

New and Noteworthy California Employment Legislation

October 18, 2016

Employment

At the end of each September in California, a flurry of legislative activity precedes the deadline for Governor Brown to sign or veto bills approved during the 2015 to 2016 legislative session. As in years past, a number of employment-related bills were signed into law by Governor Brown. The following alert highlights a few such bills that merit attention. Unless otherwise noted, all these laws go into effect January 1, 2017. As always, employers are advised to seek counsel with respect to the requirements and implications of each of these new laws.

Employment Agreements

[S.B. 1241](#): Unless an employee is represented by legal counsel in negotiating the terms of his or her agreement, section 925 of the Labor Code now makes voidable forum selection provisions in employment agreements that are a condition of employment for employees who primarily reside and work in California that would require them to adjudicate claims that arise in California outside of California. Section 925 also makes voidable choice of law provisions where that choice of law would deprive the employee of the substantive protection of California law with respect to a controversy arising in California. This applies not only to new agreements, but also any agreements modified or extended after the new year.

Equal Pay

[A.B. 1676](#): Amends California's Fair Pay Act (section 1197.5 of the Labor Code), which makes it unlawful to pay employees less than what they pay to employees of the opposite sex for substantially similar work, by expressly providing that prior salary alone cannot justify a disparity in compensation.

[S.B. 1063](#): This provision further amends the Fair Pay Act by extending its protections to disparities based on race and ethnicity, prohibiting employers from paying employees of one race or ethnicity less than employees of a different race or ethnicity for substantially similar work.

Immigration

[S.B. 1001](#): Provides state law protection for violations of the federal I-9 process by adding section 1019.1 to the Labor Code. For example, under federal law it is unlawful to ask for more or different documentation than is required by the Form I-9. It is also unlawful to refuse to accept documents that appear genuine on their face. The new law gives the Labor Commissioner enforcement powers and further authorizes employees to file a complaint with the Division of Labor Standards Enforcement. It also authorizes the recovery of a penalty up to \$10,000 per violation.

Leave-Related Laws

[A.B. 2337](#): This amendment requires employers with 25 or more employees to provide employees, at the time of hire and on request, with written notice about their rights under section 230.1 of the Labor Code which protects victims of domestic violence, sexual assault, or stalking. The Labor Commissioner is required to develop a form that employers can use to comply with this notice requirement on or before July 1, 2017. Until the form notice is posted, employers are not required to comply with these new notice requirements.

Background Checks

[A.B. 1843](#): This bill prohibits employers from asking about juvenile convictions or otherwise using such information as a factor in making employment-related decisions by amending section 432.7 of the Labor Code (which prohibits employers from asking applicants to disclose information about arrests that did not result in conviction or using such information in making employment decision, and limits the types of criminal records which an employer can rely on in making employment decisions). An exception exists for certain inquiries made by health care facilities.

[A.B. 1289](#): Adds Section 5445.2 to the Public Utilities Code and requires transportation network companies (i.e., ride-sharing services) to conduct criminal background checks and further prohibits them from contracting with or employing drivers who are currently registered with the U.S. Department of Justice National Sex Offender Public website, drivers who have been convicted of certain terrorism related felonies or defined violent felonies, and drivers who in the prior seven years have been convicted of misdemeanor assault or battery, domestic violence, DUI, or other specified felonies.

Workplace Safety

[S.B. 1167](#): This bill requires Cal/OSHA to develop by January 1, 2019, heat-illness and injury prevention standards for employees working in indoor environments. It does not require that the standards apply to particular industries or workplaces, so it potentially could be far reaching.

State Minimum Wage

[S.B. 3](#): Though previously signed by the Governor, this is just a reminder that the California state minimum wage for employers with 26 or more employees will go up to \$10.50 per hour at the start of the new year and will progressively increase each calendar year until it reaches \$15.00 per hour in 2022. For employers with 25 or fewer employees, the minimum wage increase does not go into effect until 2018. As a reminder, employers should also continue to monitor local ordinances in the cities where they do business as many California municipalities have their own local wage ordinances that establish a higher minimum wage.

If you have any questions concerning the material discussed in this client alert, please contact the following member of our Employment practice:

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