

New Wave of California Employment Laws Requires Prompt Action

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A new tidal wave of employment laws is about to flood the shores of California. On January 1, 2012, multiple new laws will take effect in California, and they will have a significant impact on the employment practices of companies with California operations. California employers will need to take prompt action to ensure compliance, including revising employment policies and practices such as hiring and compensation practices, employee handbooks, posters, leave of absence administration, and healthcare coverage. A reference chart describing the changes is provided below.

Morgan Lewis will host a webinar, "New California Employment Laws for 2012: What Employers Need to Know," to discuss these new laws in more detail on November 17, 2011 at 12:30 p.m. ET. [Register for the webinar.](#)

Bill	Topic	Description
<i>Wage and hour and compensation</i>		
SB 459	Penalties for willful misclassification of independent contractors	Imposes civil penalties, ranging from \$5,000 to \$25,000, against any employer that willfully misclassifies workers as independent contractors. The new law also prohibits charging fees or making deductions from the compensation of misclassified workers when the fees or deductions would have been prohibited if the worker had been classified as an employee. Violators also must post a notice stating that they have violated the law. See Morgan Lewis's October 11, 2011 LawFlash analyzing this

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		new law.
AB 1396	Commission plan must be in writing and must be signed by employee	Requires all commission plans with California employees to be in writing. Employers must provide employees with a signed copy of the commission contract and must obtain a signed confirmation of receipt. If the commission contract expires and the parties continue to work under its terms, a presumption applies that those terms remain in effect until a new plan supersedes the old plan. Compliance is required by January 1, 2013.
AB 469	Wage Theft Prevention Act: Requires written disclosures of basic job terms relating to pay	Amends the California Labor Code to require employers to provide a written disclosure of specified basic job terms to nonexempt employees, including the rate of pay, the regular payday, and the address and phone number of the employer. The employer also must provide prompt notice of changes.
<i>Pre-employment</i>		
AB 22	Restricts use of consumer credit reports in employment decisions	Bans most employers from obtaining credit information about applicants or employees, except in limited circumstances. There are several exceptions. For example, the law does not apply to managers, to employees with access to confidential information, or to employees who have access to significant sums of money. The law also amends provisions of the California's Consumer Credit Reporting Agencies Act (CCRAA) relating to the requirement that employers give written notice to employees about requests for and the use of such information.
AB 1236	State cannot mandate use of E-Verify	Forbids California government entities from requiring private business owners to use the E-Verify Internet-based system to determine the eligibility of their

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		employees to work in the United States. The law also reaffirms that, for most private employers, E-Verify is a purely optional program.
Leaves of absence		
AB 592	Prohibits interference with protected family/medical leave	Clarifies that it is unlawful for an employer to interfere with an employee's entitlement to family/medical leave under the California Family Rights Act. Previously, the law prohibited only the requirement for an employer to take leave.
Benefits		
SB 299	Requires health insurance coverage for PDL	Requires employers to provide health insurance coverage to employees on paid disability leave (PDL) for up to 12 months of PDL. Employers must allow employees disability leave for up to 12 months and must provide reasonable accommodations. The law requires employers to maintain health insurance coverage for employees on pregnancy-related disability leave under the same conditions as if the employee would have been provided leave if she had continued her employment continuously for the duration of the leave. Under the new law, if an employer refuses to seek reimbursement for an employee for premium costs for maintaining coverage during leave, the employee cannot return from leave.
SB 757	Requires health insurance coverage for domestic partners (of same or different sex)	Prohibits healthcare providers from health insurance policies that discriminate in coverage for spouses or domestic partners of the same sex and spouses or domestic partners of the same sex. This rule is based on the existing law, which requires healthcare service providers to provide group coverage to an employee's registered domestic partner that is equal to the coverage provided to an employee's spouse. The law clarifies that registered domestic partners of the same sex cannot be treated differently than registered domestic partners of a different sex.

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