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**HEADS UP!**  
**Lawsuit Prevention for Employers**

**NEW EMPLOYMENT LAWS FOR 2015**

Consistent with recent trends, California has enacted several new employment laws that will affect the existing policies of employers of all sizes. In many cases, these will require the modification of employee handbooks in order for employers to remain in compliance with California law. What follows will summarize some of the most important changes in California law. Unless otherwise indicated, each of the new statutes will take effect on January 1, 2015.

**New Laws for 2015:**

1. **Mandatory Paid Sick Leave for All California Employers:** Effective July 1, 2015, all employers, regardless of size, are required to provide eligible employees with paid sick leave benefits. These benefits may be used by the employee to attend to his/her health-related problems, or those of close family members. Additionally, they may be used by employees who are victims of "stalking," domestic violence or sexual assault, or of various other enumerated crimes.

Eligible Employees: Those who work in California for 30 or more days from the later of either the commencement of employment or July 1, 2015.

Accrual of Leave: Eligible employees accrue at least one hour of paid benefits for every 30 hours worked, which, for full-time employees, equates to slightly over eight days of paid benefits per year. Exempt employees will accrue benefits based on a presumed 40-hour work week, or on a pro-rated basis for part-time employees.

A detailed discussion of the new paid sick leave requirements will appear in the next issue of HEADS UP!

2. **Child Labor Protection Act:** Provides additional remedies for violation of laws concerning the employment of minors. It provides that for child labor claims, the statute of limitations does not begin to run until the “child” worker reaches the age of 18. This provision applies retroactively. The new law provides that persons filing claims alleging child labor violations may receive treble (triple) damages, in addition to other available legal remedies, if they experience unlawful retaliation. The law creates classes of violations and resulting penalties, and imposes a civil penalty of \$25,000 to \$50,000 for each violation relating to minors under 12.
3. **Liquidated Damages:** Employees may recover liquidated damages in actions before the Labor Commissioner for minimum wage violations going back three years (or four years under the Unfair Competition Law), in addition to remedies available in court actions.
4. **Contractors Liable for Subcontractor Labor Violations:** Contractors are now jointly and severally liable with subcontractors and/or temporary agencies for:
  - a. the payment of wages wrongly withheld from employees of subs/temp agencies;
  - b. the failure to report and pay all required employer contributions, worker contributions, and personal income tax withholdings; and
  - c. the failure to secure valid workers’ compensation coverage.

The statute expressly exempts employers with fewer than 25 employees, homeowners and home-based businesses, certain motor carriers, cable and other telecommunications entities, among others.

The new law will impose strict liability on any individual or entity that engages employees provided by subs/temp agencies to perform work “within the usual course of business of the individual or entity.”

The statute is expected to have particular impact on employers who depend on labor contractors for numerous functions, such as filling seasonal or short-term work schedules, to compensate for employee absences, to avoid layoffs and to provide short-term solutions to other labor needs.

The new requirements are not waivable.

Employers whose operations require the continued use of labor subcontractors or temporary agencies are well-advised to bring enhanced vigilance to the selection of labor contractors and temporary agencies and, in particular, to carefully verify that any such entities are in strict compliance with all labor-related obligations.

5. **Harassment and Discrimination Laws Now Cover Unpaid Interns and Volunteers.**
6. **Supervisor Training Must Now Include Abusive Conduct:** This expands the required training beyond that related to sexual harassment, to include any conduct by the employer or any employee in the workplace that involves malice that would reasonably be considered hostile, offensive, and unrelated the employer’s legitimate interests. This could include verbal

abuse, derogatory remarks, insults and epithets, as well as threatening, humiliating or intimidating physical conduct, or the gratuitous sabotage or undermining of an employee's work performance. This training requirement is not limited to situations where the offensive conduct is directed to those within a protected classification.

7. **Prohibition On Discrimination Against Public Assistance Recipients:** Applies to employers of 100 or more beneficiaries of Medi-Cal benefits.
8. **Protections for Emergency Duty Volunteers Expanded:** Applies to volunteer firefighters, reserve peace officers and emergency rescue personnel. Expands covered employees to include officers, employees or members of a disaster medical response entity sponsored or requested by the state. The expanded statute requires employees covered as health care providers to notify their employer at the time they are designated as emergency rescue personnel and when they are notified that they will be deployed as a result of that designation.
9. **Unfair Immigration Practices Clarified:** Expands definition of “unfair immigration-related practices” to include threatening to file or the filing of a false report or complaint with any state or federal agency, and allows a civil action for equitable relief, damages and penalties for any such practice, as well as authorizing a court to order the suspension of an employer's business licenses. Provides for a \$10,000 civil penalty per employee for violation, and that penalties paid are to be awarded to the employees victimized by the violation.
10. **Cool down Rest Period Break Law Clarified:** Cool down periods are treated as hours worked. The original statute, enacted in 2013, provided that employees working outdoors in temperatures exceeding 85 degrees are entitled to a cool down rest period of no less than five minutes when employees feel the need for protection from excessive heat. Employers are required to provide the requested rest periods, and to encourage employees to utilize the paid breaks. The new law clarifies that cool down periods, like rest brakes, are treated as hours worked for which there may be no deduction in wages. Employers are subject to civil and Cal-OSHA liability for violations and for heat-related health problems in the event of a failure to pay for recovery periods. Because the statute provides no limit on the number of cool down breaks employees may take each day, employers are advised to develop carefully considered written policies to establish how many breaks are reasonable.
11. **Workplace Violence Prevention Plans Now Required for Hospitals.**
12. **Employers Providing Services to Minors Must Provide Background Check Disclosure:** Covers employers primarily engaged in providing service or program of instruction, including academic tutors, for minors where adult employees have supervisory or disciplinary authority over children. Some day care and medical facilities are excluded. Businesses providing such services to minors must provide a written notice to parents or guardians of minor-recipients of services describing the employer's policies relating to employee criminal background investigations.