

Bartko «🔔» Client Update



Annual Update Labor and Employment Laws

December 18, 2024

Dear Clients & Friends

We hope your year is winding down nicely. We wanted to inform you about several key legislative changes that have recently gone into effect or will take effect in 2025, each of which will significantly impact California employers. It's important for you to be aware of these new laws to ensure your business remains compliant and to avoid any potential legal issues. Below are some of the most notable changes about which you should be aware.

California Labor and Employment Legal Updates for 2024/2025

Minimum Wage

State Minimum Wage:

- Effective January 1, 2025:
- Increases from \$16.00 to \$16.50/hour.
- Exempt employee salary threshold rises to \$68,640/year.
- Computer professional salary threshold increases to \$118,657.43/year or \$56.97/hour

Local Wage Increases (2025):

- Cities like Oakland, San Jose, Palo Alto, and more will raise their minimum wage in 2025. Contact us for specific details.

Industry-Specific Increases:

- Fast food workers: \$20.00/hour effective April 1, 2024.
- Health care workers: Wages range from \$18.00–\$23.00/hour (based on facility), effective October 16, 2024.

Employers should plan for these changes to ensure compliance and adjust for 2025.

Updates to Protected Categories & Expanded Enforcement of Anti- Discrimination Laws

Effective January 1, 2025

AB 1815 (Amendment to the CROWN Act):

- Expands protection against discrimination based on traits historically associated with race (e.g., hair texture, protective hairstyles).
- Removes the word "historically," making these traits explicitly protected under the definition of race.

SB 1137 (Intersection of Protected Characteristics):

- Expands FEHA to include discrimination based on a combination of protected categories (e.g., gender + religion).
- Protects individuals who may face discrimination based on a perception of a combination of characteristics or associations with others who have protected characteristics.

SB 1100 (Driver's License Requirements in Job Postings):

- Prohibits requiring a driver's license in job postings unless driving is a core job function and alternative transportation would not be comparable in travel time or cost.

SB 1340 (Local Anti-Discrimination Enforcement):

- Allows local governments to enforce anti-discrimination laws and permits stricter local laws.
- Extends the statute of limitations for discrimination complaints if local enforcement proceedings are ongoing.

Expanded Leave Requirements

AB 2123 (Paid Family Leave):

- **Effective 2025:** Employers can no longer require employees to use accrued vacation leave before accessing California's Paid Family Leave (PFL) benefits.
- Previously, employees were required to use up to two weeks of vacation before utilizing PFL.

AB 2499 (Crime Victim Leave & Jury/Witness Leave):

- Expands Crime Victim Leave to include more crimes.
- Allows employees to take leave to assist family members who are crime victims.
- Prohibits discrimination/retaliation for taking leave to serve as a juror or witness in court.
- Employer obligations: Must provide written notice of these rights to new hires, annually, upon request, and when becoming aware of a family member's victim status.

Workplace Safety

SB 428:

- **Effective 2025:** Expands the authority to seek Temporary Restraining Orders (TROs) for workplace violence.
- Employers and employee collective bargaining representatives can now seek TROs if an employee suffers harassment.

Workplace Safety Regulations:

- **OSHA Heat Illness Standard:** Federal OSHA is considering a national heat illness and prevention standard, which may prompt updates to Cal OSHA regulations.
- **AB 2975:** Requires Cal OSHA to revise workplace violence prevention regulations for health care facilities by March 2027, including implementing weapons screening policies and detection devices.
- **AB 1976:** Directs Cal OSHA to propose a rule to include opioid antagonists (e.g., Narcan) in required first aid materials by December 2027.

Freelance Workers

SB 988 (Effective January 1, 2025)

Written Agreements Required: Contracts between hiring parties and freelance workers must be in writing and include:

- Names and addresses of each party.
- Itemized list of services, their value, and compensation method.
- Payment due dates or methods to determine them.
- Due dates for the freelancer to report completed services.

Payment and Terms:

- Hiring entities cannot require freelancers to accept less compensation, provide more services, or grant additional intellectual property rights beyond what is outlined in the contract.

- **Record Keeping:** The hiring party must retain a copy of the contract for at least 4 years.

Captive Audience Ban

SB 399 (Effective 2025)

Prohibits Forced Attendance: Employers cannot require employees to attend meetings related to religious or political matters.

Protections for Employees: Employees cannot be discriminated against, retaliated against, or face adverse actions for refusing to attend such meetings.

Exemptions: The law does not apply to:

- Communications required for job duties or legal obligations.
- Religious institutions, political organizations, educational institutions, or tax-exempt training programs.
- Mission-specific situations or workplace orientations.

- **Employer Action:** Employers should update policies and train supervisors on these requirements. If holding political or religious meetings, ensure the voluntary nature is clearly documented.

PAGA Reform

Effective June 19, 2024

Plaintiff Standing & Timing:

- Plaintiffs must **personally experience** each specific violation to bring a PAGA claim.
- Claims must be based on violations within **one year** of filing a PAGA notice.

Caps on Penalties:

- Default penalty remains **\$100** per employee per pay period for initial violations.
- **\$200** penalty applies only if employer's conduct is **malicious, fraudulent, or oppressive**, or if a court has found the policy unlawful within the last 5 years.
- Technical wage statement violations: **\$25** per employee per pay period.
- Penalties are **reduced by half** for employers with weekly pay periods.

Penalty Reduction for Good Faith Compliance:

- Employers can reduce penalties by curing violations and demonstrating **good faith compliance**.
- Penalty caps range from **no penalty** to **\$15 per employee per pay period** depending on actions taken to correct violations.

Early Resolution Opportunities:

- Employers can request an **early evaluation conference** to reduce penalties by submitting a confidential plan to cure violations.
- Employers with **fewer than 100 employees** may avoid PAGA complaints by submitting a plan to the LWDA.

Greater Court Authority:

- Courts can **limit the scope** of claims, consolidate violations, and adjust penalties if an award is deemed unjust.

Additional New Laws

Updated Workplace Posters (AB 2299 & AB 1870): Employers must update posters on whistleblower protections and workers' compensation.

Fair Chance Ordinances (LA & San Diego): Prohibits employers from considering criminal history before a conditional offer of employment, requiring an individualized assessment of criminal history and its relevance to the job.

SECURE Act 2.0: Starting January 1, 2025, employers must automatically enroll eligible employees in 401(k) and 403(b) plans.

Healthcare Coverage for Fertility Services (SB 729): Starting July 1, 2025, healthcare plans must cover infertility and fertility treatments.

Social Compliance Audits (AB 3234): Employers undergoing a child labor audit must post the audit findings on their website.

Entertainment Vendor Training (AB 2738): Entertainment event contracts must include details about OSHA training for vendor employees.

AB 5 Exemption for Newspaper Distributors (AB 224): Exemption extended until January 1, 2030 for newspaper distributors under AB 5.

Domestic Workers' Safety (SB 1350): Cal/OSHA now enforces health and safety regulations for domestic workers in private homes.

Pharmacy & Grocery Store Closures (SB 1089): New advance notice requirements for closures of pharmacies and grocery stores, similar to WARN Act rules.

Small Employer Mediation Program (SB 2011): The CRD Small Employer Mediation Program is now permanent and expanded to include reproductive loss leave disputes.

AI/Digital Replicas (SB 2602): Limits employers' use of AI-generated voices or digital replicas of performers' likenesses.

Quick Actions

Minimum Wage & Salary Adjustments (Effective 2025)

- Update payroll to reflect the new state minimum wage of \$16.50/hr and exempt employee salary threshold of \$68,640/year.
- Adjust for local wage increases in cities like SF, Oakland, and San Jose (review specific local changes).

Anti-Discrimination Updates

- Revise policies to comply with the CROWN Act, protecting against race-related discrimination, including hair texture and styles.
- Update policies to reflect protections based on the intersection of multiple protected characteristics (e.g., race and gender).
- Remove driver's license requirements from job postings, unless the role specifically requires driving.

Leave Policy Updates

- Update Paid Family Leave policies to remove the vacation leave requirement before employees can access PFL.
- Revise Crime Victim Leave policies to expand qualifying crimes and family leave rights.
- Update jury duty/witness leave policies to ensure no discrimination or retaliation for taking such leave.

Workplace Safety

- Implement Workplace Violence Prevention plans and ensure you can now seek Temporary Restraining Orders (TROs) for workplace violence or harassment (SB 428).
- Monitor OSHA regulations on workplace violence, heat illness, and first aid materials (opioid antagonists).

Freelancer Contracts

- Ensure written contracts for freelance workers that include clear terms on services, payment, deadlines, and reporting.
- Retain freelancer contracts for 4 years as required.

Captive Audience Ban

- Update policies to ensure employees are not required to attend political or religious meetings. Document any voluntary attendance.

PAGA Reform (Effective July 2024)

- Audit payroll practices to comply with the new PAGA standing requirements and penalty caps.
- Take advantage of early resolution options to minimize potential penalties.

Other Key Updates

- Update workplace posters regarding whistleblower protections and workers' compensation.
- Ensure compliance with Fair Chance Ordinances (LA & San Diego) regarding criminal history in hiring decisions.
- Implement 401(k) automatic enrollment for eligible employees by January 1, 2025.
- Prepare for fertility services coverage in health plans by July 1, 2025.