

## **New 2007 Laws**

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This alphabetical list is comprised of all new employment-related laws for 2007, along with brief descriptions of each and how they may affect your business.

### **Discrimination, SB 1441**

Adds sexual orientation to existing classifications protected from discrimination by recipients of state funds and expands the definition of discrimination to include the perception that the victim is a member of a protected class.

This law adds sexual orientation to existing law that prohibits discrimination on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability, against any person in any program or activity conducted, operated, or administered by the state or by any state agency, or that is funded directly by the state, or that receives any financial assistance from the state.

As such it includes unemployment insurance, disability insurance and workers' compensation. It also defines "sex" and "sexual orientation" as having the same meaning as under the FEHA. The law also expands the definition of discrimination to include a perception that a person has any of these enumerated characteristics or that the person is associated with a person who has, or is perceived to have, any of these characteristics.

### **Employment, AB 546**

Outlaws the use of state-owned or state-leased computers by government officials or employees to access obscene materials.

This law makes it unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to knowingly use a state-owned or state-leased computer to access, view, download, or otherwise obtain obscene matter as defined in the penal code. The law does not apply to accessing, viewing, downloading, or otherwise obtaining obscene matter for use consistent with legitimate law enforcement purposes, to permit a state agency to conduct an administrative disciplinary investigation, or for legitimate medical, scientific, academic, or legislative purposes, or for other legitimate state purposes.

### **Employment, SB 1759**

Establishes requirements for background checks of certain administrators, executives and employees in the health care industry, and a process for

transmission of fingerprint images.

This law requires specified health related workers to submit electronic fingerprint images to the Department of Justice (DOJ) and requires applicants to be responsible for any cost associated with transmitting the fingerprint images. The individuals affected are as follows:

- Certified nurse assistants and home health aides.
- Nursing home administrators.
- Administrators, program directors, and fiscal officers of adult day health care centers.
- An owner or owners, anyone having a 10 percent or greater interest in the corporation, partnership, or association, and administrators of home health agencies and private duty nursing agencies.

### **Health and Safety, AB 2067**

Extends and clarifies the prohibition on smoking in the workplace.

This law clarifies that the prohibition on knowingly permitting smoking in enclosed spaces in places of employment includes lobbies, lounges, waiting areas, stairwells, elevators and restrooms. It prohibits smoking inside public buildings, except in covered parking lots.

### **Health and Safety , AB 409**

Immediately authorizes suspension of the license of a cosmetologist, barber, estheticians, manicurist, and electrologist if required to protect the public health and safety. Provides a means for temporary stay and appeal of the suspension.

This law authorizes immediate suspension without hearing of the license of a cosmetologist, barber, estheticians, manicurist, and electrologist if required to protect the public health and safety. It provides the licensee with appeal rights to the disciplinary review committee established by the board and would require the board to reinstate the license upon the licensee's completion of all probationary terms and conditions. The suspension may be stayed and the licensee placed on probation for one year, subject to the requirement that the licensee undergo training and pay the costs of re-inspection and all fines. This law is in effect now.

### **Safety, AB 881**

Requires all roofing contractors to have workers' compensation insurance, whether or not having current employees.

This law requires all roofers to have workers' compensation insurance, and

authorizes the Contractors State License Board's Registrar of Contractors to remove the roofing classification from a contractor license for failure to maintain workers' compensation insurance, requires insurers to conduct annual audits of their roofing customers' payroll, and directs the Workers' Compensation Insurance Rating Bureau (WCIRB) to compile an annual report.

### **Safety, SB 1613**

Effective July 1, 2008, limits the use of cell phones while driving to those having hands-free operation except for contacts with law enforcement and public safety agencies and certain commercial vehicles for whom the effective date is July 1, 2011.

This law provides that, effective July 1, 2008, it is illegal to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving. This offense would be punishable by a fine of \$20 for a first offense and \$50 for each subsequent offense. This does not apply to a person who is using the cellular telephone to contact a law enforcement agency or other public safety entity for emergency purposes, or to an emergency services professional while he or she operates an authorized emergency vehicle.

Until July 1, 2011, this prohibition does not apply to a person driving a motor truck or truck tractor, an agricultural vehicle, tow truck, or a commercial vehicle, when using a digital 2-way radio service that utilizes a wireless telephone that operates by depressing a push-to-talk feature as long as it does not require immediate proximity to the user's ear.

The law does not apply to a person driving a school bus or transit vehicle that is subject to certain existing wireless telephone usage restrictions, or to a person while driving a motor vehicle on private property.

### **Sexual Harassment, AB 2095**

Limits mandated sexual harassment training to supervisors located in California. (See also Wages.)

This law limits the requirement that employers provide mandated sexual harassment training to supervisors physically located in California. (See also Wages.)

### **State Government, AB 3058**

Directs development of a web-based small business handbook on emergency preparedness.

This law directs the Office of the Small Business Advocate, in cooperation with the Office of Emergency Services and the Department of Industrial Relations, to develop a web-based handbook for small businesses on emergency preparedness, emergency response, and recovery strategies, and to hold at least three meetings to share best practices for disaster preparedness for small businesses.

### **State Government, AB 1302**

Amends the process by which state government agencies can create and impose emergency regulations and the duration of the period during which emergency regulations can remain in effect.

This law amends procedures of the Office of Administrative Law on emergency regulations, imposing new limitations on the adoption process and allowing increased public notice and participation. Specifically, this bill creates a narrower definition of "emergency" and adds new requirements that an agency must meet to justify the adoption of an emergency regulation. It establishes a procedure for allowing some limited notice-and-comment from the public prior to adoption of an emergency regulation. It also limits the total potential duration of emergency regulations by allowing an initial adoption period of 180 days and limiting the number and duration of re-adoptions to two 90-day terms and requiring a finding that an agency has diligently pursued permanent regulations before the emergency regulation may be re-adopted.

### **State Government, SB 1436**

Requires state agencies to improve their communication regarding regulations and assistance with the business community, with an emphasis on small business.

This law requires every state agency regulating small businesses to have a small business liaison, and requires links on state agency websites regarding information applicable specifically to small businesses.

The small business liaison is responsible for: a) Responding to complaints from small businesses. b) Providing technical advice and assistance to small businesses regarding compliance with the agency's regulations. c) Reporting small business concerns to the agency secretary. d) Reviewing and updating content on the agency website e) Assisting the agency head to ensure the agency's procurement and contracting process is sufficient to meet the existing 25% small business participation goal.

### **Payroll Taxation, SB 1827**

Permits registered domestic partners to file joint state income tax and have their

earnings treated as community property on a par with married couples.

This law permits registered domestic partners to file their income tax returns jointly or separately on terms similar to those governing spouses, and provides that the earned income of registered domestic partners be recognized as community property. Registered domestic partners who file separate income tax returns each report one-half of the combined income earned by both domestic partners, as spouses do, rather than their respective individual incomes for the taxable year.

### **Unemployment Insurance, SB 1428**

Permits payroll services companies in the motion picture industry to be treated as the employer for purposes of Unemployment Tax filings and responsibility.

This law provides that a payroll services company shall be treated as employer of production employees in the motion picture industry if it reports that status to the Employment Development Department within 15 days of paying its first payroll or January 15, 2007, whichever is earlier. As such it assumes responsibility for unemployment insurance filings and notice to its clients if it ceases business. The law also contains provisions relating to the unemployment insurance rating of payroll service companies in the motion picture industry.

### **Unemployment Insurance, AB 2293**

Penalizes an educational employer that submits willfully false statements about a worker's employment or termination to the EDD.

This law authorizes the Director of the Employment Development Department to assess a penalty against an employer that is an educational institution as defined in an amount not less than 2, nor more than 10 times the weekly benefit amount of that claimant upon finding that the employer or any employee, officer, or agent of that employer, in submitting facts concerning the termination of a claimant's employment, willfully makes a false statement or representation or willfully fails to report a material fact regarding any week during which the services were performed or any time granted to the claimant for professional development during his or her employment with that employer.

### **Wages, AB 2613**

Establishes conditions for a state overtime exemption for teachers in private educational institutions.

This law establishes a state overtime exemption for teachers at private elementary or secondary academic institutions meeting the following requirements: The employee must be primarily engaged in the duty of teaching,

instructing or lecturing in the activity of imparting knowledge to students. The employee must earn a monthly salary equivalent to not less than two times the state minimum wage. The employee must customarily and regularly exercise discretion and independent judgment in performing the duties of a teacher.

The employee must have attained either:

1. A Baccalaureate or higher degree from an accredited institution of higher learning; or
2. Current compliance with the requirements set forth by the California Commission on Teacher Credentialing, or the equivalent certification authority in another state, for obtaining a preliminary or alternative teaching credential.

### **Wages, SB 1468**

This law extends the repeal date of the Car Wash Industry compliance program from 1/1/2007 to 1/1/2010.

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### **Wages, SB 1719**

Permits employers and unions in the entertainment industry to establish conditions for payment of final paychecks by collective bargaining.

This law permits employers of employees working in places that host live theatrical or concert events who are enrolled in and routinely dispatched to jobs through a hiring hall or similar arrangement in the entertainment industry to establish a time limit for payment of wages after an employee is discharged or laid off in a collective bargaining agreement with their unions.

### **Wages, AB 1835**

Increases California's minimum hourly wage and exempt salary standards for all California employers.

This law increases the minimum wage to \$7.50 per hour, effective on and after January 1, 2007, and to \$8.00 per hour, effective on and after January 1, 2008.

It also requires the Department of Industrial Relations to adjust upwards the permissible meals and lodging credits by the same percentage as the increases in the minimum wage and to amend and republish the Industrial Welfare Commission's wage orders. Finally, it requires every employer to post amended copies of the applicable wage order.

## **Wage Deductions, AB 2440**

Imposes a penalty on an employer that assists an employee or contractor with child support obligations evade meeting those obligations, including failure to file reports upon hiring.

This law imposes liability upon any person or business entity that knowingly assists a child support obligor who has an unpaid child support obligation to escape, evade, or avoid current payment of those unpaid child support obligations. The penalty is three times the value of the assistance to have been provided, up to the total amount of the entire child support obligation due. The penalty will not apply if the unpaid obligation is satisfied. Prohibited actions, when an individual or entity, knows of should have known of the child support obligation, include:

- Hiring or employing a child support obligor without timely reporting to the EDD New Employee Registry;
- Retaining an independent contractor who is a child support obligor and failing to file a timely report of such engagement with the EDD; or
- Paying wages or other forms of compensation, (including cash, barter or trade) that are not reported to the EDD.

## **Wages, AB 2095**

Permits reporting of overtime hours on the same payroll date as the hours are paid when overtime is paid in the payroll period subsequent to the one in which it is earned.

This law provides that an employer has complied with payroll law if overtime hours worked in the current pay period are itemized as corrections on the pay stub for the next regular pay period provided it identifies the dates of the pay period to which they refer.

## **Workers' Compensation, AB 1368**

Excludes public safety employees from the presumption that medical apportionment applied to certain specified job related illnesses or injuries.

This law excludes various peace officers, firefighters and other safety personnel from presumptive medical apportionment of the causes of certain diseases including hernias, heart diseases, cancer, tuberculosis, blood borne diseases and others in workers compensation cases where law provides for disputable presumption that the cause is work related.

## **Workers' Compensation , AB 2068**

Permits pre-designation of a medical group as the primary treating physician and extends the sunset date of the right of pre-designation.

This law provides that a "personal physician" that may be pre-designated as the primary treating physician for workers' compensation treatment purposes includes a corporation, partnership, or association of licensed doctors of medicine or osteopathy. This law also extends to December 31, 2009 the right to pre-designate and deletes the maximum percentage of employees that may pre-designate.

## **Workers' Compensation , AB 2292**

Provides for payment of workers' compensation death benefits to the estate of the deceased worker. Labor Code Section 4706.5 requires workers' compensation death benefits to be paid to the California State Department of Industrial Relations (DIR) if the employee does not leave surviving any person entitled to a dependency death benefit.

Labor Code Section 4702 (a)(6) provides for workers' compensation death benefits to be paid to the estate of the deceased employee in the case where there are no total dependents and no partial dependents.

This law states that:

1. Death benefits shall be paid to a surviving dependent, heir, or other qualified person notwithstanding any of the employee's accrued and unpaid compensation paid or owing to such person.
2. The requirement to pay death benefits to the Department of Industrial Relations when the employee leaves no surviving person entitled to a dependency death benefit is not applicable if a death benefit is paid to the estate of a deceased employee.