

January 5th, 2020

California Labor & Employment Law Update – New Laws to Take Effect in 2021

California employers operate under the most comprehensive Labor Code and legal regime in the Nation. The past year has challenged employers with unprecedented compliance during a global pandemic, which has already led to an influx of employment litigation. In addition to managing remote work forces in an ever-evolving regulatory climate, employers in 2021 will also be required to comply with a substantial number of legislative additions taking effect in the New Year. Below is a highlighted discussion of new employment law provisions soon to take effect:

- **California Minimum Wage Increase – January 1, 2021**: The Statewide minimum wage will increase to \$13.00 for employers with *twenty-five or less employees* and \$14.00 for employers with *at least 26 employees*, in addition to additional increases set by local ordinance
- **CFRA Expansion (SB 1383) – January 1, 2021**: expands application of the California Family Rights Act (“CFRA”) to employers with *five or more* employees
- **Family Temporary Disability Insurance (“FTDI”) Expansion (AB 2399) – January 1, 2021**: expands FTDI application to employees who take leave related to covered active duty
- **Sick Leave/Kin Care (AB 2017) – January 1, 2021**: employees now possess sole discretion regarding designation of leave as sick leave when taken for care of a family member
- **Independent Contractor Exception (AB 323) – January 1, 2021**: newspaper carriers continue to be excepted from “ABC” independent contractor test through January 1, 2022
- **Notification of COVID-19 Exposure (AB 685) – January 1, 2021**: expands Cal/OSHA’s authority to issue Stop Work Orders and obligates employers to provide written notice to all potentially exposed employees
- **Settlement Agreements / No-Rehire Clauses (AB 2143) – January 1, 2021**: when a no-rehire provision is included in a settlement agreement related to harassment, sexual assault, or criminal conduct, employer is obligated to retain documentation

- **Mandatory Corporate Board Diversity (AB 979) – January 1, 2021**: mandates that a publicly traded corporation with a principal executive office in California appoint members of underrepresented communities to its Board of Directors
- **Statute of Limitations Extension for Discriminatory Discharge (AB 1947) – January 1, 2021**: plaintiffs now have one-year (from six months) to file a discriminatory discharge claim under any law regulated by the DLSE
- **Protected Leave Expansion for Crime Victims (AB 2992) – January 1, 2021**: employee victims of domestic violence, sexual assault, or stalking crimes are entitled to extended leave
- **Workshare (AB 1731) – January 1, 2021**: provides for automation of certain workshare program components
- **Child Abuse Reporting Obligations (AB 1963) – January 1, 2021**: mandates human resource professionals of businesses that employ minors – and collectively, five or more employees – be classified as child abuse reporters, including underlying training and implementation of written policies
- **Labor Commissioner / Representation of Financially Disabled Persons (SB 1384) – January 1, 2021**: provides for representation of financially disabled persons by the Labor Commissioner for wage/hour claims compelled to arbitration
- **DFEH Pay Data Reporting (SB 973) – January 1, 2021**: mandates employers report particular pay data to the DFEH
- **Whistleblowing Expansion (AB 1864) - January 1, 2021**: provides whistleblower status to employees who have filed an action under consumer financial protection laws
- **Reimbursement of Training Expenses (AB 2588) – January 1, 2021**: facilities designated as acute care hospitals must reimburse for training expenses
- **Rest Breaks / Security Guards (AB 1512) January 1, 2021**: employers can now require security guards enter into collective bargaining agreements requiring employees to remain on premises and on call during rest breaks, provided they are paid at least one dollar more than the applicable minimum wage
- **Wage/Hour Violation Reporting (AB 3075) – January 1, 2022**: violations of the Labor Code or Wage Orders must be registered with the State by violative corporations
- **Petroleum Facility Employees (AB 2479) January 1, 2021 to January 1, 2026**: employers can now require individuals employed in “safety-sensitive” positions at refineries or other petroleum facilities enter into collective bargaining agreements requiring such employees remain on premises and on call during rest breaks, provided they are paid at least 30% more than the applicable minimum wage

- **Mandatory PPE Requirements (AB 2537) – January 1, 2021 / April 1, 2021**: facilities designated as acute care hospitals must ensure employees providing patient care wear PPE (beginning January 1, 2021); and by April 1, 2021, such facilities must keep and retain a three-month stock of PPE

If we can be of assistance to discuss how the above provisions may affect your business, please feel free to contact any of the Buchalter Labor & Employment Attorneys, including those listed below.



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