



## **New 2017 CA Employment Laws**

### **SB 1241 – Choice of Law and Forum in Employment Contracts**

**(Effective January 1, 2017)**

This bill adds Labor Code Section 925 and prohibits employers from requiring California-based employees to enter into agreements (including arbitration agreements) requiring them to: (1) adjudicate claims arising in California in a non-California forum; or (2) litigate their claims under the law of another jurisdiction, unless the employee was represented by counsel. Employees may void any provision of a contract that violates this new law. Any dispute arising under such contracts shall be adjudicated in California under California law and the employee is entitled to recover reasonable attorneys' fees.

### **AB 908 – Paid Family Leave**

**(Effective January 1, 2018)**

The existing Paid Family Leave (PFL) provides short-term benefits to eligible employees who lose wages when they need to take time off work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner, or to bond with a new child entering the family by birth, adoption, or foster care placement.

This bill revises the formula for determining benefits available to those eligible employees “for periods of disability commencing after January 1, 2018, but before January 1, 2022.” This Bill provides “a weekly benefit amount minimum of \$50 and increases the wage replacement rate to specified percentages, but not to exceed the maximum workers’ compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to existing law.” This Bill also removes the existing 7-day waiting period for paid family leave benefits.

### **AB 2899 – Minimum Wage Violations**

**(Effective January 1, 2017)**

This bill amends Labor Code Section 1197.1 and requires that an employer post a bond with the Labor

Commissioner in an amount equal to the unpaid wages assessed under the Labor Commissioner's citation, excluding penalties, before an employer can appeal a citation by the Labor Commissioner against the employer for violation of wage and hour laws. The bond must be in favor of the employee and will be forfeited to the employee if the employer fails to pay the amounts owed within 10 days from the conclusion of the proceedings.

### **California Fair Pay Act**

Under the Fair Pay Act (effective January 1, 2016), an employer is prohibited from paying an employee at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. The Fair Pay Act provides for exceptions such as, the wage differential is based upon one or more of the following factors: (a) a seniority system; (b) a merit system; (c) a system that measures earnings by quantity or quality of production; (d) a bona fide factor other than sex, such as education, training, or experience.

- **AB 1676** amends the Fair Pay Act (Labor Code Section 1197.5) to provide that an employee's prior salary cannot, by itself, justify any disparity in compensation under the bona fide factors above.
- **SB 1063** amends the Fair Pay Act (Labor Code Sections 1197.5 and 1199.5) to expand the requirements of the Fair Pay Act to include employees' race or ethnicity, and not just gender.

### **AB 2535 – Itemized Wage Statements**

**(Effective January 1, 2017)**

This bill clarifies that Section 226 (which required employers to provide employees with accurate itemized statement in writing containing specific information listed in the section) does not require employers to include in itemized wage statements the total number of work hours by an exempt employee. An exempt employee is an employee who is exempt from the payment of minimum wage and overtime under the California Labor Code or other applicable Wage Orders promulgated by the Industrial Welfare Commission (a commission within the within the California Department of Industrial Relations). Employers must continue to include the total hours worked by non-exempt employees in the itemized wage statements for each pay period.

### **SB 579 – School Activities Leave**

This bill expands the ability of employees of employers with 25 or more employees to take protected

time off from work for school or child care related activities. It allows an employee protected time off to find a school or a licensed child care provider, to enroll or re-enroll a child, and time off to address child care provider or school emergencies. This bill also expands the categories of employees eligible to take time off for a child.

**AB 2337 – Employment Protections for Victims of Domestic Violence, Sexual Assault, or Stalking  
(Effective July 1, 2017)**

This bill requires employers with 25 or more employees to provide specific information in writing to new employees upon hire and to other employees upon request of their rights to take leave under Labor Code Section 230.1 (relating to victims of domestic violence, sexual assault, or stalking) by July 1, 2017. This Bill also requires that, on or before July 1, 2017, the Labor Commissioner develops a form that employers may elect to use to comply with these provisions and to post it on the Labor Commissioner’s website. Employers are not required to comply with the notice of rights requirement until the Labor Commissioner posts such form.

**SB 1001 – Immigration Related Unfair Practices  
(Effective January 1, 2017)**

Employers who are in the process of verifying that workers have the necessary documentation to work in the United States are prohibited from requesting of such workers more documents or different documents than are required under federal law. Employers are also prohibited from refusing to honor documents tendered that on their face reasonably appear to be genuine, refusing to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work, or re-investigating or re-verifying an incumbent employee’s authorization to work. This bill, which adds Labor Code Section 1019.1, allows applicants and employees to file a complaint with the Division of Labor Standards Enforcement. Any person who found in violation of this new law is subject to a penalty imposed by the Labor Commissioner of up to \$10,000, among other relief available.

**AB 1732 – Single-User Restrooms  
(Effective March 1, 2017)**

Beginning March 1, 2017, all single-user toilet facilities in any business establishment, place of public accommodation, or government agency will be identified as all-gender toilet facilities. This bill authorizes inspectors, building officials, or other local officials responsible for code enforcement to inspect for compliance with these provisions during any inspection.

## **AB 1843 – Criminal History in Applications for Employment**

**(Effective January 1, 2017)**

In addition to other laws that dictate what an employer can or cannot ask job applicants about their criminal history, this bill amends Labor Code Section 432.7 and prohibits employers from asking applicants to disclose, or from utilizing as a factor in determining any condition of employment, information concerning or related to “an arrest, detention, process, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law.” Under this bill, “conviction” does not include “any adjudication by a juvenile court or any other court order or action taken with respect to a person who is under the process and jurisdiction of the juvenile court law.” This bill also contains additional restrictions and rights for employers of health care facilities.

## **ABX2-7 – Smoking in the Workplace**

**(Effective June 9, 2016)**

California law already prohibits smoking of tobacco products inside an enclosed at a place of employment for certain employers. This Bill amends Labor Code Section 6404.5 and expands the prohibition on smoking of tobacco products in all enclosed places of employment to all employers of any size, including a place of employment where the owner-operator is the only employee (i.e., owner-operated business) as long as those businesses allow clients or other non-employees access to their workplace. “‘Enclosed space’ includes covered parking lots, lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building.” There are certain exemptions. “Place of employment” does not include: (1) 20% of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment; (2) Retail or wholesale tobacco shops and private smokers’ lounges; (3) cabs of motortrucks; (4) theatrical production sites, if smoking is an integral part of the story in the theatrical production; (5) medical research or treatment sites, if smoking is integral to the research and treatment being conducted; (6) private residences, except for licensed family day care homes; (7) patient smoking areas in long-term health care facilities.

Violations are punishable by a fine not to exceed \$100 for a first violation, \$200 for a second violation within one year, and \$500 for a third and for each subsequent violation within one year.

## **AB 326 – Public works: prevailing wage rates: wage and penalty assessments**

California law currently requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if the Labor Commissioner determines, after investigation, that the contractor or subcontractor, or both, violated the laws regulating public works contracts, including

the payment of prevailing wages. Existing law also requires the awarding body, as defined, to withhold from payments due under a contract for public work an amount sufficient to satisfy the civil wage and penalty assessment issued by the Labor Commissioner, and to give notice of the withholding to the affected contractor or subcontractor.

Existing law permits the affected contractor or subcontractor to obtain review of a civil wage and penalty assessment or a notice of withholding, as specified. Existing law provides that, after 60 days following the service of a civil wage and penalty assessment or notice, the affected contractor, subcontractor, and surety on a bond issued to secure the payment of wages, as provided, become liable for liquidated damages in an amount equal to the amount of unpaid wages, as specified. Existing law provides that there is no liability for liquidated damages if a contractor, subcontractor, or surety deposits the full amount of the assessment or notice, including penalties, with the Department of Industrial Relations to hold in escrow pending administrative or judicial review. Existing law requires the department to release those funds, plus any interest earned, to the persons and entities found to be entitled to the funds at the conclusion of all administrative and judicial review.

This bill requires the department to release the funds deposited in escrow plus interest earned to those persons and entities within 30 days following either the conclusion of all administrative and judicial review or upon the department receiving written notice from the Labor Commissioner or his or her designee of a settlement or other final disposition of an assessment issued, as specified, or from the authorized representative of the awarding body of a settlement or other final disposition of a notice issued, as specified.

#### **AB 1687 – Removal of age from actors’ online profiles**

Prior law required a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

This bill prohibits a commercial online entertainment employment service provider—like IMDb—that enters into a contract to provide employment services to an individual for a subscription fee shall remove, upon the subscriber’s request, the subscriber’s date of birth from his or her public online profile or share such information with any websites for the purpose of publication. A provider would not violate these provisions if the provider permits the public to upload or modify content on its own Internet Web site or any Internet Web site under its control without prior, unless the subscriber first requested the provider to remove age information.

### **AB 2063 – Work experience education programs**

This bill amends Sections 51760.3 and 51769 of the Education Code, which previously only applied to students at least 16 years old, and expands the opportunity to participate in a work experience education program for credit to students at least 14 years old. Students may now also participate in a job shadowing experience for up to 40 hours (rather than the previous 25 hours) if the school principal certifies that it is necessary for the pupil's participation in a career technical education program.

### **AB 2068 – Talent Services (Effective January 1, 2017)**

Prior law regulated the licensing and operation of talent services within the entertainment industry by prohibiting specific activities or omissions by a talent service or its owners, directors, officers, agents, and employees, including the failure to remove information about, or photographs of, an artist displayed on the talent service's Internet Web site or an Internet Web site that the service has the authority to design or alter, within 10 days of delivery of a request made by telephone, mail, facsimile transmission, or email from the artist or from a parent or guardian of the artist if the artist is a minor. If the talent service offers to display information about, or a photograph of, an artist on the service's Internet Web site, existing law requires a contract between an artist and a talent service to contain a notice that the talent service will remove the content within 10 days of a request by the artist or the artist's parent or guardian, if a minor. A willful violation of those prohibitions is a crime.

This bill amends Labor Code Sections 1703 and 1703.4 and provides additional protections to artists for their information or photographs through "an online service, online application, or mobile application of the talent service or one that the talent service has the authority to design or alter." This bill also requires, among other things: (1) the talent service to act, within days 10 days, on requests of the artist made by any form of electronic communication, including text messages, to remove information or photographs from the talent service's website, online service, online application, or mobile application (collectively electronic medium) or an electronic medium that the talent service has the authority to design or alter; and (2) that the artist may cancel the contract within 10 business days from the above date of the contract or the date on which the artist commences utilizing the services under the contract, whichever is longer.

### **AB 2261 – DLSE enforcement authority**

This bill amends Section 98.7 of the Labor Code and gives the Department of Labor Standards Enforcement (DLSE) broad independent authority to bring an action against an employer who terminates or discriminates against an employee in violation of any law enforced by the Labor Commissioner. The DLSE can bring an action with or without an employee complaint.

### **SB 1167 – Heat Regulations for Indoor Workers (Effective January 1, 2019)**

By way of background, the Division of Occupational Safety and Health (“Division”) investigates complaints that a workplace is not safe and may issue orders necessary to ensure employee safety. Under prior existing law, certain violations of that act or a standard, order, or special order authorized by the act are a crime. The Division adopted regulations establishing a heat illness prevention standard for outdoor workers. This bill, which adds Labor Code Section 6720, requires that, by January 1, 2019, the Division propose to the Occupational Safety and Health Standards Board (“Board”) for the Board’s review and adoption, a heat illness and injury prevention standard applicable to workers working in indoor places of employment. “The standard shall be based on environmental temperatures, work activity levels, and other factors.” This bill further states the Division may propose, or the Board may adopt, a standard that limits the application of high heat provisions to certain industry sectors.

### **Questions? Concerns? Contact:**

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