

2024 LABOR LAW UPDATES FOR EMPLOYERS



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OVERVIEW

- Increased Paid Sick Days
- Raises for Fast Food Workers
- New Leave for Reproductive Loss
- Marijuana Use
- Preventing Workplace Violence
- New Background Check Requirements
- Prohibitions on Restrictive Covenants
- CA Minimum Wage Increase

CALIFORNIA INCREASES NUMBER OF PAID SICK DAYS (FROM 3 TO 5)



California Increases Number of Paid Sick Days (from 3 to 5)

- SB 616, now guarantees employees five paid sick days per year rather than the past bill that guaranteed “three paid sick days per year”
- It requires **employers of all sizes** to provide 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year or in each 12-month period
- Full-time, part-time and temporary workers are eligible for paid sick leave if they worked for the same employer for at least 30 days within a year in California and completed a 90-day employment period before taking any paid sick leave
- This bill would increase the sick leave accrual rate for these providers to 40 hours or 5 days in each year of employment, beginning January 1, 2024.
- This bill would increase those accrual thresholds for paid sick leave to 80 hours or 10 days. (This amount is double so when employees start a new year of employment, their number of sick days reset at five rather than having to start with zero.)

CALIFORNIA RAISES WAGES FOR FAST-FOOD WORKERS





California Raises Wages for Fast-Food Workers

- Fast-food workers will be paid more and a new state entity will oversee working conditions in the industry.
- AB 1228, sets a **\$20 minimum wage** for fast-food workers starting on **April 1, 2024**.
- Fast-food employee minimum wage will increase annually until 2029, based on the Consumer Price Index.
- This law applies to chains of limited-service restaurants consisting of more than 60 establishments that share common branding, marketing and products.

CALIFORNIA ESTABLISHES NEW LEAVE FOR REPRODUCTIVE LOSS



California Establishes New Leave for Reproductive Loss (Part 1)

- SB 848 makes it an unlawful employment practice for an employer to refuse to grant an eligible employee's request to take up to five days of unpaid leave following a reproductive loss event
- SB 848 acts as a subset of California's bereavement leave law and increases an employee's leave entitlements for a reproductive loss event, which is defined as "the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction."
- The law limits the amount of reproductive loss leave to a maximum of 20 days within a 12-month period.
- It prohibits employers from retaliating against any employee for requesting or taking leave for a reproductive loss.

California Establishes New Leave for Reproductive Loss (Part 2)

- California employers with five or more employees are covered under the law. Only employees who have worked for the employer for at least 30 days are eligible for reproductive loss leave. Leave under the statute is unpaid, unless the employer has an existing policy requiring paid leave.
- Leave under the statute is unpaid, unless the employer has an existing policy requiring paid leave. Eligible employees may choose to use any accrued and available paid sick leave or other paid time off for reproductive loss leave.
- SB 848 does not contain any provision permitting employers to request any documentation in connection with reproductive loss leave.

CALIFORNIA EMPLOYERS SHOULD NOT ASK ABOUT MARIJUANA USE





California Employers Should Not Ask About Marijuana Use

- Newsom recently signed a new law to **prohibit employers from asking job applicants or employees about their prior marijuana use.**
- The CA state law allows employers to conduct pre-employment drug screening with methods that do not screen for non-psychoactive cannabis metabolites in a person's hair, blood or urine.
- The new law will **take effect Jan. 1, 2024.** It does not apply to employees in the construction industry or employees hired for positions that require a federal government background investigation or security clearance.
- Under another CA law that will take effect on April 1, 2024, employers cannot fire, discipline or demote a worker for using cannabis off the job and away from the workplace.
- **Employers can require employees to not possess, use or be impaired by marijuana at the worksite during work hours.**
- Currently, there are no drug tests that can detect current marijuana impairment, so employers are left to rely on their observations of the employee's behaviors for potential disciplinary action.

CALIFORNIA ENACTS LAW TO PREVENT WORKPLACE VIOLENCE



California Enacts Law to Prevent Workplace Violence (Part 1)

- Newsom signed a new law to require employers to adopt workplace violence prevention plans, maintain records of any threats or incidents of workplace violence, and provide effective training to workers on workplace violence.
- **California employers must establish a written workplace violence prevention plan that includes:**
 - The name and/or job title of the person responsible for implementing the program.
 - Procedures for the employer to receive and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.
 - Information about how an employee can report a violent incident, threat or other concern to the employer or law enforcement without fear of reprisal.
 - Methods to alert employees of the presence, location and nature of workplace violence emergencies.
 - Evacuation or sheltering plans that are appropriate and feasible for the worksite.
 - Information about how employee concerns will be investigated and how employees will be informed of the results of the investigation.

California Enacts Law to Prevent Workplace Violence (Part 2)

- Procedures to obtain the active involvement of employees in developing and implementing the violence prevention plan.
- Procedures to review the effectiveness of the violence prevention plan and revise it as needed.
- Employers should train workers on "red-flag behaviors" and ways to de-escalate heated situations.
- Employers must keep a log of all reports of violence or threats and what the employer did about it, starting on July 1, 2024. The log should not contain any personally identifiable information.

NEW CALIFORNIA BACKGROUND CHECK REQUIREMENTS TAKE EFFECT OCT. 1





New California Background Check Requirements Take Effect

Oct. 1 (Part 1)

- California employers will need to make changes to their background check and criminal history review process in order to comply to new Fair Chance Act (FCA) regulations taking effect Oct. 1, 2023.
- The California Fair Chance Act went into effect in 2018. It prohibits employers from asking about an applicant's criminal history until after a conditional offer of employment has been made to the applicant.
- If an employer chooses not hiring an individual because of their criminal history, the company must perform an individualized assessment as to whether the applicant's criminal history "has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position."
- The assessment must consider the following factors:
 - The nature and gravity of the offense or conduct.
 - The time that has passed since the offense or conduct and/or completion of the sentence.
 - The nature of the job held or sought.

New California Background Check Requirements Take Effect

Oct. 1 (Part 2)

- If an employer believes an individual should not be hired after completing an individualized assessment, it must send written notice to the individual of the potential adverse action (commonly referred to as a pre-adverse action letter) and give them an opportunity to respond.
- The applicant must be given at least five business days to respond with additional information, such as rehabilitation efforts or mitigating circumstances.
- The employer must consider any new information provided and conduct a reassessment. If the employer then decides to not hire the individual, it must send a notice to the applicant regarding its decision and notify the applicant of their rights.
- As of Oct. 1st, the term "employer" now includes not only direct employers but also entities acting as agents or evaluating an applicant's criminal history on behalf of an employer, staffing agencies, and entities obtaining workers from a pool or availability list.
- Employers cannot include statements in job advertisements, postings, applications, or other materials that persons with criminal history will not be considered for hire.

New California Background Check Requirements Take Effect Oct. 1 (Part 3)

- If an applicant voluntarily offers information about their criminal history prior to receiving a conditional offer, the new regulations make clear that the employer still cannot consider such information.
- The new regulations provide a list of sub-factors that employers must consider at a minimum as part of the individualized assessment, including:
 - Whether the harm was to property or people.
 - The degree of the harm (e.g., amount of loss in theft).
 - The permanence of the harm.
 - The context in which the offense occurred.
 - Whether a disability contributed to the offense or conduct.
 - Whether trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, or other similar factors contributed to the offense or conduct.
 - The age of the applicant when the conduct occurred.
 - The amount of time that has passed since the conduct underlying the conviction, which may significantly predate the conviction itself.

New California Background Check Requirements Take Effect

Oct. 1 (Part 4)

- The amount of time that has passed since the applicant's release from incarceration.
- The specific duties of the job, including whether the context in which the conviction occurred is likely to arise in the workplace and whether the type or degree of harm that resulted from the conviction is likely to occur in the workplace.
- After sending a pre-adverse action letter, you must wait at least five business days from the individual's receipt of the pre-adverse action letter before taking action and making its decision final.
- Ultimately, you should revise your background check policies for compliance and educate any individuals involved in the applicant screening/background check process. This includes coordinating with any third-party services you enlist to assist you with this process.

CALIFORNIA ENACTS LEGISLATION TO SUPPORT STATE'S PROHIBITIONS ON RESTRICTIVE COVENANTS



California Enacts Legislation to Support State's Prohibitions on Restrictive Covenants

- Newsom signed SB 699, which will take effect on Jan. 1, 2024, this law supports current state law that voids contracts that restrain an employee from engaging in a lawful profession, trade or business of any kind.
- California's Business and Professions Code section 16600 states, "Every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void."
- SB 699 both reiterates existing law and goes a few steps further. Under SB 699, any contract that is void under section 16600 is unenforceable, regardless of where and when the contract was signed.
- SB 699 prohibits an employer from entering into a contract with an employee or prospective employee that includes noncompete clauses and other restrictive covenants that are void under section 16600. Employers that violate SB 699 could be liable for civil violations.
- An important change to California law is that SB 699 adds explicit enforcement rights for employees regarding restrictive contracts.

CALIFORNIA'S MINIMUM WAGE TO INCREASE





California's Minimum Wage to Increase

- Effective Jan. 1, 2024, **minimum wage has increased for all CA employers to \$16.00 per hour**
- The California minimum annual salary will increase to \$66,560 per year, or \$5,546.57 per month.
- The California minimum wage for employees who are required to provide and maintain hand tools and equipment customarily required by the trade or craft will increase from \$31 per hour to \$32 per hour. T
- The minimum annual compensation for employees who qualify for the inside sales exemption from overtime will increase from \$48,360 to \$49,920.
- You will need to adjust your split-shift premium calculations since they will be impacted by the increased minimum wage. The same is true for rates of pay for meal period premiums, rest period premiums, paid sick leave, and other related items.
- Double check your city's local ordinances that establish minimum wages higher than the state's minimum wage. (For example, the minimum wage in Los Angeles increased last month to \$16.78 per hour.)

FOR QUESTIONS REGARDING THESE UPDATES OR OTHER
HR RELATED ISSUES, PLEASE CONTACT US DIRECTLY.
WE WOULD LOVE TO HEAR FROM YOU!



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