

New California Laws for 2019: What Employers Should Know

All employers with operations in California should be aware of these new laws, understand how these laws may affect their operations and consult with counsel to address any compliance questions. All laws are effective January 1, 2019, unless otherwise noted.

Minimum Wages Increases

California employers with 25 employees or less will now be required to pay their employees a minimum wage of \$11.00 per hour. Employers with 26 employees or more are required to pay their employees a minimum wage of \$12.00 per hour.

Local minimum wages are increasing as well. The minimum wage in the City of San Diego has increased to \$12 per hour for all employers, and the minimum wage in the City of Oakland increased to \$13.80 per hour.

Nursing Mothers in the Workplace

Employers in California must provide a private place, in close proximity to the employee's work area, in order for an employee to express breast milk. Employers are required to set aside a private lactation space apart from a bathroom. Employers must abide by this new law unless they can prove that doing so would create an "undue hardship" for the employer. There are limited circumstances where the undue hardship exemption may be used. Employers should review their current lactation policies to ensure compliance.

Non-Disclosure Agreements Regarding Sexual Harassment

Companies are no longer allowed to have any provision in a settlement agreement or other contract that bans a party from testifying about sexual harassment in any administrative or judicial proceeding. Further, the new law prohibits an employer from conditioning a raise or continued employment in consideration of an employee signing a release on a claim of harassment, for which the employer may have liability.

Inquiries into Criminal Background

This new law adds further limitations against an employer asking an applicant about a prior criminal conviction. Employers whose jobs require that employees reveal previous criminal convictions for security purposes will be restricted to only ask the applicant about a relevant "particular conviction." It must be "a conviction for specific criminal conduct or a category of criminal offenses prescribed by any federal law."

Anti-Harassment Training Requirements Expanded

Anti-harassment training is now required of businesses with five or more employees. The expansion of this law mandates that both supervisors and employees be trained every two years for any company with five or more employees. Employers must provide at least two hours of training to supervisors and one hour of training to employees before 2020 and once a year after that. Additionally, the new law requires California to make training materials available.

Additionally, by January 1, 2020, employers must provide sexual harassment prevention training to temporary or seasonal employees within 30 calendar days after the hire date or within 100 hours worked if the employee will work less than six months. For a temporary employee, who is employed by a temporary services employer to perform services for clients, the training must be given by the temporary services employer and not the client.

Salary History

The Labor Code has been amended to clarify that employers may inquire about an applicant's salary expectations in regard to the position he or she is applying for. Additionally, after completing an initial interview, non-current employees are entitled to a pay scale upon request. The pay scale only needs to include salary and hourly wage ranges.

Women on Corporate Boards

The new law now requires publicly traded California companies to appoint a certain number of women to their board of directors. By the end of 2019, covered corporations must have at least one woman on their board. By the end of 2021, boards with five directors will need two female members and boards with six directors will require three female members. Noncompliant companies could be fined as much as \$100,000.

Injured Workers

California/OSHA, the state's division of occupational health and safety, will now have five years to issue citations for employers who fail to accurately record injuries or death, opposed to the previous six-month period to issue citations.

DISCLAIMER: This article constitutes attorney advertising. The material is for informational purposes only and does not constitute legal advice. If you have any questions about the new laws for 2019 or any other laws that may affect your business, or would like to schedule an initial consultation, please contact Korey Richardson, LLP at 312-372-7075.