

California Labor and Employment Updates for 2024

California Governor Gavin Newsom recently signed into law several employment-related bills which take effect in 2024. As California employers prepare for the upcoming year, they will want to review and prepare for this new legislation that will impact their workforce and operations in the new year. The below briefly outlines key changes to California employment laws scheduled to take effect in 2024.

Prohibition of Noncompete Provisions

On October 13, 2023, Governor Newsom signed into law Assembly Bill 1076, which prohibits noncompete provisions in employment agreements consistent with court precedent under California law. The new statutory law, which becomes effective January 1, 2024, would make it unlawful to include a noncompete provision in an employment agreement, or require an employee to enter into a noncompete agreement, that does not satisfy specified exceptions. The new law additionally requires that employers provide written notice by February 14, 2024, to current and former employees subject to a noncompete provision or agreement that such noncompete provision or agreement is void as a matter of law.

Governor Newsom also signed Senate Bill 699 on September 1, 2023, which becomes effective January 1, 2024, and establishes that any noncompete provision or agreement that is void under California law is unenforceable even if the agreement is signed outside of California. The bill prohibits an employer or former employer from attempting to enforce such an agreement. The law also creates a private right of action for employees to seek recovery of actual damages, injunctive relief, and even reasonable attorneys' fees and costs against employers for such illegal agreements.

Expansion of California Paid Sick Leave Law

On October 4, 2023, Governor Newsom signed into law Senate Bill 616, which amends the Healthy Workplaces, Healthy Families Act of 2014. The new law expands the requirements of the existing law in several ways:

Under existing law, an employee who works in California for the same employer for 30 or more days must accrue one hour of paid sick leave for every 30 hours worked. As an alternative to allowing an employee to accrue one hour of paid sick leave for every 30 hours worked, existing law allows employers to use a different accrual method so long as the employee accrues at least three days or 24 hours of paid sick leave by the employee's 120th calendar day of employment or in each 12-month period. Under the new law, effective January 1, 2024, the annual amount of paid sick leave that an employee is entitled to will increase to five days or 40 hours per annum. Under the new law, employers must ensure that each employee accrues at least five days or 40 hours of paid sick leave by the 200th calendar day of employment or in any 12-month period worked in addition to ensuring the employee accrues at least three days or 24 hours of paid sick leave by the employee's 120th day of employment or in each 12-month period worked.

While employers may continue to limit annual use and accrual under the new law, the annual usage cap must be increased to no less than 40 hours (up from 24 hours under existing law) and the annual accrual cap must be increased to no less than 80 hours or 10 days (up from 48 hours or six days under existing law). However, no accrual or carryover is required if the employer frontloads five days or 40 hours of paid sick leave at the beginning of any 12-month period of employment.

Additionally, while the amended paid sick leave law will continue to exempt collective bargaining agreements that meet certain criteria from paid sick leave obligations, the law's nonretaliation and procedural protections will extend to employees covered under collective bargaining agreements as well.

Increased Minimum Wage for Certain Fast Food and Health Care Workers

On September 28, 2023, Governor Newsom signed into law Assembly Bill 1228, which requires fast food chains with more than 60 locations nationwide to pay their California-based fast food restaurant workers a minimum of \$20 per hour beginning April 1, 2024. The bill also establishes a new Fast Food Council, which is authorized to increase the hourly minimum wage pursuant to specified parameters, and sets forth requirements, limitations, and procedures for adopting and reviewing fast food restaurant health, safety, and employment standards. The Fast Food Council will be made up of representatives from different facets of the fast food industry along with an unaffiliated chairperson.

Governor Newsom also signed into law Senate Bill 525, which provides for a gradual increase in the hourly minimum wage for employees working in health care facilities, effective June 1, 2024. The scheduled, annual minimum wage increases will raise the hourly minimum wage to \$25 over the next several years. The new law defines health care employee broadly to include roles providing direct patient care, such as "nurse, physician, caregiver, medical resident, intern or fellow, and patient care technician," as well as those providing tangential support, such as a "janitor, housekeeping staff person, groundskeeper, guard, clerical worker, nonmanagerial administrative worker, food service worker, gift shop worker, technical and ancillary services worker, medical coding and medical billing personnel, scheduler, call center and warehouse worker, and laundry worker, regardless of formal job title." The definition also includes independent contractors where there is a contract with the health care facility to provide health care services or services supporting the provision of health care, and the health care facility directly or indirectly exercises control over the contractors' wages, hours, or working conditions.

Creation of Presumption of Retaliation for Certain Reported Workplace Violations

On October 8, 2023, Governor Newsom signed into law Senate Bill 497, which imposes a presumption of retaliation where an employer takes certain disciplinary actions, such as demotion or termination, against an employee within 90 days of the employee engaging in certain activities protected by the California Labor Code related to invoking or enforcing employee rights, such as filing a claim for unpaid wages or reporting health and safety violations. Employers may rebut the presumption by establishing a legitimate, nonretaliatory reason for the disciplinary action taken against the employee. Employers who violate the law may be liable for up to \$10,000 per employee for each violation. The bill becomes effective January 1, 2024.

Grant of Leave for Reproductive Loss

On October 10, 2023, Governor Newsom signed into law Senate Bill 848, which provides bereavement leave to an eligible employee for a reproductive loss event, including, a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. Under existing law, employers are required to allow employees up to five days of bereavement leave upon the death of a family member. The new law, which will go into effect January 1, 2024, will prohibit an employer from refusing to grant bereavement leave to an eligible employee for any reproductive loss event described above. The employer is not obligated to grant more than 20 days of reproductive loss leave, however, if an employee experiences more than one reproductive loss event within a 12-month period. Leave for a reproductive loss event may be unpaid, but employers are prohibited from retaliating against employees for exercising their rights under the new law and must maintain information and documents relating to reproductive loss leave in a confidential manner.

Protection for Prior Marijuana Use

On October 7, 2023, Governor Newsom signed into law Senate Bill 700, which takes effect on January 1, 2024, and prohibits employers from requesting information about an applicant's prior use of marijuana. However, the bill provides that employers may consider or inquire about information related to a person's prior cannabis use obtained from their criminal history if permitted under state or federal law. This bill is an amendment to Assembly Bill 2188 that was signed into law in 2022 but also becomes effective January 1, 2024, which makes it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace.

Implementation of Workplace Violence Prevention Plan

On September 30, 2023, Governor Newsom signed into law Senate Bill 553, which requires most California employers with certain exceptions to establish, implement and maintain a workplace violence prevention plan beginning July 1, 2024. Employers exempt from the law's requirements include health care facilities covered by Section 3342 of Title 8 of the California Code of Regulations; employees who telework from a location of the employee's choice, not under the employer's control; and places of employment where there are less than 10 employees working at the place at any given time and that are not accessible to the public, so long as the places are in compliance with Section 3203 of Title 8 of the California Code of Regulations. The law contains a list of specified information to be included within the workplace violence prevention plan. Employers will also be required to record workplace violence incidents and conduct training for employees accordingly.

Employers doing business in California will want to familiarize themselves with these new laws and update their policies and practices prior to the 2024 effective dates. Employers should therefore consider updating employee handbooks and conducting manager trainings to ensure policies and practices comply with these new California requirements, as well as updating employment agreements and other documentation as soon as possible.

Key Contacts

Our Labor & Employment Law team is available to provide legal advice and counseling related to these new California employment laws, as well as any other employment-related legal issue you may have.

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