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Insurance Services

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NEWSALERT

Business and Economy

Top 10 California Laws, Regs for 2023

A SLEW OF new laws and regulations that will affect California businesses are taking effect for 2023.

Last year was a busy one, with ground-breaking new laws on employee pay disclosures, a law prohibiting discrimination against cannabis-using employees and another expanding the circumstances when employees can take leave to care for a loved one.

The following are the top 10 laws and regulations that employers in the Golden State need to stay on top of.

1. Pay disclosure

This sweeping law in part requires more disclosure of pay information by employers. Under current law, employers are required to provide the pay scale for a position upon reasonable request by a job applicant. SB 1162 goes a step further by:

- Requiring employers, upon request by a current employee, to provide the pay scale of the position they are employed in.
- Requiring employers with 15 or more workers to include pay scale in any job postings for open positions.
- Requiring employers to maintain records of job titles and wage rate history for each employee while employed for the company, as well as three years after their employment ceases.

Note: The law defines "pay scale" as the salary or hourly wage range that the employer "reasonably expects" to pay for the position.

Penalties range from $100 to $10,000 per violation. This law took effect Jan. 1, 2023.

2. State of emergency and staff

This new law, SB 1044, bars an employer, in the event of a state of emergency or emergency condition, from taking or threatening adverse action against workers who refuse to report to, or leave, a workplace because they feel unsafe.

"Emergency condition" is defined as:

- Conditions of disaster or extreme peril to the safety of persons or property caused by natural forces or a criminal act.
- An order to evacuate a workplace, worksite or worker's home, or the school of a worker's child due to a natural disaster or a criminal act.

SB 1044 also bars employers from preventing employees from using their mobile phones to seek emergency assistance, assess the safety of the situation or communicate with another person to confirm their safety.

The law, which took effect Jan. 1, 2023, does not cover first responders and health care workers.

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HAPPY NEW YEAR!

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Law Bars 'Discrimination' Against Cannabis-Using Employees

3. Cannabis use and discrimination

This law bars employers from discriminating in hiring, termination or other conditions of employment based on employees using cannabis while off duty.

The bill's author says the legislation is necessary because THC (tetrahydrocannabinol), the active ingredient in marijuana, can stay in a person's system after they are no longer impaired. As a result, drug testing may detect THC in an employee's system even if they used it weeks earlier and it is having no effect on their job performance.

AB 2188 does not require employers to permit employees to be high while working.

The bill would exempt construction trade employees and would not preempt state or federal laws that require employees to submit to drug testing. This law takes effect Jan. 1, 2024.

4. Leaves of absence

The California Family Rights Act and the state's paid sick leave law allow employees to take leave to care for a family member, defined as a spouse, registered domestic partner, child, parent, parent-in-law, grandparent, grandchild or sibling.

The definition has been expanded to include "any individual related by blood or whose association with the employee is equivalent of a family relationship."

5. Contractor workers' comp

Starting July 1, the following contractors must carry workers' compensation coverage regardless of if they have employees or not:

- Concrete (C-8 license),
- Heating and air conditioning (C-20),
- Asbestos abatement (C-22), and
- Tree service (D-49).

Starting Jan. 1, 2026, all licensed contractors must have coverage.

6. OSHA citation postings

Under current law, employers that receive citations and orders from OSHA are required to post them in or near the place the violation occurred, in order to warn employees about a potential hazard.

Starting Jan. 1, 2023, they must post the notice not only in English, but also: Spanish, Chinese (Cantonese, Mandarin), Vietnamese, Tagalog, Korean, Armenian and Punjabi.

7. Permanent COVID standard

Cal/OSHA has a permanent COVID-19 prevention standard that will sunset in 2024. The new standard, which replaces the temporary emergency standard the agency had implemented, should provide more certainty for prevention procedures and practices.

Here are the main takeaways:

- Employers are no longer required to pay employees while they are excluded from work due to COVID-19, or to screen employees daily.
- Employers must still notify and provide paid testing to employees who had a close contact in the workplace.
- Employers can now incorporate written COVID-19 procedures into their Injury and Illness Prevention Programs.

8. CalSavers expanded

SB 1126 requires any person or entity with at least one employee to either provide them with access to a retirement program like a 401(k) plan or enroll them in the state-run CalSavers program.

Prior to this new law only companies with five or more employees that do not offer a retirement plan are required to enroll their workers in CalSavers.

9. Bereavement leave

Employers with five or more workers are required to provide up to five days of bereavement leave upon the death of a family member, under a new law starting in 2023.

This leave may be unpaid, but the law allows workers to use existing paid leave available to them, such as accrued vacation days, paid time off or sick leave. Employers are authorized to require documentation to support the request for leave.

10. PFL wage replacement

This law was passed last year, but does not take effect until 2025. Existing California law allows employees to apply for Paid Family Leave and State Disability Insurance, both of which provide partial wage replacement benefits when employees take time off work for various reasons under the California Family Rights Act.

Starting in 2025, low-wage earners (those who earn up to 70% of the state average quarterly wage) will be eligible for a higher percentage of their regular wages under the state's PFL and SDI benefit programs. ❖

Online Threat

Growing Risks of Benefits, Payroll Platforms

THERE IS a growing threat to companies that use online services to administer their employee benefits and payroll as cyber criminals increasingly exploit these cloud service platforms.

The results of a hacker gaining access to the company's payroll systems, sloshing with cash, as well as employees' personally identifiable information can be devastating both to the employer as well as its workers, according to a blog by the law firm McLane Middleton.

Do not assume that the system you are using has safeguards in place to prevent these types of attacks. Sometimes you may need to activate them on your account or configure your account a certain way.

PLATFORM VULNERABILITIES

Cyber criminals can gain access to sensitive employee information:

- Social Security numbers
- Government identifications and numbers
- Bank account information for employees and dependents
- Health information

Cyber criminals may gain access to funds that go throughr:

- Payroll
- 401(k) and other retirement accounts
- Health insurance
- Other benefits

Attacks on online benefits and payroll services can result in huge losses as well as liabilities for an employer. Damage can be extensive:

- The criminals can divert large financial transactions like payments to retirement funds and smaller ones like payroll payments, to a fraudulent account, which they promptly drain.
- The criminals steal personal information of employees. They can then demand the employer pay a ransom in exchange for not selling the information on the dark web. If the employer refuses to pay, they can demand individual employees pay a ransom.

What you can do

Often hackers will gain entry to a benefits and payroll website not through any fault of your own.

McLane Middleton recommends that you look for online benefits and payroll platforms that protect their clients' accounts with:

Multi-factor authentication – Besides a password, a platform worth its salt will include multi-factor authentication. Typically, that entails sending an authentication message to a pre-specified e-mail or mobile phone number that can accept text messages every time there is a log-in attempt.

Other systems may use certificates that the employer installs only on computers used by employees authorized to access the platforms.

Multi-user notification and authorization – This entails notifying key personnel if an employee's profile information (such as physical address, phone number or bank account number) is changed inside the payroll or benefit system. The website would then send an e-mail to a secondary person in the organization to approve the change.

Different levels of access privileges – One common approach is for hackers to target employees in an organization with administrator access to the benefits and payroll system. All of the employees that use the system often do not need access to all of it.

You can limit access of your human resources staff to only those functions necessary for them to do their jobs. This prevents them from accessing files and information they have no business seeing.

Logs of access and activity – If possible, try to find a vendor that saves log files that can record dates and times of a breach, what the criminals were doing in the system and what data they accessed.

The takeaway

If you are using an online platform to administer your benefits and payroll, you should ensure that the vendor is taking the appropriate steps to protect itself, and you, from cyber attacks.

You may want to discuss with your vendor what kind of security they have in place and any extra steps you can take as an organization to reduce the chances that information and funds in your accounts are safe from abuse. ❖

Protecting Your Cash Flow When Operations Cease

BUSINESSES HAVE learned a painful lesson over the last three years. An emergency can shut them down with little or no warning. Revenue can evaporate overnight, leaving them grasping to somehow continue operating, cover their ongoing bills and pay employees so they won't leave.

Property insurance will pay for repairing or replacing damaged buildings and equipment after a fire or hurricane. It will not, however, make up for lost revenue or increased expenses to minimize a business's downtime.

Fortunately, another kind of insurance exists that will cover those losses: Business income and extra expense coverage.

If an organization suffers property damage from a risk that the policy covers, such as a fire, and is forced to reduce operations or shut down, business income coverage will reimburse it for the net profit it would have earned during the shutdown, plus necessary ongoing expenses up to the policy limits.

The insurance covers the period from 72 hours after the loss to the date that operations should resume with reasonable speed.

The policy may include an additional coverage called "extended business income." This coverage recognizes that, after a business resumes operations, revenue may not get back to its previous level right away. An extra 30 days' coverage is standard, but that can be increased.

Extra expense coverage pays some of the higher costs the business may incur to minimize the length of the shutdown.

EXAMPLE: HOW COVERAGE WORKS

A private college suffers extensive fire damage to two dormitories and an academic building. The displaced students will not pay room and board for living spaces they can't use. Students majoring in subjects taught in the damaged building may be forced to transfer (for example, physical science students who cannot access the building where they do labs). Here's how the different coverages would play out:

Business income coverage – This would help offset the lost room and board revenue and tuition refunds to students who withdraw.

Extended business income coverage – This can help tide the school over until the student census returns to normal levels.

Extra expense coverage – This may cover the cost of quickly setting up remote learning arrangements and renting space from another college for the displaced science students to continue their lab work.

Virtually every kind of commercial enterprise that operates out of a central location needs these coverages. Some examples:

- Farms to cover the extra expense of storing harvested crops elsewhere after damage to their storage buildings
- Restaurants would need extended business income insurance until their regular patrons get back into the habit of dining there after reopening
- Manufacturers, particularly if they would take a long time to replace production equipment after an event, would need extended business income insurance.
- Theaters and concert halls to replace lost ticket sales.
- Hotels to cover lost ability to offer rooms to customers.

The takeaway

With the uncertainty spawned by the sudden shutdowns after the pandemic started, businesses are aware that even one such event can cause revenues to dry up.

Having business income and extra expense coverage can make the difference between reopening after a disaster or shutting down for good. If you want to know more about this coverage, give us a call. ❖