



Highlights of New California Laws – 2020 In Focus

KEY EMPLOYMENT LAW BILLS		
Bill No.	Summary	Next Steps?
AB 5	Independent Contractor. Makes <i>Dynamex</i> “ABC” test law. Changes the landscape for those who use independent contractors. Expands who will be considered an employee under various laws. Creates industry and other exceptions to test.	<ul style="list-style-type: none"> ◆ Update hiring practices ◆ Have counsel review IC agreements
AB 9	FEHA Statute of Limitations. Gives employees three years to file a complaint of unlawful discrimination or harassment with the California Department of Fair Employment and Housing (DFEH) – currently one year	<ul style="list-style-type: none"> ◆ Obtain and retain contemporaneous documentation of complaints and investigations ◆ Ensure policies and practices are up-to-date ◆ Update to DFEH poster ◆ Train supervisors and managers to follow and implement policies consistently ◆ Consider an action hotline or other way for employees to report workplace concerns beyond your management team
SB 188	Hairstyle Discrimination. Provides that the definition of “race” for employment discrimination purposes under FEHA also include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.	<ul style="list-style-type: none"> ◆ Review any dress code/grooming policy ◆ Hire based on ability to perform job and don’t consider any protected characteristic
SB 778 SB 530	Sexual Harassment Prevention Training. Extends the effective date of last year’s SB 1343 to January 1, 2021 and makes clarifying changes to the law. Employers with 5 or more employees must provide 2 hours of training to supervisors and one hour of training to non-supervisors by 1/1/21. Extends deadline as it applies to temporary workers as well.	<ul style="list-style-type: none"> ◆ 5 + employees – train all employees by 1/1/2021. Ensure your training is up to date ◆ Training req’d every 2 years ◆ Temps/short term: train within first 30 days or 100 hours of work beginning 1/1/2021
SB 142	Lactation Accommodation. Requires that a lactation room (1) be safe and free of toxic or hazardous materials, (2) contain a surface to place a breast pump and personal items as well as a place to sit, (3) have access to electricity, running water and a refrigerator, (4) not be a bathroom, and (5) be in proximity to an employee’s work area. Provides that failure to provide a lactation break constitutes a violation of Labor Code Section 226.7, resulting in premium pay. Requires an employer lactation accommodation policy and request process.	<ul style="list-style-type: none"> ◆ Create and implement an employer lactation accommodation policy and request process ◆ Review your facility to determine if adjustments will be necessary
SB 83	Paid Family Leave. Extends PFL to 8 weeks effective July 1, 2020	<ul style="list-style-type: none"> ◆ For July 1 – look for updates to required state pamphlets
AB 1223	Organ Donation. Current law allows up to 30 days of paid leave. AB 1223 adds an additional 30 days unpaid leave.	<ul style="list-style-type: none"> ◆ Update policies/handbook to reflect change
AB 1554	Flexible Spending Accounts: Notice to Employees. Requires an employer to notify an employee who participates in a flexible spending account of any deadline to withdraw funds before the end of the plan year.	<ul style="list-style-type: none"> ◆ Notice must be provided two different ways; Electronic delivery may be one form of notice
SB 30	Domestic Partnership. Changes definition of domestic partnership. Current law: can be entered into by two adults of same sex or two adults of opposite sex over age of 62. New law:	<ul style="list-style-type: none"> ◆ Remember: No discrimination against applicants/employees



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	eliminates those requirements; any adult over the age of 18 can enter into a domestic partnership.	based on marital status – including domestic partnership
AB 25	California Consumer Privacy Act: Employment Data: Exempts information collected about a job applicant, employee, owner, director, officer, contractor from CCPA requirements until January 2021. Employer still obligated to disclose categories of personal information collected and categories for which it is used. Covered employers obtain the personal information of at least 50,000 “consumers”, and generate gross revenues in excess of \$25 million per year.	<ul style="list-style-type: none"> ◆ Review whether you meet definition of covered employer ◆ Provide required notification this year ◆ Prepare for 2021
WORKPLACE SAFETY/CAL-OSHA		
AB 61	Gun Violence Restraining Orders: Authorizes an employer, a coworker with approval of their employer, or specified school employees, to file a petition for a gun violence restraining order.	<ul style="list-style-type: none"> ◆ Work with legal counsel and safety experts on workplace violence plans and strategies
AB 1805	“Serious” Injury or Illness. Changes reporting requirements for serious injury and illness. Currently, must report “serious injury or illness” that result in 24-hour minimum inpatient. New law eliminates the 24-hour minimum requirement. All injuries/illnesses resulting in hospitalizations must be reported. Also Expands definition of “serious exposure” for reporting requirements.	<ul style="list-style-type: none"> ◆ Review safety/injury reporting practices. ◆ Report all hospitalizations regardless of length of stay. ◆ Consult legal counsel with questions.
AB 1804	Occupational Injuries and Illness: Reporting. Requires a report of serious injury, illness or death to be made through an online, Cal/OSHA portal rather than by telephone or email.	<ul style="list-style-type: none"> ◆ Can continue to use telephone and email until online platform is made available by Cal/OSHA
AB 203	Valley Fever. Requires construction employers to provide effective awareness training on Valley Fever to all employees annually. Applies to employers in counties where Valley Fever is prevalent.	<ul style="list-style-type: none"> ◆ Prepare to include training information in IIPP or as a stand-alone training
AB 35	Worker Safety: Blood Lead Levels. Requires the California Department of Public Health to report high lead level blood tests in workers to Cal/OSHA and mandates Cal/OSHA investigation.	<ul style="list-style-type: none"> ◆ Work with safety experts to understand exposure risks
CLAIMS AND PENALTIES		
AB 749	“No Rehire” Clauses in Settlement Agreements. Prohibits an agreement to settle an employment dispute from containing a provision that prohibits, prevents, or otherwise restricts a settling party that is an aggrieved person from working for the employer or any parent company, subsidiary, division, affiliate, or contractor of the employer.	<ul style="list-style-type: none"> ◆ Work with legal counsel with regard to settling employment claims
AB 51	Mandatory Arbitration Agreements. Prohibits employers from requiring employees, as a condition of employment, to sign an agreement to arbitrate claims arising under FEHA or the Labor Code. Applies to agreements entered into or modified after 1/1/20.	<ul style="list-style-type: none"> ◆ Consult legal counsel before adopting any arbitration agreement ◆ Do not include arbitration agreements in employee handbook
AB 673	Late Payment of Wages: Penalties. Provides that penalties for late payment of wages shall be recovered by the Labor Commissioner, payable to the affected employee, as a civil penalty or by the employee as a statutory penalty in a Labor Commissioner. The affected employee may also enforce civil penalties for late payment of wages through the Private Attorneys General Act (PAGA) but cannot also recover statutory penalties for the same violation.	<ul style="list-style-type: none"> ◆ Ensure that final pay is provided in a legal, timely manner



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AB 1296	Joint Enforcement Strike Force on the Underground Economy: Labor Enforcement Task Force. Expands wage theft/underground economy task force.	◆ Follow California wage and hour rules and best practices
SB 229	Retaliation for Labor Code Claim: Complaints. Strengthens protections for whistleblowers in in health care/patient care settings.	◆ Reinforce company's anti-retaliation policies in covered healthcare facilities
SB 688	Failure to Pay Wages. Provides that if the Labor Commissioner determines that an employer has paid a wage less than the wage set by contract (not just less than minimum wage), the Labor Commissioner may issue a citation to the employer to recover restitution of the amounts owed by contract.	◆ Follow all contract provisions relating to payment of wages
ADDITIONAL INDUSTRY SPECIFIC NEW LAWS		
AB 170	Newspaper Distributors. Grants newspaper distributors a one-year exemption from AB 5 (independent contractor law)	◆ Update hiring practices ◆ Have counsel review IC agreements
AB 267	Employment of Infants: Entertainment Industry. Clarifies that the rules governing the employment of infants under current law apply to infants in the entire "entertainment industry," rather than just motion pictures.	◆ Update hiring practices in the industry
AB 547	Janitorial Workers. Harassment Prevention. Establishes new sets of requirements for the registration of janitorial employers and sexual harassment prevention training for janitorial employees, including a requirement that mandated training must be provided by organizations on a list of qualified providers that utilize peer trainers.	◆ Review registration and training requirements if you have janitorial workers
SB 271	Unemployment Insurance: Motion Picture Workers. Makes it easier for motion picture production workers to access such benefits	◆ Review if covered industry
AB 1748	CFRA Flight Attendants. Amends the 1,250 hours of service requirement under CFRA as applied to airline flight deck or cabin crew employees to make it consistent with the federal Family and Medical Leave Act of 1993	◆ Review leave policies if applicable.
SB 286	Wages: Professional Baseball Employees. Clarifies that the conclusion of a professional baseball season, an event or series of events does not constitute a termination of employment for events employees working at a professional baseball stadium. Such employees are entitled to receive payment of wages by the next regular payday, except if the employee quits or is discharged.	◆ Review pay policies if applicable.
SB 530	Construction Industry. Sexual Harassment Prevention Training. Authorizes an apprenticeship program to provide harassment prevention training and imposes certain recordkeeping requirements.	◆ Review registration and training requirements if you use apprenticeship programs in construction industry
SB 671	Final Wages: Print Shoot Employees. Provides that final wages owed to a "print shoot employee" are due by the next regular payday, similar to current law applicable to the motion picture industry.	◆ Review final pay procedures if in this covered industry
AB 242	Attorneys. Implicit Bias Training. Mandates implicit bias training for California attorneys to be met for MCLE compliance periods ending after 1/31/2023.	◆ Attorneys will need to comply.



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AB 880	Transportation network companies: participating drivers: criminal background checks. Additionally prohibits a transportation network company from contracting with, employing, or retaining a driver if the driver has been convicted of specified human trafficking offenses and would delete erroneous cross-references to code sections specified in existing law	♦ Covered industries review hiring and screening practices
AB 1677	Call Centers: Closure. Requires an employer of customer service employees that intends to relocate to a foreign country to notify the Labor Commissioner at least 120 days before the relocation. Relocation makes employer ineligible for state grants, state loans or tax credits for five years.	♦ Covered industries review notification practices if moving call-center out of U.S.
AB 1291	Cannabis: Labor Peace Agreement. Requires an applicant for state license to engage in commercial cannabis activities with 20 or more employees to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement. If the applicant has less than 20 employees and has not yet entered into a labor peace agreement, to provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee.	♦ Recreational marijuana industry should consult with legal counsel
AB 2455	Labor Organizing. Home Care Aide Registry. Requires the disclosure of certain information about home care workers to labor organizations. For any new registrations or renewals of home care aide registrations on or after July 1, 2019, the Department of Social Services must provide an electronic copy of a home care aide's name, telephone number, and cell phone numbers to a labor union, upon request.	♦ Covered industries should consult legal counsel for any questions about compliance.