



Tal K. Taylor, APC

## Client Alert

December 2021

1217 Wilshire Blvd. #3418  
Santa Monica, CA 90403  
Tel (424) 291-2727  
tal@talktaylorlaw.com  
www.talktaylorlaw.com

### **2022 CALIFORNIA EMPLOYMENT LAW UPDATES**

As we head into the new year, now is the time to take note of some important new employment laws impacting California businesses starting January 1, 2022. Employers should ensure that their company policies are updated to reflect these new laws, including as to COVID-19 regulations which continue to evolve.

**Employer COVID-19 Reporting Obligations (AB 654):** This law clarifies existing employer reporting obligations concerning incidents of COVID-19 in the workplace. Employers will now have one business day or 48 hours (whichever is later) to notify public health agencies of a COVID-19 outbreak.<sup>1</sup> Notice need not be provided on weekends or holidays. In addition, the list of businesses who are exempt from the reporting requirement is expanded to include community care facilities, child daycare facilities and community clinics. Current law requires employers to provide employees who may have been exposed to COVID-19 with information concerning COVID-19 benefits. Under the new law, this information must be distributed to all employees who were onsite during the infectious period of the person who tests positive.

**Warehouse Employee Quotas (AB 701):** Under the new law business with 100 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more distribution centers in California will need to provide, upon hire or within thirty days of the law taking effect, a written description of company quota requirements, plus any adverse action that could result from an employee's failure to meet quotas. Employees are not required to comply with quotas that prevent compliance with meal or rest breaks, use of bathroom facilities or occupational health and safety laws.

**Criminalizing Wage Theft (AB 1003):** This law makes the intentional theft of employee wages, including gratuities, in an amount greater than \$950 from one employee or \$2,350 from two or more employees in a 12-month period, punishable as grand theft felony under the Penal Code. The law also defines "employee" to include "independent contractors."

**Elimination of Piece-Rate Pay for Garment Workers (SB 62):** This law eliminates piece-rate pay for garment workers and requires employers to pay at least minimum wage for all hours worked. The law creates upstream liability to garment manufacturers, contractors and "brand guarantors" to prevent bad actor brands from oversight. The law also imposes a penalty of \$200 per employee against garment manufacturers or contractors for every pay period where employees were paid on a piece-rate basis.

**Phasing Out Subminimum Wage Program for the Disabled (SB 639):** This law requires a plan to phase out the subminimum wage certificate program for the disabled by January 1, 2025. The law aims to help transition these workers to competitive integrated employment.

---

<sup>1</sup> An "outbreak" is still defined as three probable or confirmed cases within a 14-day period when all cases are from different households.

**Employer Maintenance of Employee Records (SB 807):** Currently, employers must maintain employee personnel records for two years. The new law expands this period to four years.

**Labor Commissioner Liens to Secure Employer Amounts Owed (SB 572):** The new law authorizes the Labor Commissioner to create a lien on real property to secure amounts due to the commissioner under any final citation, finding or decision. Liens are already permitted to recover amounts due under final orders in favor of employees. However, the new law will allow the commissioner to implement the same lien to recover amounts due to the agency.

**Expansion to CFRA (AB 1033):** The California Family Rights Act (CFRA) currently requires employers with five or more employees to provide eligible employees with unpaid leave up to twelve weeks during each 12-month period to bond with a new child or to care for themselves or a family member with a serious medical condition. The new law expands the scope of family members to include “parent-in-law.” In addition, for businesses with 5-19 employees, the law also provides for mandatory mediation of alleged violations before the Department of Fair Employment and Housing can issue a right-to-sue notice if mediation is requested by either the employer or employee.

**Confidentiality in Settlement Agreements (SB 331):** This new law is known as the “Silence No More Act” and derives from the #metoo movement. Current law already prohibits settlement agreements from preventing the disclosure of facts relating to sexual assault, harassment or discrimination. The new law expands this prohibition to include *all forms of workplace discrimination or harassment*, not just discrimination based on sex. It also prohibits employers from requiring employees, as a condition of new or continued employment, to sign a release or to require them to sign a non-disparagement agreement that has the purpose of denying the employee the right to disclose information about unlawful acts.

**Increase to California Minimum Wage:** Effective January 1, 2022, the California state minimum wage will increase to \$15 per hour for employers with twenty-six or more employees and \$14 per hour for employers with twenty-five or fewer employees. It is important to ensure compliance with local minimum wage requirements, which are often higher. For instance, on July 1, 2021, the City of Los Angeles minimum wage increased to \$15 per hour for all employees, regardless of employer size.

**Healthcare Workers Must Receive COVID-19 Booster:** Earlier this month Governor Newsom issued an order requiring all California healthcare workers in high-risk congregate settings to receive their COVID-19 boosters by February 1, 2022.

**Los Angeles Supplemental Paid Sick Leave:** While these laws are already in effect, it is important to remember that both the City and County of Los Angeles require employers to provide paid sick leave due to COVID-19. This includes leave related to receiving the COVID-19 vaccine. *See*, “LA County Extends Supplemental Paid Sick Leave Ordinance” under “Bulletins” at [www.talktaylorlaw.com](http://www.talktaylorlaw.com) for additional details.