



THE NEW YEAR BRINGS WITH IT NEW CHANGES TO LABOR AND EMPLOYMENT LAWS THAT EMPLOYERS NEED TO KNOW

By Steven C. Clark

The California Legislature and Governor Gavin Newsom have been busy this past year passing legislation which will directly affect California employers and employees. Below are some of the new laws that became effective January 1, 2022 (unless otherwise specified), which change or modify California's labor and employment landscape.

➤ **AB 1003: Wage Theft Can Be Grand Theft.**

Current law makes the violation of specific wage and gratuity provisions a misdemeanor in addition to providing for civil penalties and remedies. However, Assembly Bill 1003 now amends the definition of "grand theft" in the Penal Code to include intentional wage theft, punishable either as a misdemeanor or a felony. The new law provides that grand theft includes:

- the intentional theft of wages in an amount greater than \$950 from any one employee, or
- \$2,350 in the aggregate from two or more employees,
- by an employer in any consecutive 12-month period,
- for purposes of the new law, independent contractors are considered employees.

➤ **AB 1033: The California Family Rights Act (CFRA) now applies to Parent-in-Laws.**

Current law makes it an unlawful employment practice for an employer to refuse to grant a request by an eligible employee to take up to 12 work weeks of unpaid protected leave during any 12-month period for family care and medical leave. It defines family care and medical leave to include, among other things, leave to care for a parent. AB 1033 will amend the California Family Rights Act to include protection for employees caring for a parent-in-law.

➤ **AB 1023: Requirement for Public Works Contractors to Furnish Pay Records and Penalties for Failure.**

AB 1023 revises the requirement that contractors or subcontractors working on public works projects provide certain payroll records to the labor commissioner and requires:

- that contractors are required to furnish records, in electronic format, every 30 days while work is being performed on the project, and
- within 30 days after the final day of work, and
- a failure to provide the records results in a penalty of \$100 per day, not to exceed \$5,000 per project.

➤ **SB 62: Prohibits Garment Manufacturers from Paying Employees at Piece Rate.**

Senate Bill 62 provides for amendment of the Labor Code to prohibit, with certain noted exceptions, employers from paying employees engaged in garment manufacturing by the piece or unit, or by the piece rate. This bill also provides that anyone who contracts for the manufacture of garments is a guarantor for the unpaid wages and overtime of the workers making their garments, regardless of how many layers of contracting the person may use. This is intended to

prevent someone from escaping liability by contracting with someone else, who in turn hires a subcontractor to perform the manufacturing operations.

➤ **SB 606: OSHA's Enforcement Powers are expanded.**

SB 606 expands OSHA's enforcement authority by creating new violation categories: "enterprise-wide" and "egregious" violations. Further, it also establishes a rebuttable presumption that a violation committed by an employer that has multiple worksites is considered to be enterprise-wide if the employer has a written policy or procedure that violates OSHA's provisions.

➤ **AB 654 (Effective October 5, 2021): Employee COVID-19 Exposure Notification.**

AB 654 amends existing law requiring employers to provide notification to employees who may have been in close contact at work with a person infected with COVID-19 by expanding some of the type of employers which are exempt from the requirement.

➤ **SB 807: Extension of Employer Record Retention Requirement to Four Years.**

SB 807 makes procedural changes to the Department of Fair Employment and Housing's enforcement procedures. For employers, it extends the file-retention requirement from two years to four years for specified employment-related records, including applications and personnel files. There are separate retention requirements which apply when a complaint has been filed with the DFEH. SB 807 also tolls the deadline for the DFEH to file a civil action pursuant to the FEHA while a mandatory or voluntary dispute resolution is pending.

As might be expected, more laws were enacted than set forth above, which we believe were those most likely to affect our clients. If you have any questions regarding any of the above new laws, or any other question regarding labor and employment laws affecting your business, call Gregory J. Norys or Steven C. Clark in our labor and employment department at (559) 248-4820 or (800) 891-8362 or by e-mail to gnorys@ch-law.com or sclark@ch-law.com.

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