

News You Can Use:

New Laws in Effect Jan 1, 2023: Just as it is one thing to make a New Year's resolution and another to keep it – revising policies is simple, but actually implementing the changes is what matters. Employers should check to make sure that handbooks are up to date and then ensure that the company is complying with all of the changes and any other changes in the law. For more information or assistance regarding these updates as well as how to comply with these changes, consult with your counsel or counsel of your choosing.

New Laws A-M Below

A: All California employers must pay minimum wage of at least \$15.50/hr.²

- This is up from \$14/hr. for employers with 25 or fewer employees, and \$15/hr. for employers of 26 or more employees.
- This change also affects some exempt employees. For those overtime exemptions that require a salary of at least two times minimum wage, the new salary threshold will be \$64,480.

B: Pay Transparency (SB 1162)

- Employers with 15 or more employees must now include pay scale in all job postings. "Pay scale" is defined as "the salary or hourly range that the employer reasonably expects to pay for the position."
- Upon an employee's request, the employer must provide that employee with the pay scale for the position in which the employee is currently employed.
- Employers must also maintain job title and wage history records for each employee during employment, plus three years post-employment.

See [2023: The Year Pay Transparency Becomes a Much Bigger Deal](#) for more details.

C: Pay Data Reporting (SB 1162)

- Employers with 100 or more employees of their own, or 100 or more employees hired through labor contractors, must file a pay data report with the state Civil Rights Department by May 10, 2023.
- The report must contain:
 - The number of employees by race, ethnicity and gender in various job categories, and
 - The median and mean hourly rates within each job category by race, ethnicity and gender.

See calcivilrights.ca.gov/Paydata-reporting for more details.

D: COVID-19 – Notice to Employees (AB 2693)

- The requirements to provide employees with notice of potential exposure to COVID-19 pursuant to Labor Code sec. 6409.6 have been extended until January 1, 2024.
- Employers now have the option of posting the notice of potential COVID-19 exposure at the worksite instead of providing written notice directly to employees. The posting must be made in all places where notices to employees concerning workplace rules or regulations are customarily posted (and on existing intranet or other employee portal if that is used for workplace postings or notices).
- The notice must remain posted for at least 15 days and employers must keep a log of all postings.

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E: COVID-19 – Rebuttable Presumption of Workplace Exposure (AB 1751)

The rebuttable presumption that an employee’s COVID-19 illness was sustained in the course of employment for purposes of worker’s compensation benefits has been extended to January 1, 2024.

As of the time of this publication, California’s COVID-19 Supplemental Paid Sick Leave and Cal-OSHA’s Emergency Temporary Standards are set to expire December 31, 2022. But these statutes and rules have been repeatedly amended and extended, so it is possible that will happen again. Employers should check the Department of Industrial Relations’ website for up-to-date information. See www.dir.ca.gov/dlse/COVID19Resources/2022-SPSL-FAQs.htm regarding Supplemental Paid Sick Leave and www.dir.ca.gov/dosh/coronavirus/covid19faqs.html regarding the Emergency Temporary Standards.

F: Time Off During “Emergency Conditions” (SB 1044)

- Employers must allow employees to leave work or refuse to report to work during an emergency condition.
- “Emergency condition” is defined as either “[c]onditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act” or “[a]n order to evacuate a workplace, a worksite, a worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.”
- A health pandemic is not an emergency condition.
- The new law does not apply to certain employees, including emergency service and health care workers.

G: California Family Rights Act (CFRA) and Sick Leave Expands Coverage (AB 1041)

- Employees may now take CFRA leave to care for a “designated person”.
- For purposes of CFRA leave, “designated person” is defined as “[a]ny individual related by blood or whose association with the employee is the equivalent of a family relationship.”
- Employees may now take their sick leave to care for a “designated person”.

For purposes of sick leave, “designated person” has a different definition: “a person identified by the employee at the time the employee request

H: Bereavement Leave (AB 1949)

- Applies to employers with five or more employees.
- Must provide up to five days unpaid bereavement leave for an employee within three months of the death of a family member.
- “Family member” is defined as “a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law.”

I: Motor Vehicle Tracking (AB 984)

- Employers can only use vehicle location technology to monitor employees if strictly necessary for the performance of an employee’s duties.
- Monitoring is only permitted during work hours.
- Employers must first provide notice to the employee that monitoring will occur and must allow employee to disable the device outside of work hours.

J: New Equal Employment Opportunity Commission (EEOC) “Know Your Rights” Poster

- Employers with 15 or more employees are required to post in the workplace where notices to employees are customarily posted the new “Know Your Rights: Discrimination Is Illegal” poster.
 - Employers with remote employees should also upload the poster to their intranet or other employee portal.
- Visit www.eeoc.gov/poster to get the most current version of the poster.

K: Updates to CalSavers Retirement Savings Program (SB 1126)

- CalSavers is a state-run employee retirement plan for employers who do not participate in a tax-qualified employee-retirement plan.
 - It now applies to employers with just one eligible employee (up from five).
- Visit www.calsavers.com/ for details.

L: California Consumer Privacy Act (CCPA) and the California Privacy Rights Act (CPRA)

- The CCPA and CPRA apply to for-profit businesses that do business in California and that as of January 1 had worldwide annual gross revenues over \$25M in the preceding calendar year (includes entities who control or are in common control with another business and which share a common branding).
- The CCPA and CPRA also apply to businesses that buy, sell, or share the personal information of 100,000 or more consumers or households per year or generate 50 percent or more of their annual revenue from selling or sharing the personal information of consumers.
- Covered businesses will be required to provide California resident applicants, employees, and contractors with specific privacy disclosures at or before collecting personal information describing:
 - The categories of personal information the business will collect, and
 - The purposes for which the business will use the information.
- Covered businesses will be required to timely respond to CCPA/CPRA privacy requests, including right to access, delete or correct data.
- Covered businesses must also post their privacy policy on an external website.
- Employers cannot rely on payroll providers to do this for them.

As of the date of this publication, the California Privacy Protection Agency is still making revisions to final rules, so employers should confirm the final version of the rules before the end of the year. Visit cppa.ca.gov/ for updates. See [CPPA Board Meeting Modifies CPRA Regulations](#) for more information.

M: Reproductive Health, Contraception, and Abortion-Related Laws

- AB 2091: Effective September 27, 2022, employers and healthcare plans are prohibited from releasing information identifying or relating to a person seeking or obtaining an abortion except pursuant to a subpoena (unless subpoena is based on another state's laws that interfere with a person's abortion rights).
- SB 523:
 - Effective January 1, 2023:
 - ✦ Protected classes for purposes of discrimination and harassment laws explicitly include "reproductive health decision making" (defined as "a decision to use or access a particular drug, device, product, or medical service for reproductive health"); and
 - ✦ Employers are prohibited from requiring applicants or employees to disclose information relating to reproductive health decision-making.
 - ✦ Effective January 1, 2024:
 - ✦ Healthcare plans will be required to cover over-the-counter contraceptives; and
 - ✦ Healthcare plans will be prohibited from imposing any cost-sharing for vasectomies.