

NEW STATUTES AND REGULATIONS FOR CALIFORNIA EMPLOYERS TO LOOK OUT FOR IN 2014

By: Meagan Christiansen

As has become a pattern each year, there are a number of new laws enacted in 2013 that will undoubtedly affect California employers in 2014. The following is a brief description of the major new legislation and regulations that employers should look out for. Please do not hesitate to contact any one of Weintraub Tobin's Labor and Employment attorneys for more information or assistance in determining which new laws apply to you.

Minimum Wage Increases Coming for All Employers:

- California's minimum wage will increase from \$8.00 to \$9.00 an hour effective July 1, 2014, and to \$10.00 an hour effective January 1, 2016.
- The City of San Jose's minimum wage increases to \$10.15 effective January 1, 2014.
- The 2014 City and County of San Francisco's minimum wage rate has been set at \$10.74.

Changes to Wage and Hour Laws Affecting Employers and the Penalties that May be Assessed:

- AB 241 enacts the Domestic Worker Bill of Rights until January 1, 2017, limiting the workday to nine hours and workweek to 45 hours, unless overtime (time and ½) is paid for domestic work employees who are personal attendants. For more information regarding this bill, please see <http://www.thelelawblog.com/2013/09/articles/new-legislation-and-regulation/nanny-state-gives-nannies-overtime-under-new-california-law/>.
- SB 168 makes a successor farm labor contractor liable for wages or penalties owed by a predecessor farm labor contractor if certain criteria are met.
- SB 390 makes it a crime for an employer to fail to remit withholdings from an employee's wages that were made pursuant to local and federal law.
- SB 462 requires an employer to demonstrate an action for the non-payment of wages, fringe benefits or health and welfare pension fund contributions was brought in bad faith in order to recover prevailing party fees and costs. For more information regarding this bill, please see <http://www.thelelawblog.com/2013/08/articles/wage->

[and-hour/amendment-to-the-labor-code-makes-it-harder-for-employers-to-get-attorneys-fees-if-they-prevail-in-an-unpaid-wage-or-benefit-claim/](#) .

- AB 442 expands the civil penalty and payment of restitution of wages to the employee for a Labor Commissioner citation against an employer by also subjecting the employer to payment of liquidated damages to the employee.

New Regulations Affecting Leaves of Absences:

- SB 770 extends Paid Family Leave wage replacement benefits for employees to include benefits for time taken off to care for a seriously ill grandparent, grandchild, sibling, or parent in-law.
- AB 11 requires an employer with 50 or more employees to provide a temporary leave of absence for up to 14 days per calendar year for reserve peace officers and emergency rescue personnel to receive training, including time-off for rescue training.
- The current protections required of employers for employees who are victims of a domestic violence or sexual assault will be expanded to protect employees who are known or suspected victims of stalking, and further requires reasonable accommodations to be made to those employees.

Discrimination/Harassment/Retaliation Laws Also Expanded:

- FEHA has been expanded to clarify that actionable sexual harassment need not be motivated by sexual desire.
- FEHA has further been expanded to add military and veteran status to the list of categories of persons protected from employment discrimination. For more information regarding this bill, please see <http://www.thelelawblog.com/2013/10/articles/new-legislation-and-regulation/vets-got-class/>.
- SB 496 amends the CA Whistleblower Protection Act and prohibits employers from making, adopting, or enforcing any rule, regulation, or policy that prevents an employee from disclosing information to a government or law enforcement agency if an employee has reasonable cause to believe information discloses a violation of or noncompliance with a local rule or regulation, or from retaliating against such an employee.

- AB 263 principally prohibits “unfair immigration-related practice[s],” bars retaliation or adverse action against employees or applicants for engaging in protected conduct, and provides for reinstatement, wage reimbursement and civil penalties for violations.
- SB 666 subjects an employer’s business license to suspension or revocation should the employer threaten citizenship/immigration-based retaliation when a current/past/prospective employee tries to exercise an employment-related right.

Prevailing Wages:

- AB 1336 amends Labor Code section 1741(a) to extend the deadline for the State Labor Commissioner to serve a civil wage and penalty assessment alleging a violation of the prevailing wage law from 180 days (roughly six months) to 18 months after the filing of a valid notice of completion with the applicable county recorder, or after acceptance of the public work, whichever occurs last.
- SB 7 prohibits California charter cities from using state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with prevailing wage provisions on any public works contract.
- SB 377 adds section 1741.1 to the Labor Code, requiring the person filing a notice of completion with a county recorder pursuant to Labor Code section 1741(a), to also provide notice to the Labor Commissioner. Similarly, SB 377 requires that the awarding body or political subdivision accepting a public work under Labor Code section 1741(a), provide notice of that acceptance to the Labor Commissioner within five days of the acceptance. SB 377 also provides that the deadline for serving civil wage and penalty assessments shall be tolled (i.e., extended) for the length of time notice is not given in a timely manner to the Labor Commissioner.

Other Regulations to Look Out For:

- As of July 1, 2014, AB 218 prevents state and local agencies from asking job applicants to disclose prior conviction information until the agency determines the applicant meets minimum qualifications, unless the agency is otherwise required by law to conduct conviction history background checks or the position is in a criminal justice agency.
- Under SB 435, an employer cannot require an employee to work during a recovery period mandated by state law, including under Cal/OSHA’s heat illness standard

(which requires employers with outdoor places of employment to allow for cool-down periods in the shade of no less than five minutes at a time on an “as-needed” basis for employees to protect themselves from overheating). An employer that does not provide an employee with a recovery period must pay the same premium penalty that exists for missed meal or rest breaks — one additional hour of pay for each missed rest period.

- AB 1384 creates a civil penalty for any person registered as a garment manufacturer who fails to display his or her name, address, and garment manufacturing registration number on the front entrance of his or her business.
- AB 1387 increases car wash employer’s required bond amount (for employee unpaid wages compensation) from \$15,000 to \$150,000, unless a collective bargaining agreement is in place that provides for wages, work hours, working conditions, and an expeditious manner of resolving disputes concerning unpaid wages. It further deletes the sunset date of the car wash statute, extending its provisions indefinitely.