

Navigating SB 497: California's 90-Day Rebuttable Presumption For Workplace Retaliation

Article By:

Rochelle Lynn Calderon

Effective Jan. 1, 2024, [Senate Bill 497](#), known as the Equal Pay and Anti-Retaliation Protection Act, amends California Labor Code Sections 98.6, 1102.5, and 1197.5. Here is a summary of the new California law's key provisions:

1. **Protected Employee Conduct:** SB 497 reinforces existing laws prohibiting employers from discriminating or taking adverse actions against employees engaging in protected conduct. This conduct includes activities like filing complaints, participating in investigations, or exercising their rights under various labor laws.
2. **Civil Penalties for Retaliation:** The bill increases penalties for employers who retaliate against employees for disclosing information to government agencies or testifying in investigations. Instead of a general civil penalty, employers may now be liable for up to \$10,000 per employee for each violation. This penalty will be awarded to the retaliated employee.
3. **Equal Pay and Wage Transparency:** SB 497 strengthens the principle of equal pay for substantially similar work regardless of gender or race/ethnicity. The bill also ensures employees cannot be retaliated against for disclosing their wages, discussing wages with colleagues, or inquiring about another

employee's wages.

The bill was signed by Gov. Gavin Newsom in early October.

The Legal Jab: Rebuttable Presumption

SB 497 introduces a significant legal jab. If an employer takes adverse action against an employee within 90 days of the employee engaging in protected activity (such as raising workplace concerns), it triggers a presumption of retaliation. Consider it a spotlight on the employer's actions, inviting intensified scrutiny. This presumption makes it easier for an employee to establish a prima facie case of retaliation.

Looking Ahead

Since SB 497 facilitates establishing a prima facie case of retaliation for employees, California employers may need to reevaluate their approach to disciplining employees. This reevaluation might include a renewed emphasis on documenting employee performance issues, retraining human resources departments, and ensuring supervisors understand the critical nature of such documentation. Here are some key considerations:

- **Prudent Documentation:** Employers might want to consider updating their record-keeping practices to comply with the new requirements. Documenting employee performance and disciplinary actions thoroughly is paramount.
- **Invest in Human Resources Training:** HR departments might require retraining to grasp the importance of comprehensive documentation and to communicate the employer's non-retaliation stance effectively.
- **Supervisor Awareness:** Ensure that supervisors, who are on the front lines, understand the importance of adhering to

company policies and promoting a respectful and compliant work environment.

In light of SB 497, it is essential for California employers to proactively maintain a workplace compliant with labor and employment laws, ensuring any disciplinary actions are well-documented and based on legitimate reasons. This proactive approach can help diminish the potential impact of the new legislation's rebuttable presumption. By staying informed, adopting a proactive posture, and consulting with legal counsel, California employers can effectively navigate these changes.

© 2025 BARNES & THORNBURG LLP

National Law Review, Volume XIII, Number 299

Source URL: <https://natlawreview.com/article/navigating-sb-497-californias-90-day-rebuttable-presumption-workplace-retaliation>