such issues. Reasonable guidelines could include prohibiting cash-out recipients from parking on specific streets or neighborhoods or requiring the recipient not to drive alone to work (e.g., to instead take the bus, carpool, walk, etc.). Many employers have implemented the parking cash-out program as a commute benefits program rather than using the terms "parking cash-out" or "cash allowance" since the law does not require using these terms.

12. *How can cash-out work for employees who commute by an alternate mode on a part-time basis?*

Many employers have developed successful transportation demand management programs by rewarding part-time, as well as full-time employees with the use of alternative commute modes. One of the ways parking cash-out can complement this type of program is by providing “shared” parking spaces. Just as two employees can team up to carpool and cash-out one parking space, two employees who use alternate modes part-time can coordinate that use, share one parking space, and cash out the other parking space. This is only one possible approach. However, employers must develop a system to cash-out employees even if they only commute by other modes part-time.

Example: One employee telecommutes on Monday and Friday, and another employee commutes by bus on Tuesday through Thursday. They share one parking space and cash-out the other parking space.

13. *Can employers offer parking cash-out options voluntarily if the law does not apply to them or if the law applies to only some but not all of their California worksites?*

Yes. Employers may implement cash-out voluntarily. This would be a positive action that could help reduce auto-related pollution and greenhouse gas emissions.

14. *An employer has multiple worksites, with some parking subject to cash-out and some exempt and wishes to implement a uniform commute cash reward program for all employees based on the amount of alternate modes used. How does the employer ensure compliance with the cash-out law?*

The employer can ensure compliance if the monthly cash reward that an employee would receive for full-time use of an alternate commute mode for exempt spaces is at least equal to the monthly parking subsidy of the employer’s parking spaces subject to cash-out.

15. *What if reducing the number of paid parking spaces an employer maintains for the use of its employees would incur penalties for the employer?*

The statute provides an exception only where an employer has a lease entered into before January 1, 1993, that has not ever expired and which includes a penalty for reducing parking. Cash-out requirements apply to an employer that has a lease entered into after January 1, 1993, or an unexpired lease entered into before January 1, 1993, which does not have a penalty for reducing parking.

16. *Are employees entitled to retroactive parking cash-out compensation for parking subsidies not accepted prior to the employer’s implementation of the parking cash-out program?*

Health and Safety Code 43845 does not explicitly state whether retroactive compensation is required and under what circumstances.

## Employee Eligibility

### 17. Which employees are eligible for the cash-out option?

Employees must be offered the cash-out allowance if they are offered a parking subsidy.

Examples can include any employee who:

- Currently, is receiving a parking subsidy for a parking space or
- Has the opportunity to receive a parking subsidy for a parking space (that is, the employer offers parking subsidies, and the employee has the option to receive it).

Example 1: An employee parks regularly in a private garage at a cost to them every month, and the employer fully reimburses the employee for the cost of the parking space each month. These employees are eligible for a cash-out allowance in lieu of being reimbursed for parking.

Example 2: An employee parks in a parking space leased by the employer and is not charged by the employer for the use of that space. These employees are eligible for a cash-out allowance in lieu of being provided with parking at no charge.

### 18. What about current carpools, vanpools, transit users, telecommuters, and those who walk or bike to work?

CARB interprets carpool and vanpool parking spaces as not subject to cash-out because the statute has a clear intent to apply to single-occupancy vehicle parking. Subsidies for other travel modes, such as subsidies to purchase transit tickets or a bicycle, may be subject to other requirements but are outside the scope of the parking cash-out law. They may, however, reduce the amount of subsidy the employer is required to provide.

### 19. How do employee bargaining agreements fit into the parking cash-out picture?

The cash-out program changes employee benefits and working conditions. Therefore, most bargaining agreements will require employers to “meet and confer” regarding parking cash-out law implementation. While negotiations with unions may affect parking policies and how employers go about implementing parking cash-out, a bargaining agreement cannot keep an employer from implementing the law. It must not result in any policies that are contrary to the law.



## Cash Allowance

### 20. What is the amount of the cash-out allowance that must be offered?

The law requires the cash allowance to be equal to or greater than the parking subsidy. Per the Health and Safety Code section 43845(a)(5), the parking subsidy is the difference between the market rate cost of parking and the price, if any, charged to an employee for using a parking space not owned by the employer. Commute-related subsidies (e.g., transit passes or ridesharing allowance) may be deducted from the parking cost when determining the cash allowance amount. The formula for determining cash allowance, or parking subsidy, is:

$$\begin{aligned} \textit{parking subsidy} \\ &= \textit{market rate cost of parking} - \textit{employee cost of parking} \\ &\quad - \textit{commute subsidies} \end{aligned}$$

The market rate cost of parking can be determined per the Health and Safety Code section 43845(a)(3), and the parking subsidy cannot be less than \$0. Some examples are below:

- Market rate cost of parking is \$200/mo. The employee pays nothing to park. No other commute subsidy programs exist.  
 $\textit{Parking subsidy} = \$200 - 0 - 0 = \$200$   
The cash allowance given to the employee is required to be \$200/mo or greater.
- Market rate cost of parking is \$180/mo. The employee pays \$140/mo to park. No other commute subsidy programs exist.  
 $\textit{Parking subsidy} = \$180 - 140 - 0 = \$40$   
The cash allowance given to the employee is required to be \$40/mo or greater.
- Market rate cost of parking is \$195/mo. The employee pays \$120 and receives a \$50 transit pass monthly from the employer.  
 $\textit{Parking subsidy} = \$195 - 120 - 50 = \$25$   
The cash allowance given to the employee is required to be \$25/mo or greater.

### 21. How is the market rate cost of parking to be established?

A key variable in the equation above is the market rate cost of parking. Assembly Bill 2206 (Lee, Statutes of 2022, Chapter 866) amended the parking cash-out statute to add a definition of the market rate cost of parking, describing how to establish this cost under multiple circumstances and for purposes of identifying the parking subsidy. The employer needs to maintain records of how it established the price for at least four years.

The market rate cost of parking can be established at an amount no less than the amount that a member of the public or the employer could pay (as more specifically described in the statute) at the closest public parking lot within one-quarter mile of the employee's workplace.

If this amount cannot be determined, the employer may establish the price via a public offer, such as an advertisement, from within the previous six months (again, as more specifically described in the statute).

Under either of these two circumstances, if this amount is valued over \$350, then the market rate cost of parking is \$350.

If the amount cannot be determined by looking at the closest public parking costs or through an advertisement, then the market rate cost of parking is the higher of either (a) the lowest priced transit serving within one-quarter mile of the site or (b) fifty dollars (\$50) per month.

Both the maximum (\$350) and minimum (\$50) amounts are to be adjusted for inflation annually by CARB using the California Consumer Price Index.<sup>7</sup>

22. *Can the amount of the cash-out allowance change over time?*

Yes. Since the law requires the cash-out allowance to be equal to or more than the parking subsidy, if the market rate cost of parking, employee cost of parking, or commute subsidies cost increases or decreases, the cash allowance must be adjusted by the employer to coincide.

23. *How often must an employer provide the cash allowance?*

The law requires that an employer provide a cash allowance equal to the parking subsidy. The law does not specify how often. However, providing the cash allowance monthly is the norm since most parking and commute-related subsidies and/or charges are provided on a month-to-month basis.

## **Informing Employees**

24. *Do employers need to inform employees about parking cash-out options?*

The statute requires that employers inform employees receiving a parking subsidy of the right to receive the cash equivalent of the parking subsidy. The statute requires employers to maintain a record of that communication with the employee.

## **Tax Elements**

25. *How will parking cash-out affect taxes?*

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<sup>7</sup> <https://www.dir.ca.gov/oprl/CAPriceIndex.htm>

Federal and state tax laws are constantly changing. For current and reliable information, please get in touch with your tax consultant, the U.S. Internal Revenue Service, and/or the California Franchise Tax Board.

## Enforcement

### *26. Which agencies can enforce this program?*

CARB is the State agency with enforcement authority to impose civil penalties for violations under the statute.

Cities, counties, and air districts may also enforce violations within their jurisdiction with a penalty or other mechanism after adopting an ordinance or resolution.

If a penalty is imposed by both CARB and a city, county, or air district, only the CARB penalty shall apply.

### *27. What is the amount of civil penalties for noncompliance that CARB is authorized to impose?*

Under the statute, CARB is authorized to impose the civil penalty described pursuant to Health and Safety Code section 43016, which authorizes civil penalties up to \$37,500 per violation and is adjusted annually based on the California Consumer Price Index. Please visit [CARB's California Consumer Price Index-Increased Penalties web page](#) for an annual memo describing updated maximum penalties tied to the California Consumer Price Index.

### *28. Does the law require mandatory reporting or monitoring of the implementation of the parking cash-out program?*

The law does not currently require mandatory reporting or monitoring of the implementation of the parking cash-out program. The only reporting requirement in the parking cash-out law is a record that the employee has been informed of the right to receive a parking subsidy if the employee receives a parking subsidy as per Health and Safety Code section 43845(b)(2). In addition, employers must maintain evidence of their effort to calculate the market rate of parking for at least four years.

## Neighborhood Parking Problems

### *29. What about the potential of spillover parking into nearby neighborhoods?*

The law provides that employers may develop guidelines to avoid neighborhood parking problems. Depending on the guidelines, employees may need to comply with these to be eligible for the cash allowance. For example, such guidelines might prohibit cash-out recipients from parking on specific streets or neighborhoods or require the recipient not to drive alone to work (e.g., take the bus, carpool, walk, etc.).

## Appendix I: Text of Parking Cash-Out Law

### California Health and Safety Code section 43845

California Health and Safety Code section 43845 requires employer parking cash out programs and authorizes government enforcement. The statute text reads:

**§ 43845. Parking cash-out program.** California Health and Safety Code.

- (a) As used in this section, the following terms have the following meanings:
- (1) "Employee" means an employee of an employer subject to this section.
  - (2) "Employer" means an employer of 50 persons or more in the state who provides a parking subsidy to employees.
  - (3)
    - (A) "Market rate cost of parking" means the following:
      - (i)
        - (I) An amount that is no less than if the parking were to be obtained by an individual unaffiliated with the property on which parking is provided or by the employer through a transaction with no special rate due to property lease for the closest publicly available parking within one-quarter mile of the employee's workplace. The employer shall maintain appropriate evidence of its effort to establish the market rate cost of parking pursuant to this subclause for at least four years.
        - (II) If the amount cannot be established pursuant to subclause (I), an amount that is the monthly or daily price for use of a parking space located within one-quarter mile of the place of employment, as evidenced by a public offer, such as through a printed or otherwise publicly displayed advertisement, or a listing including price, such as on a publicly accessible parking smartphone application, available for acceptance by a member of the public, for use of that parking space from within the previous six months. If the employer uses this subclause as the basis for calculating the market rate cost of parking, the employer shall maintain appropriate evidence of the offer it relied upon, such as a physical copy or photograph of an advertisement or a screenshot showing availability and

price within a parking smartphone application, for at least four years from the time of any cash allowance payment made based upon that offer.

- (ii) Notwithstanding clause (i), "market rate cost of parking" means either of the following under the specified circumstances:
  - (I) If the amount determined pursuant to clause (i) is valued at over three hundred fifty dollars (\$350) per month, "market rate cost of parking" means three hundred fifty dollars (\$350) per month.
  - (II) If the amount cannot be established pursuant to clause (i), "market rate cost of parking" means the monthly price of the lowest priced transit serving within one-quarter mile of the site or fifty dollars (\$50) per month, whichever is higher.

(B) Beginning January 1, 2024, the state board shall annually adjust the amounts specified in clause (ii) of subparagraph (A) for inflation based on the changes in the California Consumer Price Index.

(C) For purposes of this paragraph, free parking shall not be considered when determining the market rate cost of parking.

(4) "Parking cash-out program" means an employer-funded program pursuant to which an employer offers to provide a cash allowance to employees where the cash allowance provided to each eligible employee is equal to or greater than the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

(5) "Parking subsidy" means the difference between the price, if any, charged to an employee for the use of a parking space not owned by the employer and made available by the employer to that employee and the market rate cost of parking.

(b)

(1) In any air basin designated as a nonattainment area pursuant to Section 39608, each employer shall offer a parking cash-out program.

(2) If an employee receives a parking subsidy, the employer shall maintain a record of communication with the employee that they have been informed of the right to receive the cash equivalent of the parking subsidy.

(c) A parking cash-out program may include a requirement that an employee participant certifies that the employee participant will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that

an employee participant that is not in compliance with the guidelines will no longer be eligible for the parking cash-out program.

- (d) Subdivision (b) does not apply to any employer who, on or before January 1, 1993, has leased employee parking, until the expiration of that lease or unless the lease permits the employer to reduce, without penalty, the number of parking spaces subject to the lease.
- (e) It is the intent of the Legislature, in enacting this section, that the cash-out requirements apply only to an employer that can reduce, without penalty, the number of paid parking spaces it maintains for the use of its employees and instead provide its employees with the cash-out option described in this section.
- (f)
  - (1) The state board may impose the civil penalty described in Section 43016 for a violation of this section.
  - (2)
    - (A) A city, county, or air district may also adopt, by ordinance or resolution, a penalty or other mechanism to ensure that an employer within the jurisdiction of that city, county, or air district is in compliance with this section.
    - (B) If a city, county, or air district establishes a penalty, the governing body shall also establish procedures for providing notice to an employer that is in violation of this section and for appeal by the employer of any penalty imposed.
    - (C) If a city, county, or air district establishes a penalty pursuant to this paragraph, a penalty may be imposed on an employer pursuant to paragraph (1) or this paragraph, but not both. If a penalty is imposed on an employer pursuant to both paragraph (1) and this paragraph, only the penalty imposed by the state board shall apply.

## Related Provisions

**Sections 17202 and 24343.5, California Revenue & Taxation Code.** Specifies that costs related to a parking cash-out program may be deducted as business expenses for employers.

**Section 17090, California Revenue & Taxation Code.** States that the cash allowance given to employees must be included in gross income subject to state income and payroll taxes (except any portion used for ridesharing purposes).

**Sections 65088.1, 65089, and 65089.3, California Government Code.** Requires (1) congestion management agencies to consider parking cash-out programs when developing and updating the trip reduction and travel demand elements of their congestion management plans, and (2) requires cities or counties to grant appropriate reductions in parking requirements to new and existing commercial developments if they offer parking cash-out programs.

**Section 43016, California Health & Safety Code.** Authorizes the state board to pursue civil penalties, as specified, for parties for violations of the Parking Cash-out law.

**Section 39608, California Health & Safety Code.** Authorizes the state board to classify the attainment status of air basins throughout California for any state ambient air quality standards.

### Uncodified language

In the original enactment of the Health and Safety Code section 43845, the Legislature adopted the following findings, which are found in the historical legislative record but are not codified in statute:

The Legislature hereby finds and declares all of the following:

- a. Existing local, state, and federal policies tend to encourage the provision of subsidized parking by employers.
- b. Subsidized parking creates a strong incentive for employees to commute to work in a single occupancy vehicle.
- c. Commuting in a single occupancy vehicle contributes to traffic congestion and air pollution.
- d. In Los Angeles and Orange Counties, more than 90 percent of the commuters receive free worksite parking, but less than 10 percent of employers provide an employee ridesharing or transit benefit.