

1. Legislature & New Employment Laws 2018

2. Notable Changes



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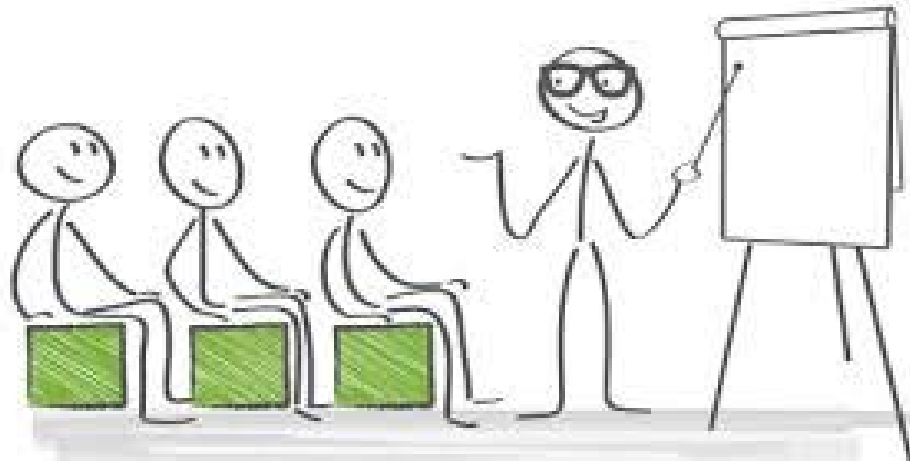
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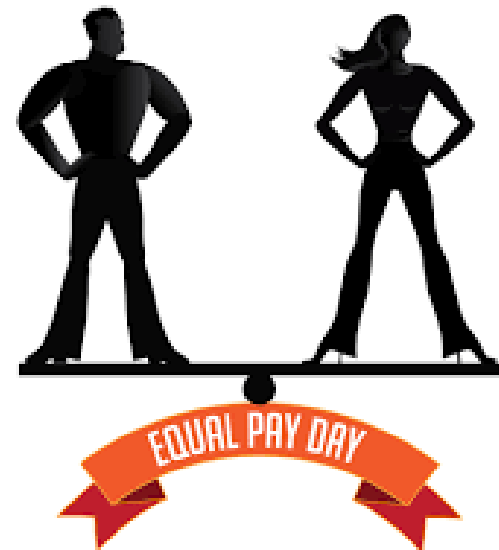
Overview

1. New Laws for 2018
2. Additional Notable Changes



AB 46-Wage Discrimination

- Under prior law Labor Code Section 1197.5 applied to private employers
- Adds that Section 1197.5 now applies to private and public employers
- Good reminder for private employers of existence of Labor Code section 1197.5
- Labor Code section 1197.5
 - Contents of Prohibition
 - Burden on Employer



Salary Inquiries Prohibited - AB 168

- Bill Prohibits Employers from seeking salary history information of an applicant for employment.
- Other Prohibitions
- Exceptions to bill
- Pay scale



AB 1008 – Employment Discrimination: Criminal History Information

- Applies to Employers with 5 or more employees
- Employment applications **cannot** include a question that seeks disclosure of applicant's conviction history
- Employers cannot inquire or consider conviction history until applicant has received conditional offer of employment
- Requirements for hiring decision



SB 295 – Farm Labor Contractors: Sexual Harassment Prevention

- Applies to farm labor contractors
- Adds additional requirements for sexual harassment training tied to license renewal
 - Translation of training
 - Application for license renewal to include for the previous calendar year
 - List of training materials used
 - Number of employees trained



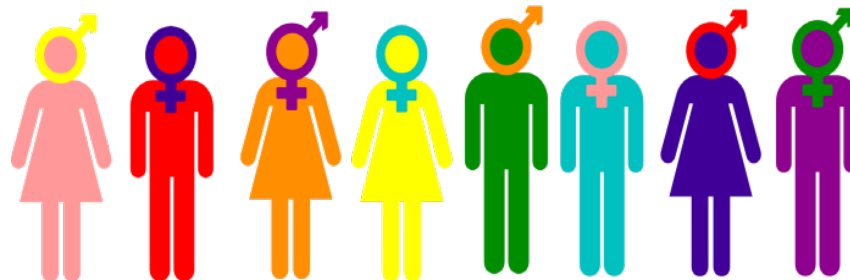
Immigration Worksite Enforcement Actions - AB 450

- Prohibits both employer and person acting on employer's behalf from the following:
 - **Voluntarily** providing to **immigration enforcement agent** access to any **non-public areas** of employer's facility **without a warrant**
 - Exceptions: where access required by law or to inspect I-9 forms with notice of inspection.
 - Posting Requirement for Employer



Gender Neutral Pronouns - AB 1556

- Amends sections of California Government Code
 - Deletes gender specific pronouns
 - Adds general neutral pronouns
 - Example of general neutral pronouns used
 - “person” or “employee”



Labor-Related Liabilities: Original Contractors - AB 1701

- Creates liability on a direct contractor
 - With contract in California for construction and other enumerated jobs
- Liability is for the unpaid wages and fringe benefits of subcontractors
- Includes interest, but not penalties or liquidated damages
- Attorneys fees and costs (some exposure)
- Administrative action or lawsuit



Retaliation Complaints & Administrative Review - SB 306

- Expands authority of Labor Commissioner
 - To pursue without a complaint being filed
 - When retaliation or discrimination is suspected during course of wage claim or other specified investigation
 - Labor Commissioner can grant injunctive relief on showing reasonable cause
 - Citations, court action, attorneys fees and costs

Labor Law Update

Expanded Parental Leave



- Expands the number of employers required to provide employees with parental leave, to bond with a new child, to employers with 20 or more employees.
- Provides job-protected time off for employees who:
 - have 12 months of service,
 - have at least 1,250 hours of service with the employer during the previous 12-month period, and
 - work at a worksite with at least 20 employees within 75 miles.
- If qualified, the employee may take up to 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement.

Labor Law Update – Court Decisions

Williams v. Super Court (Marshalls), 3 Cal.5th 531 (2017): the court of appeal directed trial court to grant discovery of names and contact information for all potentially aggrieved employees of the defendant in California.

Lopez v. Friant & Associates, 15 Cal.App.5th 773 (2017): the court of appeal held claims brought under the PAGA for violation of Labor Code section 226(a) (identifies the required information to appear on wage statements) need not show the violation was done knowingly and intentionally.

M.F. v. Pacific Pearl Hotel Management LLC, 16 Cal.App.5th 693 (2017): the court of appeal held that the workers compensation exclusivity doctrine does not apply if an employee articulates a viable FEHA claim.

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Labor Law Update

Agricultural Workers



- Expansion of overtime protections to agricultural workers
- 2017 – rest days & consecutive days of work
- 2019-2022 – phase-in of overtime
- 2022 – double time over 12 hours
- Small employers have extended deadline

Labor Law Update

California Minimum Wage

- \$11.00 per hour (26+ employees)
- \$10.50 per hour (25- employees)
- Local Ordinances may provide higher minimum wage



Labor Law Update – Court and Administrative Decisions

Augustus et al. v. ABM Security Services, Inc. __Cal.4th__, 2016 WL 7407328 (Cal. Dec. 22, 2016).

- Rest periods must be “off duty” – employees must be relieved of all duties during their rest periods.
- Employees cannot remain “on-call” (i.e. with pagers and a requirement to return to work) – employer must relinquish all control.

DLSE Issued New Guidance 2018 on Breaks

OSHA Updates Anti-Retaliation Provisions

DOT Guidance For Updating Opiates on Panel Information

How Do I Comply With Two Different Regulations?

Questions?



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