

Resolve to Lower Your Business Risk in 2012

New Laws that Can Affect Your Success

There are several employment laws that took effect on January 1, 2012 that will impact your business. These new laws range in content from credit reports, health insurance, discrimination, and worker classification. Avoid putting your business at risk for fines or costly litigation – get up to speed with the recent changes:

The following is a brief description of the most significant new employment laws requiring compliance by employers:

SB 299-Pregnancy Disability Leave. Employers with five or more employees must continue to maintain and pay for health insurance coverage under a group health plan for an employee who takes leave for pregnancy, childbirth, or a related medical condition for a reasonable time of up to four months. Employers are allowed to recover premiums from employees who fail to return to work after maternity leave for reasons that are not related to medical or family leave.

AB-22-Credit Reports. The use of credit reports in employment decisions will be forbidden unless the job in question is 1) a managerial position; 2) a law enforcement officer; 3) the position is one for which a credit report screening is required by law; 4) a position that requires regular access to confidential information; 5) a position in which the employee handles financial transactions on behalf of the company, and 6) a position that involves regular access to cash totaling \$10,000 or more. The law does not apply to financial institutions or other employers required by law to conduct credit checks. Each employer utilizing credit histories as part of their hiring process should evaluate their existing policies and procedures.

AB 469-Employees Wages. Entitled the Wage Theft Protection Act, this law requires employers to provide new employees specific information related to the payment of wages. The Department of Industrial Relations, Division of Labor Standards Enforcement has produced a template that employers may use to comply with this new legislation. Employers Group is reviewing the template and its requirements as it appears that several of the requirements go beyond the scope of the requirements specified in the legislation. We advise you to review the FAQs as outlined in the attached link (<http://www.dir.ca.gov/dlse/FAQs-NoticeToEmployee.html>) as well as the proposed template (http://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html) for complying with AB 469.

AB 1236 –E-Verify. Local governments in California are prohibited from requiring private employers to use the electronic employment verification system as part of their hiring practices. Employers may continue to use E-Verify but government agencies in California (State and Local) are prohibited from mandating the use of E-Verify.

SB 459-Employment classification: Independent Contractors. This new law creates penalties for employers (ranging from \$5,000 to \$25,000) who willfully misclassify employees as independent contractors, for the purpose of avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor. The Labor and Workforce Development Agency is tasked with enforcement and compliance oversight.





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SB 559-Discrimination Based on Genetic Information. This law adds “genetic information” to the list of prohibited bases for discrimination under the Fair Employment and Housing Act (FEHA). While duplicative of federal law, the California version extends applicability to employers with five or more employees.

AB 887-Gender Identity. This law further defines “gender” to include both “gender identity” and “gender expression”. Discrimination based on either gender identity or gender expression is prohibited.

AB 1396-Employee Contract Requirements. This law requires employers who have commission pay arrangements to put those arrangements in writing detailing the method by which the commissions are required to be computed and paid. Failure to do so exposes the employer to civil action and triple damages for each affected employee.

For any questions or inquiries regarding the attached, please contact Ken Tiratira at ktiratira@employersgroup.com



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