



Winter 2016

CHANGES IN THE NEW YEAR

The following is a brief overview of some of the changes in employment law (limited to changes in federal, California state law or the City of Los Angeles) which may affect you as an employer as 2017 begins:

Minimum Wage - California minimum wage increases to \$10.50 per hour on January 1, 2017 if you have 25 or more employees. [This increase will apply to smaller employers next year.]

Marijuana Use – Even with the passage of Proposition 64 which legalizes use of marijuana in California employers may continue to prohibit use, possession or having marijuana in the employee's system at any time while working. Drug testing can continue to include testing for marijuana. There is no requirement for the employer to allow marijuana use, even medical marijuana. It is suggested that policies prohibit all drugs for which use is prohibited or restricted under state or federal law since marijuana continues to be an illegal drug under federal law.

Applications – With a few exceptions, inquiries related to juvenile court adjudications are prohibited. Additionally, employers in the City of Los Angeles are now prohibited from asking about criminal history on an application. No inquiries of any kind about criminal history are allowed unless a conditional offer has been made to the applicant and then there must be an assessment (written) of the history as it relates to the employee's job duties and position. Before adverse action is taken the individual must be allowed to respond to the assessment with additional information or documentation. Penalties under this ordinance will not be imposed until July 1, 2017.

DOL Exempt Salary Requirement – The DOL final rule that would significantly raise the federal exempt salary requirement, even above the current California level, has been stayed pending further action by the Texas District Court. However, based on the increase in minimum wage in California, the California required salary will increase to \$43,480 per year or \$3640 per month.

Cell Phones and Driving – In addition to prohibiting use of the phone or texting, California now prohibits any holding or use of a cell phone or other wireless communication device. Any use of such devices must be "hands free."

I-9 Form – Attached to this Advisory is the new I-9 Form. By January 22, 2017 employers must begin using the new Form.

Paid Sick Leave – The Los Angeles City Ordinance will apply to employers with 25 or fewer employees as of July 1, 2017. [Other City Ordinances (or changes in their Ordinances) related to Paid Sick Leave go into effect in 2017.]

Employer Notices – An employer must provide new employees (and current employees on request) with information on their rights regarding discrimination against victims of domestic violence, sexual assault, and stalking. However, the notice is not required until the Labor Commissioner provides a model notice which must be available by July 1, 2017. Employers also must notify employees that they may be eligible for the California (in addition to the federal) Earned Income Tax Credit.

Rest Periods – The California Supreme Court has issued a decision that on-call rest periods are not allowed. Rest periods must be uninterrupted. Therefore, an employee cannot be expected to be available to return to work during a rest period. The employer must relinquish all control over the employee during break time. This will be problematic for employers who have single employees at the worksite – e.g., security guards, sole clerk at a retail store or gas station, etc.

Restroom Accommodation – Single user toilet facilities must be identified as all-gender toilet facilities.

For more information or assistance in complying with these new requirements please contact Jeanne Flaherty or Brad van Scoyk.



Jeanne Flaherty is the President and Managing Attorney of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.