

OCTOBER 2025



LEGISLATIVE REPORT

Prepared by:

MICHAEL S. KALT

SHRM California Government Affairs Co-Director
mkalt@wilsonturnerkosmo.com
twitter.com/michaelkalt_law

KATHERINE M. MCCRAY

Partner
kmccray@wilsonturnerkosmo.com

PATRICIA L. CLARK

Associate
pclark@wilsonturnerkosmo.com



2025 CALIFORNIA LEGISLATIVE UPDATE

October 16, 2025



The 2025 Legislative Session ended on October 13, 2025, when the deadline for Governor Gavin Newsom to sign or veto pending bills expired. This session continued last year's trend of involving fewer major employment law changes compared to prior years. Notably, the Governor vetoed several bills that would have imposed significant new obligations on employers related to artificial intelligence and workplace surveillance. That said, some of the more significant new employment laws of general application include laws that:

1. Require distribution of a **notice of worker rights** and impose requirements if an employee is arrested or detained ([SB 294](#))
2. Prohibit employers from entering "**stay or pay**" **agreements** and impose new penalties for contracts in restraint of trade ([AB 692](#))
3. Require retention and production of **training documentation** ([SB 513](#))
4. Change the definition of **pay scale for purposes of posting** and make changes to pay equity litigation ([SB 642](#))
5. Add to the information employers must include in **CalWARN Notices** ([SB 617](#))
6. Change the categories of workers that must be used in **pay data reporting** ([SB 464](#))

Read on for details regarding the Top Six New Employment Laws all California Employers and Human Resources Professionals should know about, as well as additional laws with more limited application or narrower scope that are nonetheless worthy of attention and several notable new local ordinances and new state and federal regulations. Unless otherwise noted, these laws will take effect January 1, 2026.

Contents

TOP SIX PROPOSED NEW CALIFORNIA EMPLOYMENT LAWS..... 3

1. Notice of Worker Rights and Requirements if an
Employee is Arrested or Detained (SB 294)..... 3

2. Prohibition on “Stay-or-Pay” Agreements (AB 692)..... 4

3. Expansion of Personnel Records to include Education
and Training Records (SB 513)..... 5

4. Additional Restrictions on Pay Scale Posting and
Changes to Pay Equity Litigation (SB 642)..... 5

5. California Worker Adjustment and Retraining Act (SB 617)..... 6

6. Expansion of Employer Pay Data Reporting Requirements (SB 464)..... 7

ADDITIONAL NEW CALIFORNIA EMPLOYMENT LAWS..... 7

Harassment/Discrimination/Retaliation..... 7

Human Resources/Workplace Policies..... 8

Wage and Hour..... 8

Independent Contractor Classifications..... 10

Public Sector/Labor Relations..... 11

State Provided Benefits..... 12

Artificial Intelligence..... 13

Miscellaneous..... 14

NEW FEDERAL LAWS..... 14

NEW LOCAL ORDINANCES..... 14

NEW STATE REGULATIONS AND GUIDANCE..... 16

TOP SIX NEW CALIFORNIA EMPLOYMENT LAWS

Notice of Worker Rights and Requirements if an Employee is Arrested or Detained (SB 294)

This law, entitled “The Workplace Know Your Rights Act,” requires employers to provide a stand-alone written notice to each current employee on or before February 1, 2026, and annually thereafter. The law specifies that the notice can be provided in a manner the employer normally uses to communicate employment-related information, which may include personal service, email, or text message, if it can reasonably be anticipated to be received by the employee within one business day of sending. Employers are also required to provide the notice to new employees upon hire. Additionally, employers are required to give the notice to an employee’s authorized representative, if any, by electronic or regular mail. The written notice must contain a description of workers’ rights in five separate areas, including workers’ compensation, protection against unfair immigration-related practices, the right to organize a union or engage in concerted activity in the workplace, and constitutional rights when interacting with law enforcement at the workplace. The notice must also include a description of new legal developments pertaining to laws enforced by the Labor and Workforce Development Agency that the Labor Commissioner deems material and necessary, and a list of enforcement agencies that may enforce the underlying rights in the notice.

- Labor Commissioner will provide new notice of employee rights by January 1, 2026, and employers must provide it to all employees by February 1, 2026, and annually thereafter.
- Employers must retain records of compliance.
- Employers must allow employees to name an emergency contact and to indicate whether the contact should be notified if the employee is arrested or detained.

KEY TAKEAWAYS

The Labor Commissioner is required to develop a template notice on or before January 1, 2026, and post an updated template notice annually thereafter. The Labor Commissioner is also required to develop videos for employees and employers advising them of rights and requirements on or before July 1, 2026. The Labor Commissioner is required to consult with the Agricultural Labor Relations Board, the Public Employment Relations Board, and the Attorney General’s Office when developing the notice and videos.

The law requires employers to keep records of compliance with the notice requirements for three years, including the date each written notice is provided or sent.

The law also requires that, if an employee has notified their employer that they would like their designated emergency contact to be notified in the event the employee is arrested or detained, then the employer should notify an employee’s designated emergency contact in the event the employee is arrested and detained on their worksite, or if the employer has actual knowledge of an arrest or detention during the performance of the employee’s job duties. Employers are also required to offer employees the opportunity to name an emergency contact no later than March 30, 2026, for existing employees, and at the time of hire for employees hired after March 30, 2026. Employers are required to allow employees to provide updated emergency contact information through the duration of employment. Employers are required to allow employees to indicate whether the emergency contact should be notified if the employee is arrested or detained on their worksite, or during work hours or during the performance of the employee’s job duties, if the employer has actual knowledge of the arrest or detention.

Employers are prohibited from retaliating against employees for acting in connection with this new law.

The new requirements may be enforced by the Labor Commissioner or by a public prosecutor. Any of these petitioners could seek injunctive relief, damages, punitive damages, and attorneys’ fees and costs. In addition, employers who violate the new requirements could be subject to a civil penalty of up to \$500 per employee for each violation. The penalty for violating the rules regarding designated emergency contacts would be up to \$500 per employee for each day the violation occurs, up to a maximum of \$10,000 per employee.

The law does not preempt any local ordinance that provides equal or greater protection.

Prohibition on “Stay-or-Pay” Agreements (AB 692)

This law makes it unlawful to include in any employment contract or require employees to enter “stay or pay” agreements by which employees are obligated to pay an amount of money if their employment terminates.

Existing law (Business and Professions Code section 16600, *et seq.*) already invalidates any contract by which anyone is restrained from engaging in a lawful trade, profession, or business and makes it an unlawful practice to require an employee to enter a noncompete agreement. This law creates a new section 16608 in the Business and Professions Code. The new law applies to contracts entered into on or after January 1, 2026, and makes it unlawful to include in any employment contract, or require a worker to enter into a contract as a condition of employment, if the contract that does any of the following:

- Requires the worker to pay a “debt” if the worker’s employment ends. “Debt” means any money or personal property due to another person including, but not limited to, for employment-related costs, education-related costs, or a consumer financial product or service.
- Authorizes the employer, training provider, or debt collector to resume or initiate collection or end forbearance on a debt if the worker’s employment ends.
- Imposes any “penalty, fee, or cost” on a worker if the worker’s employment ends. “Penalty, fee, or cost” includes but is not limited to a replacement hire fee, retraining fee, replacement fee, quit fee, reimbursement for immigration or visa-related costs, liquidated damages, lost goodwill, or lost profit.

For purposes of this law, “worker” means a natural person who is permitted to work for or on behalf of an employer or business entity, or who is permitted to participate in any other work relationship, job training program, or skills training program, including but not limited to an employee or prospective employee.

The law exempts contracts under any loan repayment assistance program or loan forgiveness program provided by a federal, state, or local governmental agency; contracts related to approved apprenticeship programs; contracts related to the lease, financing, or purchase of residential property; and contracts related to the repayment cost of tuition for a transferable credential if certain conditions are met (including that the contract does not require repayment if the worker is terminated, except if the worker is terminated for gross misconduct). A “transferable credential” is a degree that is offered by a third-party institution that is accredited and authorized to operate in the state, is not required for a worker’s current employment, and is transferable and useful for employment beyond the worker’s current employer.

The law also exempts a contract for the receipt of a discretionary or unearned monetary payment, including a financial bonus, at the outset of employment that is not tied to specific job performance (such as a signing bonus), but only if all the following conditions are met:

- The terms of the repayment obligation are set forth in a separate agreement from the primary employment contract;
- The employee is notified that they have the right to consult an attorney regarding the agreement and provided with a reasonable time of not less than five business days to obtain advice of counsel prior to executing the agreement;
- Any repayment obligation for early separation from employment is not subject to interest and is prorated based on the remaining term of the retention period, which shall not exceed two years from receipt of the payment;
- The worker has the option to defer receipt of the payment to the end of the fully served retention period without any repayment obligation; and
- Separation from employment prior to the retention period was at the sole election of the employee or was for misconduct (as defined in Section 1256 of the Unemployment Insurance Code).

- Broad prohibition on contracts requiring employees to pay back money if their employment is terminated.
- Limited exceptions for signing bonuses that meet numerous requirements.
- Additional limited exceptions, including certain education expenses and apprenticeship expenses.

The law specifies that a contract that is unlawful under this rule is a contract restraining a person from engaging in a lawful profession, trade, or business, and is void under Section 16600 if it was entered into on or after January 1, 2026.

The law also adds Section 926 to the Labor Code to specify that a contract that violates Business and Professions Code section 16608 is void as contrary to public policy if it was entered into on or after January 1, 2026. A worker who has been subjected to the conduct prohibited by Section 16608 or a worker representative is authorized to bring a civil action on behalf of the worker, or persons similarly situated, or both, in any court of competent jurisdiction. Any person found liable shall be liable for actual damages sustained by the worker or workers, or \$5,000 per worker, whichever is greater, in addition to injunctive relief and reasonable attorney’s fees and costs.

Expansion of Personnel Records to include Education and Training Records (SB 513)

Under existing law, Labor Code section 1198.5 gives employees or their representatives the right to inspect and receive a copy of certain personnel records maintained by their employer or former employer. This law expands Section 1198.5 to provide that employees have the right to inspect education and training records *and* specifies the contents of such records. Specifically, any employer who maintains education or training records must ensure that the records include:

- 1. The name of the employee;
- 2. The name of the training provider;
- 3. The duration and date of the training;
- 4. The core competencies of the training, including skills in equipment or software; and
- 5. The resulting certification or qualification.

Current and former employees and their representatives may inspect or obtain copies of those records pursuant to the procedure already established by Section 1198.5.

KEY TAKEAWAYS

→

Employers must maintain specific records of education or training programs in employee personnel files.

→

Employees have the right to inspect or obtain copies of the education or training records.

Additional Restrictions on Pay Scale Posting and Changes to Pay Equity Litigation (SB 642)

This law revises the definition of the “pay scale” that must be included in job postings, expands the statute of limitations for bringing pay equity cases, and expands the definition of “wages” that must be considered in assessing a pay equity claim.

• **Pay Scale Posting**

In 2022, California enacted SB 1162, which (among other things) expanded Labor Code section 432.3 to require all employers to provide the pay scale for a position to an applicant, upon reasonable request; and to require employers with 15 or more employees to post the “pay scale” within any job posting and provide the “pay scale” to any third party engaged to announce, post, or publish a job posting for inclusion in any such job posting. Pay scale is currently defined as “the salary or hourly wage range that the employer reasonably expects to pay for the position.”

This law amends Section 432.3 to impose add a “good faith” requirement in the definition of pay scale. The law now defines pay scale as “*a good faith estimate of the salary or hourly wage range that the employer reasonably expects to pay for the position upon hire.*”

KEY TAKEAWAYS

→

Job postings must include a pay scale, defined as “a good faith estimate of the salary or hourly wage range that the employer reasonably expects to pay”

→

Statute of limitations for pay equity claims expands.

→

For purposes of pay equity claims, wages will include *all* forms of pay.

- **Pay Equity Claims**

Existing law (Labor Code section 1197.5) prohibits an employer from paying employees at wage rates less than it pays those of the opposite sex for substantially similar work, except in certain narrow circumstances. This law revises that law to prohibit paying employees less than it pays those of *another* sex. It also expands the statute of limitations from two to three years after the last date the cause of action occurs. And it potentially expands the limitations period for such claims by specifying that a cause of action “occurs” when any of the following occur: (A) an alleged unlawful compensation decision or other practice is adopted; (B) an individual becomes subject to an alleged unlawful compensation decision or other practice; or (C) an individual is affected by application of an alleged unlawful compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from the decision or other practice. Further, the law provides that an employee is entitled to obtain relief for the entire period in which a violation occurs, *up to a maximum* of six years. The law also specifies that nothing in the subdivision prohibits the application of the doctrine of “continuing violation” or the “discovery rule” to any appropriate claim.

Finally, the law clarifies that “wages” and “wage rate” include all forms of pay, including, but not limited to, salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits. Thus, in assessing whether one employee has been paid at a wage rate less than other employees, courts would consider all these forms of pay. However, the law specifies that this definition of “wages” and “wage rates” should not be construed to apply to any other section of the Labor Code.

California Worker Adjustment and Retraining Act (SB 617)

Existing law, the California Worker Adjustment and Retraining (WARN) Act (Labor Code § 1400, *et seq.*), requires employers to provide advance notice to affected employee prior to ordering a “mass layoff,” “relocation,” or “termination” at a “covered establishment” (as defined in the statute). This law changes the contents of the notice in several ways:

- This law requires employers to include in the notice whether: (a) the employer plans to coordinate services, such as rapid response orientation, through the local workforce development board, (b) the employer plans to coordinate services through a different entity, or (c) the employer does not plan to coordinate services with any entity.
- Regardless of whether the employer chooses to coordinate services with the local workforce development board or other entity, the employer shall include in the notice a functioning email and telephone number of the board and the following description of the rapid response activities offered by the board in accordance with 29 U.S.C. § 3102:
 - “Local Workforce Development Boards and their partners help laid off workers find new jobs. Visit an America’s Job Center of California location near you. You can get help with your resume, practice interviewing, search for jobs, and more. You can also learn about training programs to help start a new career.”
- If the employer chooses to coordinate services with the local workforce development board or another entity, it shall arrange services within 30 days after the date of notice.
- The law also requires employers to include in the notice a description of the statewide food assistance program known as CalFresh, the CalFresh benefits helpline, and a link to the CalFresh internet website.
- The law requires employers to include in the notice a functioning email and telephone number of the employer for contact.



Employers must include new information in CalWARN notices, including specific information about the local workforce development board, CalFresh, and employer contact information.

KEY TAKEAWAYS

Expansion of Employer Pay Data Reporting Requirements (SB 464)

Existing Law (Government Code section 12999), enacted in 2020 and amended in 2022, requires private employers with 100 or more employees (or 100 or more labor contractor employees) to submit annual pay data reports to the Civil Rights Division (CRD), including mean and median hourly rates for employees with each combination of race, ethnicity, and sex within each job category at each establishment. This new law requires employers to collect and store any demographic information they gather for the purpose of submitting the pay data reports separately from employees' personnel records.

In addition, while the current law requires employers to use ten job categories based on the type of work (i.e., professionals, technicians, laborers), the law specifies that *effective January 1, 2027*, the reports must include the twenty-three different job categories based on the nature of the occupations (i.e., computer and mathematical occupations, sales and related occupations, etc.).

Current law allows the CRD to ask a court to impose a civil penalty up to \$100 per employee upon any employer who fails to file the required report (and up to \$200 for a subsequent failure to file). Under current law, the court has discretion to impose this penalty. But this new law makes the court's imposition of a penalty *mandatory* if a penalty is requested by the CRD.

- Employers must store demographic data gathered for pay data reports separately from personnel records.
- Starting January 1, 2027, employers will need to use 23 new job categories in pay data reports.

KEY TAKEAWAYS

ADDITIONAL NEW CALIFORNIA LAWS

HARASSMENT/DISCRIMINATION/RETALIATION

Admissions During Bias Mitigation Efforts Do Not Constitute Discrimination (SB 303)

This law amends the FEHA to encourage employers to provide bias mitigation training and to encourage employees to meaningfully participate in this training. Accordingly, new Government Code section 19240.2 provides that an employee's assessment, testing, admission, or acknowledgment of their own personal bias that is made in good faith and solicited or required as part of a bias mitigation training will not, by itself, constitute unlawful discrimination. It also affirms that an employer's conducting of a bias mitigation training will not, by itself, constitute unlawful discrimination.

"Bias mitigation training" is defined as training, education, and activities provided by the employer for the purpose of educating employees on understanding, recognizing, or acknowledging the influence of conscious and unconscious thought processes and their associated impacts. This bias mitigation training will also include implementing specific strategies to mitigate the impact of the employees' personal biases, including testing for personal bias, analyzing test results, conducting training and workshops, using toolkits, and tracking bias mitigation and elimination.

Expansion of Statute of Limitations for Sexual Assault Claims (AB 250)

In 2022, California enacted the Sexual Abuse and Cover Up Accountability Act (AB 2777, codified at Code of Civil Procedure section 240.16) reviving certain claims for damages suffered because of a sexual assault that one or more entities or their agents covered up. This new law extends the eligibility period for such claims that would otherwise be time barred prior to January 1, 2026, for a sexual assault if (1) one or more entities are legally responsible for damages arising out of a perpetrator's sexual assault; and (2) the entity or entities (or their agents) engaged in a cover up (as defined). It also revives such claims directly against the person who committed the sexual assault.

HUMAN RESOURCES/WORKPLACE POLICIES

Rehiring and Retention of Workers Displaced by the COVID-19 Pandemic (AB 858)

California Labor Code section 2810.8, enacted in 2021 and amended in 2023, provides rehire rights for employees in the hospitality and business services industries laid off for reasons related to the COVID-19 pandemic. The law is set to expire on December 31, 2025. This new law extends these protections through January 1, 2027, and specifies that a violation occurring on or before December 31, 2026, will continue to be enforceable.

Designation of Diwali as a State Holiday (AB 268)

Existing law designates specific days as state holidays and designates certain holidays on which community colleges and public schools are authorized to close. Existing law entitles state employees (with some exceptions) to time off with pay for specified holidays. This law adds Diwali to the list of state holidays, authorizes community colleges and public schools to close on Diwali, and authorizes state employees to elect to take time off with pay in recognition of Diwali. However, Diwali is excluded from designation as a judicial holiday (along with certain other state holidays).

WAGE AND HOUR

Expanded Notice Requirement re: Wage Garnishment (AB 774)

This new law makes numerous changes to the Code of Civil Procedure concerning enforcement of judgments. Of interest to employers, it alters the requirements for employers who must garnish employees' wages to satisfy civil judgments.

Existing law, the Wage Garnishment Law (Code of Civil Procedure section 706.010, *et seq.*) authorizes a levy of execution on an employee's earnings by service of an earnings withholding order by the levying officer or the employer and requires the employer to provide the judgment debtor a copy of the earnings withholding order and notice of the earnings withholding order, as specified. Existing law requires the employer to complete an employer's return and return it to the levying officer. Under existing law, the employer's return and the form for its return must set forth specified information, including the name, address, and, if known, the judgment debtor's social security number.

This law requires the employer's return to include information setting forth the date on which the employer provided the judgment debtor with the earnings withholding order and notice of earnings withholding order, the name and title of the person who provided the order and notice, and a description of the manner in which the order and notice were provided.

Allowing Labor Commissioner to Enforce Rule Against Taking Employee Gratuities (SB 648)

Existing law (Labor Code section 351) prohibits employers from taking any gratuity left for an employee, or from deducting any amount from an employee's wages on account of a gratuity, or from requiring an employee to credit a gratuity against wages owed. This law is motivated by concerns that the only way to recover stolen gratuities is through lengthy civil court actions. This new law gives the Labor Commissioner authority to investigate and issue a citation or file a civil action for gratuities taken or withheld in violation of Section 351.

Publication and Enforcement of DLSE Orders, Decisions, and Awards (SB 261)

Current law allows the Division of Labor Standards Enforcement (DLSE), under the direction of the Labor Commissioner, to investigate employee complaints and to provide for a hearing in any action to recover wages, penalties, and other demands for compensation. Existing law (Labor Code section 98.1) allows the Labor Commissioner to file and serve a copy of an order, decision, or award after such a hearing.

This new law creates Labor Code section 238.05, which provides that if a final judgment arising from nonpayment of wages for work performed in this state remains unsatisfied 180 days after the time to appeal has expired and no appeal is pending, the judgment debtor shall be subject to a civil penalty not to exceed three times the outstanding judgment, including post-judgment interest. There is an exception if a judgment debtor reaches an accord with an individual holding an unsatisfied judgment pursuant to Labor Code section 238, subdivision (b) and remains in compliance with the accord until its full satisfaction.

Finally, the law creates Labor Code section 238.10, which allows a court to award a prevailing plaintiff all reasonable attorney's fees and costs in any action brought to enforce a final judgment arising from the nonpayment of wages, penalties, or other amounts owed arising from work performed in the state, or to otherwise induce compliance by or impose lawful consequences on a judgment debtor for nonsatisfaction of such final judgment.

Suspension of Contractor's License, Civil Action for Failure to Pay Wages (AB 1002)

This law adds section 7036 to the Business and Professions code and allows the Attorney General to bring a civil action to impose discipline upon, to deny an application for, or to deny continued maintenance of, a contractor's license. The action could be brought on the grounds that a person has failed to pay their workers' wages, has not fulfilled a wage judgment or is in violation of a court order regarding payment of wages to their workers. The Attorney General is required to notify the registrar of contractors at least 30 days prior to filing a civil complaint, and the Contractors State License Board may intervene in any court proceedings brought pursuant to this rule. The Attorney General could seek an order directing the registrar to suspend or revoke, or deny an application for, or deny the continued maintenance of, a contractor's license. Any order for suspension, revocation, or application denial would be considered disciplinary action within the meaning of Section 7071.8 and legal action within the meaning of Section 7124.6.

The law specifies that a good faith mistake regarding which wage rate applies to a particular category of work, including for purpose of payment of prevailing wages, would not constitute a violation under this section.

Direct Contractor and Subcontractor Liability for Wage Claims (SB 597)

Current Law (Labor Code section 218.8) applies to direct contractors making or taking a contract for the erection, construction, alteration or repair of a building or other private work. Those Direct Contractors are liable for any debt incurred by a subcontractor and owed to a *wage claimant* for the wage claimant's performance of labor. A "direct contractor" is a contractor that has a direct contractual relationship with an owner.

This new law adds an expiration date to Section 218.8, applicable to contracts entered into before January 1, 2026. For contracts entered after that date, it adds a new Section 218.9, which makes direct contractors liable for "*indebtedness for the performance of labor, including that described in subdivision (b) of Section 8024 of the Civil Code, incurred by a subcontractor*". A "direct contractor" is a contractor that has a direct contractual relationship with an owner or any other person or entity engaging contractors or subcontractors on behalf of an owner. The law prohibits a direct contractor from being held liable for indebtedness with respect to fringe or other benefit contributions if they make contribution payments by joint check, as specified.

Existing law also provides for a streamlined, ministerial approval process for certain housing developments that meet specified requirements. Existing law requires these developments to meet specified labor standards, including making health care expenditures for each employee. Joint labor-management cooperation committees currently have standing to sue a construction contractor for failure to make these health care expenditures. This new law grants a joint labor-management cooperation committee standing to sue pursuant to the new liability provision in the new Section 218.9.

Meal Period Exception for Employees of Water Corporation (SB 693)

Current law (Labor Code section 512) sets out the rules requiring employers to provide non-exempt employees with meal periods. Under existing law, employees in certain occupations are exempted from the meal period rules if they are covered by a valid collective bargaining agreement and that agreement expressly provides for various items, including meal periods for the employees. This new law extends that exception to cover employees employed by a water corporation (and subject to the requisite collective bargaining agreement).

Rest Period Exemption for Employees who Hold Safety-Sensitive Positions at a Petroleum Facility (AB 751)

Existing law (Labor Code Section 226.75) provides a temporary exemption from California's rest period requirements for specified employees who hold a safety-sensitive position at a petroleum facility, to the extent that the employee is required to carry and monitor a communication device and to respond to emergencies or is required to remain on

employer premises to monitor the premises and respond to emergencies. Existing law requires another rest period to be authorized in the case of an interrupted rest period, and, if circumstances do not allow for the employee to take a rest period, requires the employer to pay the employee one hour of pay at the employee's regular rate of pay for the rest period that was not provided. This exemption is set to expire January 1, 2026.

This new law extends the exemption indefinitely and extends the exemption to "other refineries," which means establishments that produce fuel through the processing of alternative feedstock as described in Labor Code section 7853, subdivision (c).

INDEPENDENT CONTRACTOR CLASSIFICATIONS

Employer Indemnification Obligations Expanded to Personal and Commercial Vehicles Owned by Employees (SB 809)

Labor Code section 2802 requires employers to indemnify employees for all necessary expenditures or losses incurred by the employee in director consequence of the discharge of their duties. This law adds new Labor Code section 2802.2 to state that the employer's indemnification obligations apply to the use of a vehicle, including a personal or a commercial vehicle, owned by an employee and used by that employee in the discharge of their duties. With respect to construction trucking, a commercial motor vehicle driver who owns the truck, trailer or other commercial vehicle (whether owned by the driver as an individual or through a corporate entity) that they use in the discharge of their duties as an employee working for an employer is entitled to reimbursement for the use, upkeep and depreciation of that truck, trailer or other commercial vehicle (as specified). SB 809 further states these reimbursement provisions are declarative of existing law, and new Labor Code section 2802.2 further provides guidance on how these reimbursement programs can be negotiated, structured and any payments paid.

Next, with the 5-year exemption for the construction industry to comply with the so-called ABC Test having expired in 2024, SB 809 also takes additional steps to ensure and potentially incentivize construction industry employers to comply as it relates to truck owners that they use. First, it adds new Labor Code section 2775.5 to clarify that the mere ownership of a vehicle, including a personal vehicle or a commercial vehicle, used by a person in the providing labor or services for remuneration does not make that person an independent contractor. Rather, that individual's status as an employee or an independent contractor is determined by Labor Code section 2775, including the so-called "ABC Test." SB 809 further states that this provision is declarative of existing law.

Second, under the Motor Carrier Employer Amnesty Program administered by the Labor Commissioner and the Employment Development Department, motor carriers performing drayage service were able to be relieved of misclassification liability by entering into a settlement agreement prior to 2017 and reclassifying all their commercial drivers as employees. SB 809 establishes a similar program (i.e., the Construction Trucking Employer Amnesty) whereby construction contractors can also be relieved of certain misclassification liability by agreeing to properly classify all drivers performing construction work as employees and entering into a settlement agreement with provisions identified in new Labor Code section 2750.9 by January 2029. If a construction driver declines to accept the settlement agreement terms, an eligible construction contractor must reclassify the construction driver as an employee, and the driver is precluded from pursuing certain penalties for a claim arising during the period covered by the settlement agreement. (SB 809 contains a lengthy discussion of various other provisions that may or should be included in such settlement agreements).

Third, it incentivizes employers to adopt the two-check system whereby the trucking companies would pay truck-owner drivers with two separate checks: one for their labor and one check for use of their commercial vehicles. Accordingly, SB 809 requires construction trucking companies to indemnify a commercial motor vehicle driver who owns the commercial vehicle they use in discharge of their duties for the "use, upkeep and depreciation" of that commercial vehicle. It also specifies how the amount of that reimbursement may be determined and how it may be paid.

In this regard, SB 809 seeks to incentivize construction employers via the amnesty program to reclassify their independent contractors to employees and seeks to provide clarity to these employers that they can meet their indemnification obligations by adopting this two-check system.

Additional Proposed Changes to the Exemptions from the ABC Test for Worker Classification Purposes (AB 1514)

In 2020, California enacted Labor Code section 2775 codifying the so-called “ABC Test” enunciated by the California Supreme Court in *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, for determining whether an individual is an employee or an independent contractor. The Legislature has also subsequently specified various occupations and business relationships that are exempt from the ABC Test and that instead are governed by the so-called *Borello* “multi-factor” test for classification purposes. (Labor Code section 2776 *et seq.*).

On an annual basis thereafter, the Legislature has considered additional bills to expand or modify these exemptions, and this new law does so for two industries. First, for licensed manicurists, it extends the exemption past the current exemption deadline of January 1, 2025, until January 1, 2029. Second, it similarly extends the exemption for commercial fishers until January 1, 2031.

It also requires the EDD and the DLSE to annually report (beginning June 1, 2026) the number of allegations or other specified violations involving licensed manicurists since January 1, 2020.

PUBLIC SECTOR/LABOR RELATIONS

Expanded PERB Jurisdiction to Handle NLRA Issues (AB 288)

Citing concerns that the National Labor Relations Board (NLRB) may cease to exist or otherwise be unable to adjudicate private sector union employees complaints under the Trump Administration’s National Labor Relations Act (NLRA), this broad law codifies a number of state law protections related to collective bargaining.

First, it adds new Labor Code section 923.1 to expressly recognize California’s public policy that employees have a right to collective bargaining (as defined). It also expressly prohibits the state and any political subdivision from directly or indirectly denying, burdening, or abridging those rights except as necessary to serve a compelling state interest achieved by the least restrictive means.

Second, it authorizes NLRA-covered workers to petition California’s Public Employment Relations Board (PERB) to protect and enforce rights provided under Labor Code section 923.1. Quickly summarized, workers will be entitled to petition the PERB if either: (1) the worker is employed in a position that would have been subject to the NLRA as of January 1, 2025, but loses NLRA coverage because it is repealed, narrowed or its enforcement enjoined in a case involving that worker; or (2) the worker is employed in a position that would have been subject to the NLRA as of January 1, 2025 but the NLRB has expressly or impliedly “ceded jurisdiction” to the states. AB 288 also identifies a number of instances in which the NLRB will be deemed to have ceded jurisdiction to the states, including the NLRB is no longer an “effective and functioning” board due to lack of quorum or staffing, or the NLRB failed to address the employee’s CBA rights within six months of a petition. In those instances, the PERB will retain jurisdiction over the matter until the NLRB seeks to enjoin PERB’s continued action and PERB is ordered to return the matter to the NLRB.

Such workers may petition the PERB to do the following: (1) to process any representation petition previously filed with the NLRB; (2) to certify the worker’s union as the exclusive bargaining representative for any group of similarly situated workers who have designated the union by majority vote; or (3) to decide unfair labor charges if the NLRB has excessively delayed processing of the charge or the NLRB is unable to effectively execute its statutory duties. For purposes of deciding unfair labor charges, different criteria and timelines will apply to the PERB depending on whether the charge involves so-called Category One Cases (i.e., obstruction cases), Category 2 Cases (i.e., good faith bargaining violation cases, or Category Three Cases (i.e., cases not in Categories One or Two).

AB 288 also specifies the contents of any worker filing with the PERB to obtain relief but also states this documentation and evidence shall not be filed on the respondent, and that the PERB shall maintain confidentiality of this information, including from requests under the California Public Records Act.

AB 288 also authorizes the PERB with the following powers pursuant to its own procedures: (1) to conduct union elections; (2) to promptly certify a union and order that an employer bargain with the union; (3) to order that an employer bargain with

a certified union and otherwise decide unfair labor practices and order all appropriate action and remedies; (4) to order an employer submit to binding arbitration to assist the parties in finalizing their negotiations for a collective bargaining agreement if six months have passed since the NLRB or PERB certified the union; or (5) to order any appropriate remedy, including injunctive relief, necessary to effectuate this act.

Notably, the PERB is also entitled to rely on its own decisions and precedent under the NLRA, and to do so in a manner that most expansively effectuates the rights guaranteed under AB 288 and Labor Code section 923.1. AB 288 also authorizes California state courts to review any action taken by the PERB under these expanded powers, with the court's decision being final.

Opponents argue that AB 288 is preempted by federal law, so a legal challenge is certainly expected.

Labor Relations Protections for Transportation Network Drivers (AB 1340)

This new law represents the latest salvo in the ongoing battle regarding the proper classification of so-called Transportation Network Company (TNC) Drivers, and such drivers' ability to organize. Quickly summarized, in 2019, the California Legislature enacted AB 5, codifying the 3-part test (aka the "ABC Test") for employment status announced in the California Supreme Court's *Dynamex* decision. In 2020, California voters passed Proposition 22 exempting TNC Drivers from the ABC Test, making them independent contractors and, thus, unable to unionize under the National Labor Relations Act (NLRA). Arguing that federal labor law does not apply to independent contractors or preempt state law regulating independent contractors, this law creates labor protections for TNC Drivers under California law, rather than federal law, and provides a mechanism for rideshare drivers to organize.

Accordingly, it establishes the Transportation Network Company Drivers Labor Relations Act (the TNCDLRA) to provide TNC Drivers with the opportunity to self-organize and designate representatives of their own choosing. It also authorizes and requires the Public Employment Relations Board (PERB) to protect TNC Drivers collective bargaining rights under the TNCDLRA. (AB 1340 provides detailed definitions of "Active TNC Driver," "Covered TNC" and "TNC driver organizations")

Broadly speaking, the TNCDLRA authorizes TNC Drivers to form, join and participate in so-called TNC driver organizations of their own choosing to engage in concerted activities, including collective bargaining. It also enacts detailed rules regarding certification and decertification procedures, including pre-certification election procedures, which are similar to but not entirely duplicative with those existing under the NLRA.

It also requires TNC's to submit to the PERB every quarter the names, contact information and ride history for all TNC Drivers who have provided at least 20 rides with the state of California within the prior six months.

It also enumerates a number of items that constitute an unfair labor practice by the TNC, including failing to provide the PERB the list discussed above, failing to negotiate in good faith with a certified union, failing to provide information needed by a certified union to discharge its representational duties and dominating or interfering in the formation of a driver union.

Notice Requirements Before Issuing Request for Proposals for Work Within Scope of Recognized Employee Organizations (AB 339)

This law requires the governing board of a local agency to provide at least 45 days' written notice to a recognized employee organization before issuing a request for proposal, request for quotes or renewing or extending an existing contract to perform services within the scope of work of the job classifications represented by the employee organization, subject to certain exceptions. This notice must include specific information, including the anticipated duration of the organization.

STATE PROVIDED BENEFITS

Paid Family Leave for Care of "Designated Person" (SB 590)

SB 590 expands the scope of California's paid family leave program. Previously, the program provided wage replacement benefits for up to 8 weeks to workers who took time off to care for seriously ill family members. SB 590, effective July 1, 2028, extends eligibility to individuals caring for a "designated person," defined as anyone related by blood or whose

relationship with the employee is equivalent to a family relationship. Employees will be required to identify this designated person and, under penalty of perjury, attest to how the care recipient is related by blood or how their relationship qualifies as equivalent to a family relationship, when filing a claim for benefits.

Tightened Regulations for Workers' Compensation Insurance for Contractors (SB 291)

Previously, California law exempted an applicant or licensee who has no employees from the requirement to have on file with the Contractors State License Board ("CSLB") a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, provided that they file a statement with the CSLB certifying that they do not employ any person (as specified), and who does not hold a specified license issued by the board (as defined). SB 291 repeals the current exemption by January 1, 2027, instead of the previously set date of January 1, 2028. This change will affect both applicants or licensees organized as joint ventures, and applicants and licensees who have no employees, have no disciplinary actions, and do not undertake projects over \$2,000. The \$2,000 valuation applies to a single work or operation and cannot be circumvented by dividing the contracts to evade this requirement.

SB 291 also introduces stricter penalties related to false filings of exemption certificates for workers' compensation insurance. It mandates a minimum civil penalty of \$10,000 per violation for sole owner licensees, or \$20,000 for any partnership, corporation, limited liability company or tribal business licensee, found employing workers without maintaining the required workers' compensation coverage. Additionally, CSLB is prohibited from renewing or reinstating licenses for those under disciplinary action until they provide valid proof of workers' compensation insurance.

To further ensure compliance, SB 291 requires the CSLB to develop an open book examination by January 1, 2027. This examination will be included in the license renewal process, requiring licensees to certify under penalty of perjury that they do not have employees and understand the penalties for non-compliance. This is to ensure that the financial thresholds for exemptions remain relevant and fair over time. However, SB 291 specifies that the exemptions do not apply to any applicant or licensee with an active C-39 classification, which pertains to roofing contractors, due to the higher risks associated with this type of work.

Finally, SB 291 amends Section 7099.2 of the Business and Professions Code, which governs how the Contractors State License Board assesses civil penalties. The updated language sets minimum and maximum penalty amounts for violations, including a range of \$500 to \$8,000 for general violations and \$1,500 to \$30,000 for serious violations such as fraud or working without insurance. The law also authorizes the Board to adjust minimum penalties every five years based on inflation, using the Consumer Price Index.

Real Property Transfers by Uninsured Employers (SB 847)

Under prior law, employers were required to secure workers' compensation for their employees, and if the employer had not secured the payment of compensation or is illegally uninsured, a lien could be filed against their property or the property of substantial shareholders. SB 847 addresses situations where uninsured employers, or substantial shareholders, attempt to evade financial responsibilities by transferring ownership of real property after an employee's injury but before a lien is recorded.

SB 847 authorizes the Administrative Director of the Division of Workers' Compensation ("Director") to determine whether such property transfers were intended to retain a beneficial interest for the uninsured employer or substantial shareholder, effectively creating a resulting trust for their benefit. SB 847 will allow the Director to make a *prima facie* finding that the transaction resulted in a beneficial trust for the uninsured employer when specified circumstances are present, such as the deed indicates that the transfer was made as a gift or that no transfer tax to the county was paid, among others. If the Director determines that a resulting trust exists, a certificate of lien shall be attached to the resulting trust and would require the Director to mail written notices of that determination to the transferor and transferee (as prescribed).

ARTIFICIAL INTELLIGENCE

Ensured Accountability for AI-Related Harm (AB 316)

AB 316 will enhance accountability for the use of AI by prohibiting developers and users from claiming that an AI system autonomously caused harm to a plaintiff. Previously, individuals were responsible for injuries caused by their lack of

ordinary care or skill in managing their property or person. Additionally, developers of generative AI systems released after January 1, 2022, must provide documentation on their websites about the data used to train these systems. AB 317 builds on these requirements by ensuring that developers and users cannot evade responsibility by arguing that the AI acted independently.

MISCELLANEOUS

The California “Opt Me Out” Act (AB 566)

AB 566 amends the California Consumer Privacy Act of 2018 (CCPA) to enhance consumer privacy protections. Beginning January 1, 2027, it will prohibit businesses from developing or maintaining a browser that lacks a consumer-configurable setting to send an opt-out preference signal, (as defined). This signal allows consumers to communicate their decision to opt out of the sale or sharing of personal information when interacting with businesses online. AB 566 also requires businesses that develop or maintain browsers to clearly disclose how the opt-out preference signal functions and its intended effect. Importantly, it provides immunity from liability to browser developers for violations committed by businesses that receive the signal. Additionally, AB 566 authorizes the California Privacy Protection Agency to adopt regulations necessary to implement and administer these provisions.

NEW FEDERAL LAWS

No Tax on Tips/No Tax on Overtime

The federal government recently passed enacted several changes to the tax code that will allow employees to deduct specified amounts for “qualified tips” and “qualified overtime compensation” on their federal income taxes, up to certain amounts, and subject to specified caps on adjusted gross income. Employers should know that the new law imposes new requirements for tracking and reporting “qualified tips” and “qualified overtime compensation.” Specifically, employers need to include in employees’ W-2 forms:

1. The total amount of cash tips reported by the employee (paid in cash or charged, and including tips received under a tip-sharing arrangement) and the occupation in which the employee works that is covered by the “no tax on tips” rule; and
2. The total amount of qualified overtime compensation. Notably, qualified overtime compensation means *just the overtime premium* (i.e., ½ the regular rate of pay for each overtime hour, not including the underlying hourly rate) and only with respect to overtime that qualifies under federal law – that is, overtime for hours worked in excess of 40 hours per week, *not* California overtime for hours worked in excess of 8 hours per day.

These new rules are in effect for the 2025 through 2028 tax years, but the Treasury Department has not yet issued guidance for how employers should handle these new rules for the 2025 tax year.

California employers who have tipped employees or any non-exempt employees who work overtime should consult with their tax advisors and payroll providers to ensure they can accurately track and separately report tips and overtime pay in accordance with the new requirements. In addition, employers should look for new regulations or guidance from the Treasury Department, which may provide additional information in advance of the 2025 tax season.

NEW LOCAL ORDINANCES

Numerous Cities Increase Minimum Wages

Many California cities and counties have minimum wages higher than the state minimum wage that automatically increase each year. Some localities implement increases on January 1 each year, while others make changes on July 1. Here are some of the new minimum wages that went into effect on July 1, 2025 and will go into effect on January 1, 2026.

City or County	Effective July 1, 2025	Effective January 1, 2026
Alameda	\$17.46	
Belmont		\$18.95
Berkeley	\$19.18	
Burlingame		\$17.86
East Palo Alto		\$17.90
Emeryville	\$19.90	
Fremont	\$17.75	
Long Beach	\$25.00 (Hotel workers) \$18.58 (Concessionaire workers)	
Los Altos		\$18.70
Los Angeles (City)	\$17.87	
Los Angeles (County)	\$17.81	
Malibu	\$17.27	
Milpitas	\$18.20	
Palo Alto		\$18.70
Pasadena	\$18.04	
Richmond		\$19.18
San Francisco (City and County)	\$19.18	
San Jose		\$18.45
San Mateo (City)		\$18.60
San Mateo (County)		\$17.95
Santa Clara		\$18.70
Santa Monica	\$17.81	
West Hollywood	\$20.22 (hotel employees only)	\$19.65 (non-hotel employees)

For a full list of California local minimum wages, visit UC Berkeley Labor Center's list [here](#).

City of Los Angeles Ordinance to Raise Minimum Wage to \$30.00 an Hour for Hotel and Airport Employees on Hold

The City of Los Angeles has placed on hold a new ordinance that would increase the minimum wage for hotel and airport employees over a series of increases, reaching \$30.00 an hour by July 1, 2028. The minimum wage for employees working at hotels with 60 or more guest rooms is currently \$20.32 an hour and was set to increase as follows: to \$22.50 an hour effective July 1, 2025, to \$25.00 an hour effective July 1, 2026, to \$27.50 an hour effective July 1, 2027, and to \$30.00 an hour effective July 1, 2028. These minimum wage increases were intended to also apply to private companies working at Los Angeles International Airport, including airlines and concessions.

However, the ordinances are on hold while the city reviews a referendum petition against the ordinance.

San Diego County Restrictions for Covered Employers to Comply with in Addition to California's Fair Chance Act

Effective October 10, 2024, San Diego County adopted its own Fair Chance Ordinance ("SDFCO"). Covered employers in the county must now comply with both the county's SDFCO in addition to the state's Fair Chance Act ("FCA").

The new ordinance applies to positions that involve performing at least two hours of work on average each week within the unincorporated areas of San Diego County for a covered employer. A covered employer is any private employer who is either located in or doing business in the unincorporated areas of San Diego County, with five or more employees. This includes any entity that evaluates an applicant's or employee's criminal history on behalf of a covered employer or acts as an agent of a covered employer.

Under the ordinance, covered employers are prohibited from inquiring about an applicant's criminal history until after a conditional job offer is made. Additionally, they cannot include questions about criminal history on applications before extending such an offer. If a covered employer "intends to deny...[e]mployment, transfer, or promotion" based on criminal history, the employer must conduct a written individualized assessment evaluating whether the criminal history "has a direct and adverse relationship with the specific duties that justify" the decision, and follow a county-specific pre-adverse action letter process. Finally, covered employers must retain all records related to employment applications for at least one year and must provide these records to the Office of Labor Standards and Enforcement ("OLSE") or the applicant upon request.

There are notable differences between the county ordinance and existing state law, including:

- While the FCA requires an individualized assessment of whether the applicant's criminal history has a "direct and adverse relationship with the specific duties" that justifies denying the applicant the position, the SDFCO requires that the individualized assessment be written.
- In addition to the individualized written assessment, if a covered employer decides that an applicant's criminal history disqualifies them from employment, transfer, or promotion, the SDFCO requires that covered employers must notify the applicant in writing. This notification must include: (1) details of the disqualifying conviction(s) that led to the preliminary decision; (2) a copy of the criminal background check report or relevant information source; (3) information about the applicant's right to file a complaint with the OLSE regarding the SDFCO and with the state's Civil Rights Department concerning the FCA; and (4) an explanation of the applicant's right to respond to the preliminary decision, including the deadline for doing so and the possibility of submitting evidence to challenge the accuracy of the criminal background check report.
- Under the FCA, certain covered employers are exempt from the individualized assessment requirements. The SDFCO does not provide any similar exemptions.

The ordinance grants the OLSE substantial enforcement powers, including investigating violations, imposing escalating monetary penalties (up to \$5,000 for a first violation, \$10,000 for a second, and \$20,000 for third and subsequent violations), and recommending suspension or revocation of business licenses for noncompliance.

NEW STATE REGULATIONS AND GUIDANCE

New Regulations re: AI and Automated-Decision Systems

The Civil Rights Council of the California Civil Rights Department has amended its regulations concerning the Fair Employment and Housing Act ("FEHA") to address automated-decision systems in the workplace. These regulations aim to protect against employment discrimination given the growing concerns over employers' increasing use of artificial intelligence (AI) and automated-decision systems to make or facilitate employment decisions resulting in "algorithmic discrimination." **These regulations went into effect on October 1, 2025.** All employers should note that the amended regulations extend the required retention period for certain employment-related records. In addition, all employers or other entities using automated-decision systems to facilitate human decision-making regarding employment benefits should carefully review the regulations and consult counsel if necessary. The regulations clarify how existing anti-discrimination laws apply to the use of AI and ADSs in employment decisions such as hiring, promotion, and compensation. Please see our [Special Alert](#) for more information.

Cal/OSHA Protections Extended to Domestic Workers

In 2025, SB 1350 was signed into law, changing the definition of “employment” for purposes of the California Occupational Safety and Health Act, expanding it to include household domestic service (with some exceptions, including when an individual privately employs persons to perform ordinary domestic household tasks in their own residence). That bill went into effect on July 1, 2025. Cal/OSHA says these workplace safety and health protections will allow it to enforce regulations for covered employers in the domestic services industry. This includes requirements for safe tools and equipment, hazard training, and protections against unsafe working conditions. Cal/OSHA has published FAQs and Fact Sheets for businesses, homeowners and workers, available here: <https://www.dir.ca.gov/dosh/Domestic-Service-Workers/Guidance-and-Resources.html>.

CRD Publishes Guidance and Notices for Victims of Violence Leave

Last year, California enacted a law expanding employees’ right to time off and right to be accommodated if they or their family members are victims of violence. We summarized the law in our 2024 Legislative Update, available [here](#). Among other things, the new law requires employers to inform each employee of their rights under the bill in writing. The law specifies that the Civil Rights Department (“CRD”) would create a form for such notice (entitled “Survivors of Violence and Family Members of Victims Right to Leave and Accommodations”), and that employers would not be required to comply with the notice requirement until the department posted the form on its website. On July 7, 2025, the CRD published the model notice, which you can access [here](#). While employers are not required to use the model notice, they must issue a notice that is substantially similar in content and clarity to the CRD’s form. Employers are required to provide this notice to new employees upon hire, to all employees annually, at any time upon request, and any time an employee informs an employer that the employee or the employee’s family member is a victim. California employers that have not yet provided written notice of the law should begin complying with the notice requirements.

The CRD also published new guidance on victims leave with responses to frequently asked questions, available [here](#).

New FAQs re: PAGA

The California Labor & Workforce Development Agency (LWDA) published Frequently Asked Questions (FAQ) on the Private Attorneys General Act (PAGA), providing an overview of PAGA basics, and guidance to employers on the new procedures introduced by the 2024 amendments. (<https://www.labor.ca.gov/resources/paga/paga-faqs/>). Among others, the FAQ addresses what is recoverable under PAGA, the cure process for employers, and the new early evaluation conference.

New Model List of Employees’ Whistleblowing Rights and Responsibilities

In 2024, California enacted AB 2299, which required the Labor Commissioner to develop a “model list” of employees’ rights and responsibilities under California’s whistleblowing statute (Labor Code section 1102.5). The new law provided that if an employer posts this “model list,” it will satisfy the requirement of Labor Code section 1102.8, which requires employers to prominently display a list of employees’ whistleblowing rights and responsibilities.

In December 2024, the Labor Commissioner published the model list, which is available at <https://www.dir.ca.gov/dlse/whistleblowersnotice.pdf>.

If you have questions about how these new laws and regulations may affect your business, please contact us.

- Michael Kalt (mkalt@wilsonturnerkosmo.com)
- Katie M. McCray (kmccray@wilsonturnerkosmo.com)
- Patricia Clark (pclark@wilsonturnerkosmo.com)

Wilson Turner Kosmo’s Legislative Summaries are intended to update our valued clients on significant employment law developments as they occur. This should not be considered legal advice.