



California's Head-Spinning Grab Bag of New Laws

By Karina B. Sterman, Esq.

As little kids are recovering from their sugar haze after pawing through their Halloween candy bags, California employers will need help recovering from their own far less pleasurable bag of tricks handed down by the legislature. While the full-size chocolate bars like AB 5 (codifying the ABC test for independent contractors) and AB 51 (essentially obliterating mandatory arbitration agreements in employment) are getting all the attention, the lesser bites deserve some too. Below, from sweetest to stickiest and back, is a handful of new California laws on the horizon that may crack a tooth or two for the unwary:

AB 267: Employing Minors in the Entertainment Industry

- Current law regulates the employment of minors in the entertainment industry and requires a specified certification from a physician and surgeon for an infant younger than one month to be employed on any motion picture set or location. AB 267 expands the certification requirements for infants to cover any employment in the “entertainment industry,” which the bill defines broadly to include any type of motion picture using any format (film, television, commercial), by any medium (theater, television, photography, advertising, etc.).

SB 142: Lactation Accommodation

- The new law expands the existing requirement for California employers to allow for lactation accommodation from having to provide a location other than a bathroom for lactation accommodation to providing a lactation room close to the employee's work area, shielded from view and free from intrusion. The room does not yet require a view, but it must:
 - Contain seating
 - Contain a surface for the breast pump and personal items
 - Have access to electricity; and
 - Be safe/clean and away from hazardous or toxic materials.
- In addition, the new law requires employers to provide access to a sink with running water and a refrigerator suitable for storing breast milk close to the employee's workspace.
- Providing the accommodation will not suffice; employers must announce them in a published policy in the handbook or as a stand-alone.
- A hardship exemption could only be claimed by employers with fewer than 50 employees. Otherwise, may be time to redecorate the lactation closet.

AB 9: FEHA Statute of Limitations Expanded

- Just another extension of the statute of limitations for filing a complaint with the Department of Fair Employment and Housing (DFEH) for discrimination, harassment, and retaliation from one year to three. Simple. But hard.

SB 188: The CROWN Act (aka, focus on what I do, not on how I look)

- This bill expands the protected category of race discrimination based on natural hairstyles. Specifically, this bill amends the definition of “race” under the FEHA to include “traits historically associated with race, including, but not limited to, hair texture and protective hairstyles,” such as “braids, locks, and twists.”
- If your policy still requires hairstyles to be anything other than clean and neat, you may want to revisit them.

SB 83: Paid Family Leave

- With a slight delay in its application (July 1, 2020), this bill extends the maximum duration of Paid Family Leave (PFL) through California’s State Disability Insurance (SDI) program from six to eight weeks.
- Pay during this leave is not provided by employers. However, employers get asked about it all the time, so they should know about it.

SB 271: More Unemployment Insurance for Temporary Employees

- A gift for temporary motion picture production workers, this bill allows the time California resident employees spend working outside the state to count toward unemployment eligibility requirements.
- The employee must be hired and dispatched from California and intend to return to the state to seek reemployment when the out-of-state work is finished. It will be interesting what type of mind-reading will be required to assess the worker’s intent. Best to get it in writing.

Trick or treat!



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