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Pacific Employers

MANAGEMENT ADVISOR

Winter 2018
 Over 50 Years of Excellence!



WHAT'S NEWS! New Parent Leave Act

The "New Parent Leave Act" (SB 63) extends the California Family Rights Act's (CFRA) protections to smaller employers.

The law requires employers with at least **20 employees within 75 miles** to allow employees, with more than 12 months and at least 1,250 hours of service, to take up to 12 weeks of parental leave, with healthcare benefits, to bond with a new child within one year of the child's birth, adoption, or foster care placement.

An employer employing both parents who both are entitled to leave for the same child need not give more than 12 weeks of leave total to the employees (which may be granted simultaneously if the employer chooses).

Prior to the enactment of this law, only employers with 50 or more employees were required to provide baby bonding leave under both the Federal Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA). Employers with less than 50 employees could provide this type of baby bonding leave on a discretionary, non-protected basis, or not at all.

Handbook updates should be made to include New Parent Leave Act and other new laws to avoid the obvious confusions. [PE]

Cal/OSHA Now Enforcing Silica Standard!

Cal/OSHA is now beginning enforcement of the Respirable Crystalline Silica.

Crystalline Silica is a common mineral found in the earth's crust. Materials like sand, stone, concrete, and mortar contain crystalline silica. It is also used to make products such as glass, pottery, ceramics, bricks, and artificial stone.

As of September 23, 2017, Cal/OSHA began enforcing the new rules on Respirable Crystalline Silica within the workplace. According to the Cal/OSHA Standard, employers and workplaces are now liable for the safety of their employees when respirable crystalline silica exposure risk is greater than 25 micrograms per cubic meter.

Using handheld grinders, drilling or cutting concrete, jackhammering, grinding, sawing, polishing or use of heavy equipment for demolition, grading or excavation on sand or concrete materials are all affected.

An update of your Safety Program is suggested if you saw, jackhammer or demolish concrete. Please contact Pacific Employers with any questions. [PE]



Seminar Series at The Depot Restaurant 207 E Oak Ave, Visalia

Articles in this Newsletter have been extracted from a variety of technical sources and are presented solely as matters of general interest to employers. They are not intended to serve as legal opinions, and should not be deemed a substitute for the advice of proper counsel in appropriate situations.

CA Minimum Wage Increase for 2018

The minimum wage for the state of California will increase to \$11.00 per hour for businesses employing 26 or more workers. For those employers with 25 or less, the minimum wage will increase to \$10.50. This change is effective January 1, 2018. [PE]

IRS Standard Mileage Rate for 2018

The IRS issued the 2018 optional standard mileage rates used to calculate the costs of operating a vehicle for business purposes. Beginning on January 1, 2018, the standard mileage rate is 54.5 cents per mile, up from 53.5 cents in 2017.

Under California Labor Code section 2802, California employers are required to reimburse employees for reasonable expenses necessarily incurred in the performance of their job duties. This includes expenses associated with the use of their personal vehicles for business purposes. Most employers use the standard mileage rate to satisfy their obligation to reimburse employees for expenses associated with using their personal vehicles for business travel. [PE]

Annual Salary Rate Increases for Software Professionals

California exempts certain computer professionals from its overtime pay requirements if they are compensated at or above the level set by the state each year and satisfy a stringent job duties test.

The DIR announced that the rates for the computer employee exemption from state overtime pay requirements will rise 2.9% next year, reflecting the increase in that index. Effective January 1, 2018, the minimum dollar amounts for the exemption will be: an hourly rate of \$43.58, a monthly salary of \$7,565.85, and an annual salary of \$90,790.07. [PE]

Cal/OSHA: Companies Exposed Workers to Valley Fever!

Valley Fever -- a microscopic fungus present in the soils of California causes the illness.

Six California companies are facing \$241,950 in fines after multiple workers contracted Valley Fever on a job site in Monterey County.

The employers, one contractor and five subcontractors, failed to control worker exposure to contaminated dust at a solar project construction site in Cholame Hills, according to Cal/OSHA.

"Employers who work in areas endemic to Valley Fever must take preventative measures to protect workers who may be exposed," said Juliann Sum, Cal/OSHA chief, in a statement.

Valley Fever is caused by *Coccidioides immitis*, a microscopic fungus that lives in 2- to 12-in. of soil in the state. Once the soil is disturbed, spores become airborne and, as a result, can be inhaled, according to the agency.

The following employers did not provide and ensure use of respiratory protection to prevent exposure: McCarthy Building Companies Inc., Papich Construction Inc., Granite Construction Inc., Dudek, Sachs Electric Co. and Althouse and Meade Inc.

The agency listed McCarthy as the general contractor. The other companies were noted as subcontractors. Papich Construction Inc. previously was cited for the same violations in 2013. [PE]

Want Breaking News by E-Mail?
 Just send a note to
 peinfo@pacificemployers.com
 Tell us you want the News by E-Mail!

Updated Employment Application Enclosed!

President's Report ~Dave Miller~

"All-in-1" Poster for 2018!
We have mailed your 2018 "All-in-1" Poster!



Extras of the English as well as a new 2018 Spanish Poster are available at our office.

REMEMBER, You're not done when you get the "All-in-1" Poster up. You still need to fill out the Workers' Comp information panel and then make sure you have posted the Industrial Welfare Commission's (IWC) order for your business. Check out the **Find Your Wage Order** box in the poster for details on your firm's wage order. [PE]

New General Counsel at the NLRB!

The Senate has confirmed, on a party-line vote, Peter Robb as General Counsel of the National Labor Relations Board (NLRB.) Mr. Robb succeeds Richard Griffin, an Obama appointee whose term recently expired.

Mr. Robb has most recently been a partner in the Vermont law firm of Downs Rachlin Martin, PLLC, but he also has an extensive history with the NLRB. He's definitely "management-side," so we look forward to seeing how he changes the Board's position on issues that have so vexed employers.

According to Sen. Majority Leader **Mitch McConnell (R-Ky.)** the confirmation of Mr. Robb signals that the Board will again become a "neutral umpire" in adjudicating labor relations issues. [PE]

Form 300 Rules

California employers in high hazard industries with ten or more employees are required to post the Cal/OSHA's Form 300 February thru April each year.

All pages of Form 300 are available on our website forms page in the California Government section and includes the forms, instructions and the Summary:

<http://www.pacificemployers.com/forms.htm>

High hazard employers must complete both OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 300-A Summary of Work-Related Injuries and Illnesses, however, only the latter, the Form 300-A, is required to be posted in the workplace. [PE]

E-file for all Employers

Assembly Bill 1245 mandated the electronic submission of tax returns, wage reports, and payroll tax deposits and the electronic submission of tax returns, wage reports, and payroll tax deposits for all employers.

Previously only employers with 10 or more employees were required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the Employment Development Department (EDD). Effective January 1, 2018 all remaining employers are now subject to this requirement! [PE]

"Few things are more irritating than when someone who is wrong is also very effective in making his point."
 -- Mark Twain (1835-1910)

NEW LABOR LAWS FOR 2018

The top new laws impacting business in 2018. Unless specified, all new legislation goes into effect on January 1, 2018:

A few new California laws affect employers' wage-and-hour obligations in 2018, some of which are related to enforcement.

• Minimum Wage Increase

On January 1, 2018, the state minimum wage increases to \$10.50 per hour for employers with 25 or fewer employees and to \$11 per hour for employers with 26 or more employees.

• Parental Leave For Small Employers

SB 63, the New Parent Leave Act, requires small businesses with 20 or more employees to provide eligible employees up to 12 weeks of unpaid, job-protected leave to bond with a new child. The leave must be taken within one year of the child's birth, adoption or foster care placement. SB 63 requires employers to provide parental leave only for baby bonding; it does not require employers to provide leave for other reasons, such as a family member's medical issue.

Impacts employers with 20 to 49 employees not currently required to provide baby bonding leave under FMLA or the state California Family Rights Act.

• Ban-the-Box Law

AB 1008 prohibits employers with five or more employees from asking about criminal history information on job applications and inquiring about or considering criminal history at any time before a conditional offer of employment has been made.

• No More Salary History Questions

AB 168 bans employers from asking about a job applicant's prior salary, compensation or benefits.

In addition, employers cannot rely on salary history information as a factor in determining whether to hire the applicant or how much to pay the applicant.

• Worksite Immigration Enforcement Protections

The Immigrant Worker Protection Act (AB 450) provides workers with protection from immigration enforcement while on the job and imposes varying fines from \$2,000 to \$10,000 for violating its provisions.

• Alcohol Servers

AB 1221 requires, effective 2021, businesses licensed to serve alcohol make sure each alcohol server receives mandatory training on alcohol responsibility and obtains an alcohol server certification.

• Harassment Prevention Training: Gender Identity/Gender Expression, Sexual Orientation

California employers with 50 or more employees must provide supervisors with two hours of sexual harassment prevention training every two years.

Under SB 396, covered employers will have to make sure any mandatory training course they use also discusses harassment based on gender identity, gender expression and sexual orientation.

• Harassment Training: Farm Labor Contractors

SB 295 requires training be conducted or interpreted into a language understood by the employee, and that the Labor Commissioner receive a list of harassment prevention training materials used and the number of individuals trained.

• Gender Identification: Female, Male or Nonbinary

SB 179 will allow California residents to choose from three equally recognized gender options — female, male or nonbinary — on state-issued identification cards, birth certificates and driver licenses.

• Discrimination: Gender Neutral Language

AB 1556 revises Fair Employment Housing Act by deleting gender-specific personal pronouns in anti-discrimination, anti-harassment, pregnancy disability and family/medical leave laws changing "he" or "she," for example, to "the person" or "the employee."

• Fair Pay Act Expansion

AB 46 extends Fair Pay Act to cover public employers; existing law only covers private employers.

• Data Collection: Sexual Orientation

AB 677 requires, by July 1, 2019, various state labor agencies collect voluntary, self-identified information pertaining to sexual orientation and gender identity in the regular course of collecting other types of demographic data.

• Human Trafficking

AB 260 extends the list of businesses which must post a Human Trafficking Information Notice to include hotels, motels and bed and breakfast inns.

• Anti-Discrimination Protections for Veterans

AB 1710 expands the current protections for members of the armed services by prohibiting discrimination in all "terms, conditions, or privileges" of employment. This legislation conforms state law to the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) by protecting servicemembers in civilian jobs from hostile work environments.

• Labor Law Enforcement, Retaliation

SB 306 allows the Labor Commissioner to investigate an employer — even without a complaint from an employee — when the Labor Commissioner suspects retaliation or discrimination against a worker during a wage claim or other investigation. The Labor Commissioner also can obtain a court order prohibiting an employer from firing or disciplining an employee, even before completing its investigation or determining retaliation has occurred. SB 306 also creates a new citation process for alleged violations and penalties.

• Increased Liability for Construction Contractors

For certain private construction contracts entered into after January 1, 2018, AB 1701 imposes liability onto the general contractor for any unpaid wages, benefits or contributions a subcontractor owes to a laborer who performed work under the contract.

• Barbering and Cosmetology

SB 490 allows workers licensed under the Barbering and Cosmetology Act to be paid a commission in addition to a base hourly rate if certain conditions are met.

AB 326 requires Board of Barbering and Cosmetology schools to include information on physical and sexual assault awareness in the required health and safety course for licensees beginning July 1, 2019.

• Workplace Safety

SB 258 relates to the safety of designated cleaning products, including general cleaning, air care, automotive, or polish or floor maintenance products used primarily for janitorial, industrial or domestic cleaning purposes. [PE]



Dinner for 2 at the *Vintage Press!*
That's right! When a business that you recommend joins Pacific Employers, we treat you to dinner for two at the *Vintage Press.*



Human Resources Question with Candice Weaver

THE MONTH'S BEST QUESTION

California's New Parent Leave Act (NPLA)

Q: "As a small employer, I did not have to grant Baby Bonding Leave to my employees if I did not want to. Now I understand a new law requires that I do so!"

A: SB 63, now requires California employers with between 20-49 employees to provide up to 12 weeks of unpaid parental leave, in a 12-month period, to bond with a new child within one year of the child's birth, adoption, or foster care placement.

Prior to the enactment of this law, only employers with 50 or more employees were required to provide baby bonding leave under both the Federal Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA). Employers with less than 50 employees could provide this type of baby bonding leave on a discretionary, non-protected basis, or not at all.

Similar to FMLA and CFRA, in order for an employee to be eligible for New Parent Leave, the employee must have worked for the employer for at least 12 months and have at least 1250 hours of service in the last 12 months. There is also a requirement that the employee work at a facility that has at least 20 employees within a 75-mile radius.

Unlike FMLA and CFRA, the New Parent Leave Act does not provide for time off for the employee's own serious health condition or to care for a family member with a serious health condition.

However, keep in mind that any employer with 5 or more employees is also covered under California's Pregnancy Disability Leave (PDL) law, which provides pregnant employees with the right to accommodations which include up to 17 1/3 weeks (or 88 days) of medically necessary leave for pregnancy, birth, or related medical issues. As such a pregnant employee may take up to 17 1/3 weeks off for medically necessary pregnancy leave and then, if eligible under the New Parent Leave Act, request an additional 12 weeks of baby bonding leave — and all this time off is considered protected. [PE]

Sexual Harassment Prevention Training

The Visalia Chamber of Commerce and Pacific Employers will host a state mandated Supervisors' Sexual Harassment Prevention Training Seminar & Workshop with a continental breakfast on January 24th, registration at 7:30am, Seminar 8:00-10:00am, at the Lamp Litter Inn, Visalia. Future 2018 training dates: 4-24-18, 7-25-18 and 10-24-18.

RSVP Visalia Chamber - 559-734-5876
PE & Chamber Members \$40 - Non-members \$50
Certificate - Handouts - Full Breakfast

LABOR SEMINARS NOW AT THE DEPOT

Pacific Employers sponsors a seminar series on employee labor relations topics for all employers at

The Depot Restaurant, 207 E Oak Ave, Downtown Visalia.

RSVP to Pacific Employers at 559-733-4256. These mid-morning seminars include refreshments and handouts.

2018 Topic Schedule

♦ **Hiring & Maintaining "At-Will"** - Planning to hire? Putting to work? We discuss maintaining "At-Will" to protect you from the "For-Cause" Trap!

Thursday, January 18th, 2018, 10 - 11:30am

♦ **Labor Law Update** - The courts and legislature are constantly "Changing the Rules." Learn about the recent changes to both the California and U.S. laws that affect employers of all types and sizes.

Thursday, February 15th, 2018, 10 - 11:30am

♦ **Employee Policies** - Every employer needs guidelines and rules. We examine planning considerations, what rules to establish and what to omit.

Thursday, March 15th, 2018, 10 - 11:30am

♦ **Equal Employment Fundamentals** - Harassment & Discrimination in the Workplace - The seven (7) requirements that must be met by all employers. "The Protected Classes."

Thursday, April 19th, 2018, 10 - 11:30am

♦ **Safety Programs** - Understanding Cal/OSHA's Written Safety Program. Reviewing the IIPP or SB 198 requirements for your business.

Thursday, May 17th, 2018, 10 - 11:30am

♦ **Family Leave** - Fed & CA Family Medical Leave, California's Pregnancy Leave, Disability Leave, Sick Leave, Workers' Comp, etc.; Making sense of them.

Thursday, June 21st, 2018, 10 - 11:30am

♦ **Wage & Hour and Exempt Status** - Overtime, wage considerations and exemptions.

Thursday, July 19th, 2018, 10 - 11:30am

No Seminars in August or December

♦ **Forms & Posters** - and Contracts, Signs, Handouts, Fliers - Just what paperwork does an Employer need?

Thursday, September 20th, 2018, 10 - 11:30am

♦ **Guest Speaker Seminar** - Annually we bring you a speaker for a timely discussion of labor relations, HR and safety issues of interest to the employer.

Thursday, October 18th, 2018, 10 - 11:30am

♦ **Discipline & Termination** - The steps to take before termination. Managing a progressive correction, punishment and termination program.

Thursday, November 15th, 2018, 10 - 11:30am

No Seminar in December