



TIP #1: KNOW AND COMPLY WITH NEW LEGISLATION

Murphy Austin Adams Schoenfeld LLP

By the time the California Assembly and Senate closed their respective sessions on September 12, 2007, 964 bills had been sent to Governor Arnold Schwarzenegger for signature or veto. In all, the Governor signed 750 of the 964 bills into law. The Governor vetoed the remaining 214 bills (approximately 22 percent).

In comparison with recent years past, 2007 proved to be a relatively quiet year for California employers. The following is a brief overview of the legislation passed in 2007 of which employers must be aware:

Assembly Bill 392- Unpaid Leave for Military Spouses.

On October 9, 2007, Governor Schwarzenegger signed Assembly Bill ("AB") 392. The bill was chaptered as an "urgency statute" meaning that the bill's provisions were to take effect immediately. AB 392 requires all employers with 25 or more employees to provide up to 10 days of unpaid leave to an eligible employee when the employee's spouse is on leave from a military deployment. AB 392 also prohibits an employer from retaliating against an employee who requests or takes leave.

Assembly Bill 650- Earned Income Tax Credit.

Effective January 1, 2008, California employers who are required to provide unemployment insurance must notify their employees that they may be eligible for the federal Earned Income Tax Credit. The notice must be provided one week before, after, or at the same time, the employer provides employees with an annual wage summary, i.e. Form W-2 or Form 1099. IRS Notice 797 and Form W-5 provide the requisite notice. Alternatively, employers may create their own notice so long as it contains substantially the same language as IRS Notice 797 and Form W-5. MAAS can assist you in preparing your notice.

Senate Bill 929- Prevailing Wage Allocations.

When a prevailing wage determination contains a predetermined change but does not specify how the change will be allocated between hourly wages and employer payments for benefits, Senate Bill ("SB") 929 authorizes contractors and subcontractors to allocate payments equal to that change to either hourly wages or benefits. If the predetermined change is subsequently altered pursuant to a collective bargaining agreement, the contractor or subcontractor may allocate payments in accordance with either the originally published allocation or the allocation as altered in the collective bargaining agreement.

Senate Bill 929- Hourly Rate for Employees in the Computer Software Industry.

Effective January 1, 2008, the required hourly rate for employees classified as exempt under California's Computer Professionals' exemption was reduced from \$49.77 to \$36.00 per hour.

SB 929 amended Labor Code section 515.5 by decreasing the hourly rate for those classified as exempt pursuant to the computer professionals' exemption.

A word of caution, employers often mistakenly categorize employees as exempt under this exemption because their employees who work with computers make over the exemption rate. In addition to the minimum rate of pay, it is imperative that the employees also meet the remaining criteria of the exemption.

Assembly Bill 14- Civil Rights Act of 2007.

AB 14 was enacted in order to encapsulate, and extend, California's ever evolving non-discrimination policies, particularly with regard to protection against discrimination on the basis of disability and sexual orientation, to certain government and business operations. Specifically, AB 14 prohibits discrimination either in the provision of business services or in the operation of programs conducted or funded by the government.

San Francisco Health Care Ordinance.

This Ordinance is what is known as a "pay or play law." The Ordinance requires covered employers, those with 20 or more employees, who do not offer certain minimum levels of health coverage to pay between \$1.17 to \$1.85 per hour per employee. When determining whether an employer is covered, all employees, including those who do not work in San Francisco, must be counted. However, employers need only pay on employees who work in San Francisco. Employees covered by the Ordinance are those who have been employed for at least 90 days and who work in San Francisco at least 10 hours per week regardless of where the employee maintains his or her residence. Note: This ordinance was recently held invalid by a federal court. The issue is currently on appeal to the Ninth Circuit Court of Appeals.

Senate Bill 1618- Limitation of Use of Social Security Number on Itemized Pay Statements.

Effective January 1, 2008, Labor Code section 226 requires all employers to use no more than the last four digits of an employee's social security number on all employee itemized statements. The Labor Code also permits employers to create and use an alternative employee identification number.

California Minimum Wage.

Effective January 1, 2008, California's minimum wage rate increased to \$8.00 an hour for employees of all industries. This also results in an increase in the minimum salary requirements for employees classified as exempt under the administrative and executive exemptions.

New Form 1-9. On November 26, 2007, the U.S. Citizenship and Immigration Services announced that employers must implement and use a new Form I-9 no later than December 26, 2007. The revised Form I-9 is mandatory for all new hires and all employee re-verifications.

Senate Bill 1613- Hands Free Cell Phone Bill. Commencing July 1, 2008, drivers will no longer be allowed to use their cell phones, except in cases of emergency, unless they are using a hands free device. Drivers of commercial vehicles will continue to be allowed to use push-to-talk phones until July 1, 2011.

Internal Revenue Service Standard Mileage Rates. Effective January 1, 2008, the optional standard mileage rate increased to 50.5 cents per mile.

Assembly Bill 338- Temporary Disability Payments (AB 338). AB 338 amends the manner in which temporary disability ("TD") is paid to workers injured on the job. Generally, California's workers' compensation law requires an employer to secure the payment of workers' compensation for injuries incurred by an employee arising out of, or in the course of, the employee's employment. Under the preexisting law, TD benefits have to be paid within two years of the first date a TD payment was made. The effect of AB 338 was to extend the eligibility time period within which to claim TD benefits to five years from the date of injury. Thus, AB 338 permits an injured employee to claim TD benefits on an intermittent basis. Affected employees remain limited to a maximum of 104 weeks of TD benefits.

AB 632 - Health Care "Whistleblowers". AB 632 amends the California Health and Safety Code by expanding specific "whistleblower" provisions to cover

physicians and surgeons who complain about unsafe patient care. AB 632 also provides that damages for discrimination/retaliation against such "whistleblowers" may include, but are not limited to, reinstatement and reimbursement for lost wages and benefits, as well as an award of attorneys' fees and other legal costs.

AB 2695 - Expanded Workplace Violence Protections. Effective January 1, 2008, AB 2695 extends the scope of an employer's right to seek workplace violence restraining orders on behalf of employees under Code of Civil Procedure section 527.8. Employers may now seek restraining orders that protect multiple worksites and orders that protect multiple employees. Employers may also seek a restraining order even if the employee who is directly threatened does not want to pursue a restraining order, if the employer reasonably believes there is a credible threat of violence against others in the workplace.

AB 2440 - Child Support. Effective January 1, 2008, AB 2440 creates stiff penalties of up to three times the amount of the assistance provided, subject to a maximum of the entire support obligation, for employers who assist employees or contractors in avoiding child support obligations.

At MAAS, we understand that the newly enacted legislation may have a direct impact on your business and are available to assist you with any challenges that may result therefrom.



MURPHY AUSTIN
ADAMS SCHOENFELD LLP

304 "Street
Sacramento, CA 95811
916/446-2300
Facsimile: 916/503-4000
murphyaustin.com

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