Proskauer

In A Surprise Move, California Enacts Boatload Of Employer-Friendly Laws – Nah, That Didn't Actually Happen . . . It'll Be More Burdensome Than Ever!

California Employment Law Update on **October 15, 2024**

Unbowed and unbroken, California continues to work toward creating that Workers' Paradise in the Sun, and this legislative session did not disappoint! Here are the latest new laws that will take effect by the first of the year:

Law	Summary & Impact on Employers
AB 1815 Weber (D-San Diego)	**Expansion of the CROWN Act**. The Fair Employment and Housing Act ("FEHA") already defines the protected characteristic of "race" as including "traits historically associated with race," including hair textures and protective styles. The new law eliminates the "historically" qualifier from this definition.
AB 1870 Ortega (D-Alameda)	**Workers' Compensation Notice.** Existing law already requires employers to conspicuously post a notice informing employees of their rights and options in the event of an occupational injury. The new law adds that this notice must include the injured employee's right to consult a licensed attorney to advise them of their rights under workers' compensation laws.
AB 2123 Papan (D-San Mateo)	**No More Mandatory Vacation Before Paid Family Leave**. Under existing law, employers may require an employee to use up to two weeks of their accrued but unused vacation leave prior to the employee receiving benefits under the Paid Family Leave ("PFL") program. This new law will no longer permit employers to impose that vacation precondition on PFL benefits.
AB 2299 Flora (R-Amador)	**More "Whistleblower" Posting Requirements**. Existing law already requires employers to "prominently display" employees' whistleblower rights. This new law adds that employers must also post a "model list of employees' rights and responsibilities" under the whistleblower laws (prepared by the Labor Commissioner) to comply with this posting requirement.

Law	Summary & Impact on Employers
AB 2499 Schiavo (D-Los Angeles)	**Expanded Crime Victim Leave and Accommodations.** Existing law requires employers to permit employees who are victims of certain crimes such as domestic violence, stalking, or sexual assault to obtain relief (*e.g.*, a restraining order). Existing law also requires employers to provide such crime victim employees with reasonable accommodations for their safety at work. This new law expands these protections to employees who are not themselves crime victims but who have family members who are victims of the qualifying crimes—which are themselves expanded to include conduct causing "bodily injury or death," brandishing a weapon, and using or threatening to use force against another. The law also clarifies that employees may use vacation, sick leave, or other paid time off for this leave. Finally, the new law brings these rights into the FEHA and, thus, within the enforcement authority of the California Civil Rights Department.
AB 3234 Ortega (D-Alameda)	**"Social Compliance Audit" Disclosure.** This new law will require employers that have voluntarily subjected themselves to a "social compliance audit" to post on their website a "clear and conspicuous link" to a report on the audit's findings. The law defines "social compliance audit" as a voluntary, nongovernmental inspection to determine whether the employer's practices comply with state and federal law, including prohibitions against child labor.
SB 399 Wahab (D-Silicon Valley)	**Ban on "Captive Audience" Meetings**. Deemed a "job killer" by the California Chamber of Commerce, this new law—named the "California Worker Freedom from Employer Intimidation Act"—prohibits employers from taking adverse action against an employee because that employee refuses to attend meetings or otherwise receive/listen to communications whose purpose is to convey the employer's "opinion about religious or political matters." Notably, the law defines "political matters" to include "the decision to join or support any . . . labor organization," meaning that this law appears to prohibit mandatory "captive audience" meetings in which an employer facing a union organizing campaign can discuss the campaign with employees. There are no such prohibitions against a labor union discussing the campaign with employees. There are some exceptions to this prohibition, such as new employee orientations or trainings mandated by law. The law imposes a $500 penalty on employers per violation, in addition to the possibility of compensatory and punitive damages.
SB 764 Padilla (D-San Diego)	**Child Vlogger Bill of Rights**. Bringing California's famous "Coogan Law" into the digital age, this new law requires "vloggers" who include minors in their videos to set aside a percentage of gross earnings in a trust account for the benefit of the minor, as well as maintain records of, among other items, earnings and minutes during which the minor appeared in the video content. While the law sets limits to ensure these requirements do not apply to every baby video posted on YouTube (the law only applies to vloggers who earn at least $1,250 each month from their image and video content), we will closely watch how this new law affects California's ballooning influencer industry. (At last check, the still-dominant cat-video production industry remains unaffected.)

Law	Summary & Impact on Employers
SB 988 Wiener (D-San Francisco)	**New Obligations for Independent Contracting**. The new "Freelance Worker Protection Act" will impose new requirements on persons who engage independent contractors and pay them at least $250. (The law will not apply to individuals "hiring services for the personal benefit of themselves, their family members, or their homestead.") The new (unwaivable) requirements include paying the contractor on or before the date specified in the contract (or, if no specified date, no more than 30 days after completion of services) and that contracts must be in writing and retained by the hiring party for at least four years.
SB 1100 Portantino (D-Burbank)	**No Driver's License Requirement in Job Postings**. This new law will amend the FEHA to prohibit an employer from requiring an applicant to possess a driver's license, unless the employer reasonably expects that driving is one of the job's functions and that alternative forms of transportation (*e.g.*, rideshares, carpools, cycling) are insufficient for that function.
SB 1105 Padilla (D-San Diego)	**Paid Sick Leave Expansion.** This law will mandate that employers permit agricultural employees to use paid sick days to avoid smoke, heat, or flooding conditions caused by a state of emergency.
SB 1137 Smallwood-Cuevas (D-Los Angeles)	**Intersectional Anti-Discrimination.** This new law, as we have previously reported, clarifies that FEHA prohibits discrimination not only on the basis of one protected characteristic but also on the basis of the combination of two or more protected characteristics.

We will continue to monitor the application and enforcement of these new laws and provide relevant updates as needed.

View original.

Related Professionals

- **Anthony J. Oncidi**
  Partner
- **Dixie M. Morrison**
  Associate
- **Gregory W. Knopp**
  Partner