

Key Laws for CA 2016

Now that 2016 is here, it's time to get acquainted with the new laws that affect CA employers. Here is an overview of the laws that you should be aware of (for more information, please visit our website).

- MW-2014: IWC Minimum Wage Order raises minimum wage to \$10 per hour.
- AB 1506 – Labor Code Private Attorneys General Act of 2004 permits employers to cure itemized wage statement violations.
- SB 588: California Labor Commissioner judgment enforcement.
- AB 970: California Labor Commissioner enforcement of employee claims.
- SB 358: California Labor Code section 1197.5 amended to address gender pay inequality.
- AB 1513: Modification of workers' compensation and piece rate compensation rules.
- SB 501: New wage garnishment restrictions.
- AB 304: Amendments to the Healthy Workplaces, Healthy Families Act of 2014.
- SB 579: New protections for employees taking time off for child care and kin care.

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ACA Reporting Period Extended

As a last-minute holiday gift, the IRS has extended the due dates for Affordable Care Act (ACA) information reporting. The extension applies to the 1095-B/C Notice sent to individuals and to the 1094- B/C Transmittal to the IRS.

The new timeframes are as follows:

- **Reporting to Employees.** Form 1095-B and Form 1095-C must be provided to employees/covered individuals by March 31, 2016 (changed from February 1, 2016).
- **Reporting to IRS.** Form 1094-B and Form 1094-C must be transmitted to the IRS by May 31, 2016 if filing by paper, or by June 30, 2016 if filing electronically (changed from February 29, 2016 and March 31, 2016)

Do you have over 50 employees? If so, be sure that all of your CA supervisors have completed their **AB 1825/2053 Mandatory Sexual Harassment and Abusive Conduct Prevention Training**.

If you need to get your supervisors compliant, we offer online and classroom certification training courses.

Key Laws for CA 2016 (continued)

- SB 667: Changes to disability insurance eligibility and waiting time periods.
- AB 622: Employer restrictions for use of federal E-Verify system.
- AB 987: California FEHA amendment expands protections to employees requesting an accommodation.
- AB 1509: Discrimination/retaliation protections extended to an employee who is a family member of employee engaging in protected activity.
- AB 359 and AB 897: New protections for grocery employees.
- AB 202: Cheerleaders of California's professional sports teams deemed employees, not independent contractors.
- AB 621: Amnesty program regarding motor carrier's classification of truck drivers as independent contractors.



DOL (FLSA) Update

We have been keeping everyone up to date on the U.S. Department of Labor's (DOL) proposed amendments to the Fair Labor Standards Act (FLSA), specifically the criteria for the Part 541 "white collar" exemptions, projected to have a huge impact on all industries...especially retail and hospitality. If these amendments are made final without revision, they will result in a dramatic increase to the minimum salary required for most of the employees who qualify for white collar exemptions; a substantial increase in the minimum compensation required for an employee to qualify for the Highly Compensated Employee exemption; and annual adjustments to these minimums tied to changes in the Consumer Price Index.

Currently, the DOL anticipates issuing its final amended regulations in July 2016, although not set in stone. Not only does the DOL have much work to do going through the loads of comments it received regarding the proposed amendments, but any estimate as to the timing of the final rule should not overlook the potential impact that the November 2016 elections could have on this process.

We will keep you apprised as any new news surfaces.

The Impact of SB 358 (Equal Pay and Gender)

Prior law prohibited an employer from paying an employee at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions. This new law revises that prohibition to eliminate the requirement that the wage differential be within the same establishment and, instead, prohibits an employer from paying any of its employees at wage rates less than those paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort and responsibility, as specified by the new law.

Also, prior law established exceptions to the rule where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production or a differential based on any bona fide factor other than sex.

The revised law now requires the employer to demonstrate affirmatively that a wage differential is based upon one or more specified factors, including a seniority system, a merit system, a system that measures earnings by quantity or quality of production or a bona fide factor other than sex, as specified. The law also requires the employer to demonstrate that each factor relied upon is applied reasonably, and that the one or more factors relied upon account for the entire differential.

Additionally, this law prohibits an employer from discharging, discriminating or retaliating against any employee for any action taken by the employee to invoke the protections of this law. The law authorizes an aggrieved employee who has been discharged, discriminated or retaliated against to sue for lost wages and work benefits and to obtain appropriate equitable relief.

The new law also prohibits an employer from disallowing employees from disclosing the employee's own wages, discussing the wages of others, inquiring about another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under these provisions. Finally, the duration of employer record keeping requirements for information regarding wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by the employer is expanded from two years to three years.



Is yours current?

10 Actions for Compliance in 2016

Now that we are in 2016, here is our Top 10 checklist of things to consider to increase your chances for a compliant year:

1. Be sure that your employee handbooks are up to date with the current local, state and federal labor and employment laws.
2. If you have an Arbitration Agreement, have it reviewed to ensure it is consistent with the recent case decisions.
3. Make sure all non-exempt CA employees are increased to \$10 per hour (or higher in some areas) and exempt employees under the executive, administrative and professional exemptions are paid no less than \$41,600 per year.
4. Review your exempt employees to ensure they are truly exempt (meeting the CA exempt class requirements).
5. Review your Independent Contractors to ensure they are truly ICs (and not employees).
6. Be sure that your non-exempt employees receive their meal and rest periods consistent with the law.
7. Review your wage and hour practices to ensure overtime, double time, and payment of wages is compliant.
8. Review your pay practices and ensure that you have a defensible compensation plan for compliance with the Equal Pay Act.
9. Be sure that you are providing paid sick leave to all employees, reflecting PSL on pay stubs, maintaining records of PSL, and paying PSL at the regular rate of pay.
10. If you have piece-rate employees, be sure to update your practices (rest breaks, recovery periods, non-productive time, etc.) consistent with the new law.

For more information or assistance with your human resources, payroll, HR technology, compliance, and employment law needs, please visit www.bpscllc.com or contact a member of our team at 661.621.3662, 844.322.3300 or services@bpscllc.com