



Legislative Update
November 2011

At the 11th hour, On October 9, Governor Brown signed many bills that make significant changes to employment law for employers in CA. In our efforts to assist you with your legal compliance and business issues, I offer the following summary. Remember though, that United Staffing Associates provides HR advice, not legal advice. You are best to consult your friendly labor law attorney for more detail on any of the following that “peak your interest”:

AB 22 - available [here](#). This new law bans most employers (not financial institutions or businesses required by law to perform credit checks) from obtaining credit information about applicants or employees, except in limited circumstances. The law does not preclude criminal background checks, references, etc. - only credit information. It does not apply to managers covered by the executive exemption, the Dept. of Justice, financial firms and employees with regular access to personal information.

AB 228 – Available [here](#) – says that the State Compensation Insurance Fund (SCIF) will provide workers' compensation coverage to California employers whose employee(s) sustain an injury while temporarily working on a out-of-state assignment triggering workers' compensation liability in another state.

AB 469 – Available [here](#) - requires employers to provide nonexempt employees, at the time of hire, a notice that specifies nine (9) specific pieces of information. The law also requires notice of any other information the Labor Commissioner deems material and necessary. The DOL has committed to provide a template. Additionally, any change to the information in the notice must be provided by the employer within seven calendar days of the change(s), unless such changes are reflected on a timely wage statement or other written document required by law.

AB 592 - available [here](#). This law adds an express prohibition of "interference" with California Family Rights Act leave, similar to what is contained in the FMLA's text.

AB 887 - available [here](#) - further defines "gender" in a variety of laws, including the Fair Employment and Housing Act, to include both gender identity and “gender expression”. Current law only uses the term gender identity; this law clarifies that discrimination on either basis is prohibited.

AB 1236 - available [here](#) - allows employers to choose to use E-Verify, but prohibits cities or counties from requiring private employers to do so.

AB 1396 – Available [here](#) – **Effective January 1, 2013**, requires employers who provide commission to put those written agreements into a contract. The signed contract is to be provided to each such employee and a signature from the employee for receipt of the contract must be obtained. The contract must define the method of computation and pay for the commission.

SB 117 – Available [here](#) - prohibits state agencies from entering into contracts in excess of \$100,000 with businesses and that deny equal benefits to the same-sex spouses or registered domestic partners of their employees.

SB 126 – this new law allows the Agricultural Labor Relations Board (ALRB) to certify a union as the bargaining agent for employees if it finds employer misconduct during an union election that would affect the results of the election and provide a chance for a new and fair election; imposes time limits for challenging election results, and more.

SB 272 – Available [here](#) – clarifies parts of California’s organ and bone marrow donor leave law. The new legislation clarifies that the days of leave are business days, not calendar days, and that the one-year period is

measured from the date the employee's leave begins. In addition, clarifies that employers can require the use of PTO; sick and vacation leave are part of the existing law.

SB 299 - available [here](#). This provision seems to overlap AB 592, but also requires employers to extend group health coverage to employees taking PDL for the entire four month duration of PDL. The extension of health coverage will apply even if there is no FMLA entitlement. Between 592 and 299, it appears that the 12-week cap on employer paid benefits that applied to combined PDL/CFRA leave is gone. Will ERISA preempt this provision? Does the health care reform law affect it? Stay tuned. If this provision holds, get ready to modify all your policies again.

SB 459 - Available [here](#) - This new law imposes a fine of between \$5000 and \$25,000, for "willfully" misclassifying someone as an independent contractor, makes it a crime and imposes joint liability for a non-attorney consultant to advise an employer to do so. Employers also will not be able to make deductions from contractors' pay that they would not have been able to make had the contractors been employees.

SB 559 – Available [here](#) - amends the Fair Employment and Housing Act (FEHA) to state that employers are prohibited from discriminating against employees on the basis of genetic information and is in addition to the existing state law prohibiting discrimination based on a medical condition, including a genetic characteristic.

SB 757 – Available [here](#) - prohibits a health care service plan or a health insurance policy from discrimination in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex. It also states that all group health care service plans, if marketed, issued, or delivered in California, must comply with the state non-discrimination requirements.

I hope this information is of value; feel free to contact me for any HR needs.

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