

New California Employment Law Statutes

Special 2008 Edition

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Leave of Absence for Military Spouses

Employers with 25 or more employees must allow a spouse of a member of the Armed Forces of the United States (including deployed members of the National Guard and the Reserves) to take an unpaid leave of absence of up to 10 days when the service member is home on leave from duty. Employees who work at least an average of 20 hours per week are eligible; independent contractors are not eligible for this leave.

(A.B. 392, effective immediately)

Decrease in Hourly Rate of Pay for Exempt Computer Professionals

Computer software employees who otherwise meet the criteria of California Labor Code § 515.5 shall be considered exempt from overtime if the hourly rate of pay is not less than \$36.00 per hour – a decrease from almost \$50.00 per hour required under current law.

(S.B. 929, effective Jan. 1, 2008)

Federal Earned Income Tax Credit Notification

Employers are required to notify employees that they may be eligible for the federal Earned Income Tax Credit within one week before or after, or at the same time, that the employer provides an annual wage summary, including a Form W-2 or Form 1099. The statute specifies the language that must be included in the notice.

(A.B. 650, effective Jan. 1, 2008)

Hands-Free Cell Phone Law

Drivers are prohibited from using a cell phone while operating a moving vehicle unless the telephone is specifically designed and configured to allow hands-free listening and talking and is used in that manner while driving. (Drivers of commercial vehicles are exempted from the law until July 1, 2011.)

(2006 Stats. Ch. 290, effective July 1, 2008)

No Social Security Numbers On Employees' Itemized Wage Statements

Existing law requires employers to regularly provide employees with accurate itemized wage statements, which show gross wages earned, total hours worked, deductions, etc. On and after January 1, 2008, such wage statements shall not include the employee's social security number; in its place, the wage statements must include the last four digits of the employee's social security number or an employee identification number other than a social security number.

(Cal. Labor Code § 226(a)(7), effective Jan. 1, 2008)

Protection of Medical and Health Insurance Information

California's existing data breach notification law requires businesses that own or license computerized data to disclose any breach of the security of the system to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. This law adds medical

and health insurance information to the data elements that, when combined with the individual's name, would constitute personal information that would require disclosure when acquired, or believed to be acquired, by an unauthorized person due to such a security breach. Additionally, the prohibitions of the Confidentiality of Medical Information Act are extended to any business that is organized for the purpose of maintaining medical information.

(A.B. 1298, effective Jan. 1, 2008)

Expansion of Whistleblower Protection Law (Health Facilities)

Health facilities are prohibited from discriminating or retaliating against any patient, employee, a member of the facility's medical staff, or any other health care worker of the facility because that person (1) has presented a grievance, complaint, or report to an entity or agency responsible for accrediting or evaluating the facility or to any other governmental entity; or (2) has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility.

(A.B. 632, effective Jan. 1, 2008)

Pharmacists' Alternative Workweek Schedule

Pharmacists who work in the mercantile industry pursuant to California Wage Order 7 may adopt an alternative workweek schedule that is permitted under Wage Order 4 (Professional, Clerical, etc.), including the provisions for alternative workweeks that can be adopted by employees who work in the health care industry.

(S.B. 812, effective Jan. 1, 2008)

Employer Payment for Personal Protective Equipment

OSHA has issued a Final Rule requiring employer payment for Personal Protective Equipment ("PPE") – with a few exceptions. The Rule establishes a uniform requirement that employers pay for all types of PPE required under OSHA standards, except for ordinary safety-toed footwear, ordinary prescription safety eyewear, logging boots, and ordinary clothing and weather-related gear.

(72 Fed. Reg. 64341 (Nov. 15, 2007) (to be codified at 29 C.F.R. parts 1910, 1915, 1917, 1918, 1976), effective May 15, 2008)

New I-9, EEO-1 and CAL/OSHA Forms

The federal government issued a new I-9 Form (www.uscis.gov/files/form/i-9.pdf) and a new EEO-1 Form (www.eeoc.gov/eeo1survey). In addition, between February 1 and April 30, 2008, employers are required to post their completed CAL/OSHA Form 300A (Annual Summary of Work-Related Injuries and Illnesses) (www.dir.ca.gov/dosh/dosh_publications/oshalog300A.pdf) even if no work-related injuries or illnesses occurred during 2007.

Increase in Minimum Wage

The federal minimum wage will increase to \$6.55 per hour on July 24, 2008. The California minimum wage will increase to \$8.00 per hour on January 1, 2008.

You can also visit our web site at <http://www.proskauer.com>

And finally...

No Subcutaneous ID Implants – Really!

No person, including an employer, may "require, coerce, or compel" another person to acquiesce to subcutaneous implantation of an identification device that is passively or actively capable of transmitting personal information with the use of radio frequency technology or by other means.

(S.B. 362, effective Jan. 1, 2008)

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