

2011 Brings Many New Workplace Laws

By Holly Culhane, Contributing Columnist



Keeping up with state and federal law changes, new regulations and the impact of court rulings must be a high priority for all business owners and managers. The safety and well-being of employees depend on this vigilance. And businesses that disobey labor laws are subject to government fines, penalties and costly lawsuits.

The number of new labor laws and regulations that go into effect in January could make an employer's head spin. The only way for a business to keep current and in compliance with these new laws is to employ a dedicated staff of specialists, or to hire outside human resources consultants, who monitor the changing legal landscape, ensure companies comply with the law and provide staff training.

A critical resource for human resources professionals and companies is the California Chamber of Commerce, which monitors law changes and advises legislators about the impact of employment rules. Training materials, as well as updated listings of new state and federal laws can be found on the chamber's website www.calchamber.com and on the P.A.S. Associates website www.pasassociates.com.

Often new laws and regulations are inspired by newspaper headlines. Consider, for example, the state's revised heat illness regulations.

After a particularly hot summer in 2005 and news reports of worker heat-related deaths, including some in Kern County, California became the first state in the nation to develop a regulation to protect employees from heat illness in 2006. The regulation required employers to provide outdoor employees with drinking water, shade breaks and training in heat-illness prevention.

In 2010, the California Occupational Safety and Health Standards Board modified the regulations to add high-heat provisions for five industries, including agriculture, and clarify the shade requirement, including a "shade up" temperature trigger and limited exception to that requirement.

The growing public support for organ and bone marrow donation resulted in Senate Bill 1254 being signed into law. Beginning Jan. 1, California employers with 15 or more employees must provide paid leaves to workers who donate organs and bone marrow. Organ donors must be provided a 30-day (workdays) leave of absence in any one-year period; bone marrow donors must be provided up to five workdays.

Public concern over privacy and news stories of security lapses resulted in Senate Bill 909 being signed into law. As a result, by 2012 investigative consumer reports must include the Internet address or other

contact information about investigative consumer reporting agencies. The intent is to allow consumers to learn about the investigative agency's privacy practices, including whether the consumer's personal information will be sent outside the U.S.

The California Chamber of Commerce is warning employers that important changes have been made to the state and federal employment notices workers are entitled to receive. Some of the posters and notification kits issued earlier by the chamber may now be out of date. Of course, it's important for employers to keep their notification materials updated.

The list of new state and federal laws and regulations is long and far-reaching. Some affect nearly everyone in today's work force, others narrowly target specific industries. A summary of selected new laws and regulations include:

Meal Breaks – Assembly Bill 569 exempts construction workers, commercial drivers, certain security officers and employees of electrical and gas corporations or local publicly owned electric utilities from California's meal break requirements if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. The state's Labor Code otherwise requires employers to provide employees who work more than six hours in a day one 30-minute off-duty meal break after five hours of work.

Wage Claim Appeal — Assembly Bill 2772 requires an employer filing an appeal of an unpaid wage claim to post a bond with the court in the amount of the judgment rendered in the administrative hearing.

Death Benefits for Minor Children – Assembly Bill 1696 amends the Labor Code to permit the continuance of death benefits until the youngest child reaches 19 years of age if the child is still attending high school, and if the child is receiving the death benefits as a child of an active member of a public agency police or fire department killed in the performance of duty. The benefits extension does not apply to a child of an employee whose principal duties are clerical or whose duties do not fall within the scope of active law enforcement or firefighting services.

Health Clubs Defibrillators – Current law: Health clubs must acquire an automatic external defibrillator and meet specific training and maintenance standards. When a health club uses an automatic external defibrillator, the owners, managers, employees or others are not liable for civil damages resulting from an act of omission in the course of rendering emergency care/treatment. New law: Eliminates the exemption if health club members have access to the facility during hours that trained employees are not in the facility. For facilities larger than 6,000 square feet, members must be denied access to the facility if a trained employee is not present.

Roofing Contractor's Workers' Compensation – Assembly Bill 2305 extends the requirement that contractors with a C-39 roofing classification obtain and maintain workers' compensation insurance, even if they have no employees. Additionally, any active license will be suspended if the licensee is found to have employees and lacks a valid certificate of workers' compensation insurance.

Workers' Compensation Stop Orders – Senate Bill 1254 authorizes the registrar of contractors to issue a stop order (effective immediately on service of the order) to any contractor (licensed or unlicensed) who failed to secure workers' compensation coverage for his/her employees. Additionally, employees affected by the work stoppage must be paid by the employer for lost time, up to 10 days, while the employer seeks to comply with the law.

Access for Persons with Disabilities -- Attorney General Eric Holder signed final regulations revising the Justice Department's Americans with Disabilities Act regulations, including the ADA standards for accessible design.

Additional information about 2011 laws and regulations can be obtained from the California Chamber of Commerce (www.calchamber.com), the California Department of Industrial Relations (www.dir.ca.gov) and P.A.S. Associates (www.pasassociates.com).

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