



George Petersen Insurance Agency

News You Can Use

BUSINESS AND ECONOMY

Stay on Top of New Laws, Regulations in the New Year

EVERY YEAR starts with a flurry of new laws and regulations that California employers have to contend with. This year is no different as the California legislature had a busy year and the stresses of the COVID-19 pandemic resulted in more activity. The end result is another round of new laws that employers need to stay on top of.

Here are the top regulations and laws affecting California businesses.

1. Big change to Cal/OSHA citations

A new law adds two new Cal/OSHA violation categories that carry penalties of up to \$124,709 per violation – the same as for “repeated” or “willful” citations currently.

SB 606 adds “enterprise-wide” and “egregious” violations to the mix, giving Cal/OSHA broader leeway to cite employers it finds are flagrantly violating California's workplace safety regulations.

The law creates a rebuttable presumption that an employer with multiple worksites has committed an enterprise-wide violation if:

- It has written policies or procedures that violate Cal/OSHA regulations, or
- The agency has evidence of a practice of it skirting the rules at one or more of its locations.

If the employer is unable to rebut this presumption, Cal/OSHA can issue an enterprise-wide citation that would require abating the violation at all locations. The employer can also face a maximum penalty of \$124,709 per violation.

SB 606 also authorizes Cal/OSHA to issue a citation for an egregious violation if it believes that an employer has willfully and egregiously violated an occupational safety or health standard, order, special order or regulation.

The reason this could get expensive for an entity hit with egregious violations is that each instance of employee exposure to that violation will be considered a separate violation.

2. COVID exposure notification

AB 654 updates requirements for what an employer must do if there is an outbreak of COVID-19 cases at its worksites.

This law somewhat curtails earlier outbreak-reporting requirements as well as other required notifications for certain employers, and updates several provisions of the 2020 outbreak notification law, AB 685.

Under the new law:

- Firms have one business day to report a workplace COVID-19 outbreak to Cal/OSHA and health authorities. Employers do not need to issue notices on weekends and holidays.
- When an employer has multiple worksites, it only needs to notify employees who work at the same worksite as an employee who tests positive for coronavirus.

3. California Family Rights Act

AB 1033 expands the CFRA to allow employees to take family and medical leave to care for a parent-in-law with a serious health condition.

See ‘Workers’ on page 2

**George Petersen Insurance Agency
WISHES YOU A HAPPY NEW YEAR**



George Petersen Insurance Agency

CONTACT US:

If you have a question about any article in this newsletter or coverage questions, contact your broker at one of our offices.

**Auburn
Colusa
Eureka
Fort Bragg
Ferndale**

**Gualala
Redding
Santa Rosa
San Rafael
Ukiah**

**Phone: 1-800-236-9046
E-mail: info@gpins.com**

License No. : 0603247

Continued from page 1

Workers Can Take Family Medical Leave to Care for In-Laws

It adds a requirement that mediation is a prerequisite if an employer with between 5 and 19 workers is the subject of an employee lawsuit.

4. Workplace settlement agreements and NDCs

A new law took effect Jan. 1 that prohibits employers from requiring non-disclosure clauses in settlement agreements involving any workplace harassment or discrimination claims. This builds on prior law that barred NDCs only in cases of sex discrimination or sexual harassment.

The new law expands that prohibition to all protected classes, such as disability, race, age, religion, etc.

One important note: While employees can't be prohibited from discussing the facts of the case, employers can still use clauses that prohibit the disclosure of the amount paid to settle a claim.

Also, employers can still include non-disparagement clauses or similar provisions in agreements, as long as they also include specific language stating the employee's right to discuss the facts of the case.

5. New minimum wage

Effective Jan. 1, employers will have to start paying their employees a higher minimum wage. The minimum wage for workers at operations with 25 or fewer employees bumped up to \$14 an hour, while it jumped to \$15 an hour for workers at firms with 26 or more employees.

The increases are part of a state law that has steadily hiked the minimum wage since Jan. 1, 2017, when it was around \$10.

Please note that many jurisdictions in the state have minimum wages that are higher than the state minimum wage, including San Francisco at \$16.32 an hour, \$16.45 an hour in Palo Alto and Emeryville at \$17.13.

6. Wage theft penalties

AB 1003, which took effect Jan. 1, adds a new penalty to the California Penal Code: Grand Theft of Wages. The new law makes an employer's intentional theft of wages (including tips) of more than \$950 from one employee, or \$2,350 for two or more workers, punishable as a grand theft.

The law, which also applies to wage theft from independent contractors, allows for recovery of wages through a civil action.

7. COVID cases may be included in X-Mods

The Workers' Compensation Insurance Rating Bureau of California has proposed plans to start requiring COVID-19 claims to be included when calculating employers' X-Mods.

The proposal, which would have to be approved by the state insurance commissioner, would bring to an end current rules that exclude the impact of COVID-19 workers' compensation claims on X-Mods.

If approved, the new rule would apply only to claims with an injury date on or after Sept. 1, 2022.

8. Notices can be e-mailed

A new state law authorizes employers to distribute required posters and notices to employees via e-mail in addition to mail. Required posters and notices will still need to be posted in the workplace.

9. Warehouse quota rules

Under a new law warehouse employees must be given a written description of the quotas to which they are subject within 30 days of hire.

Common quotas include the number of tasks the worker must perform, the materials to be produced or handled, and any adverse employment action that may result from a failure to meet the quota.

While employers may still implement quotas, employees are not required to meet a quota if it:

- Prevents them from taking required meal or rest periods,
- Prevents them from using the bathroom (including the time it takes to walk to and from the toilet), or
- Contravenes occupational health and safety laws.

The law also bars employers from discriminating, retaliating or taking other adverse action against an employee who:

- Initiates a request for information about a quota or personal work-speed data, or
- Files a complaint alleging a quota violated the Labor Code.

10. Personnel records retention

As of Jan. 1, employers are required to retain personnel records for applicants and employees for a minimum of four years (up from the previous requirement of three years).

That time could be expanded further if the employer is notified that a complaint has been filed through the California Department of Fair Employment and Housing.

In such instances, an employer is required to retain the records until either the matter has been resolved or until after the first date for a civil action has passed.

The employer must then retain related personnel records until receiving notification that the action has been resolved or after the filing period has expired. ❖



IRS to Get Tough on ACA Reporting Form Mistakes

THE TIME when the IRS offers relief from financial penalties to employers that make errors on their group health insurance reporting forms has come to an end.

Starting this year, the IRS will no longer offer protection against reporting error penalties when “applicable large employers” (ALEs) file their Forms 1094-C and 1095-C and the employer has made a good-faith effort to comply.

The change starting with the 2021 tax reporting year means that employers can face steep penalties for mistakes on their forms.

IRS Code requires employers who are obligated under the Affordable Care Act to offer their employees health insurance benefits to also file these forms annually.

But since employers were required to first start filing these forms in 2018, the IRS has been lenient against those that make good-faith errors on the forms.

Typically, when the IRS identifies instances when an employer may be liable for employer shared-responsibility penalties based on information provided on the forms, the agency will send them a Letter 226J.

These letters will identify an employee who may have received health insurance from their employer but is also receiving premium tax credits from a policy on an exchange.

To date, the IRS has allowed ALEs to ask for corrections on their filed forms, or to reduce the penalty without imposing reporting error penalties as well. That comes to an end this year when employers file their 2021 forms.

A few heads-up

- Starting this year, the IRS will no longer offer good-faith relief from penalties for incomplete or incorrect forms.
- For the 2021 reporting year, these penalties are \$280 per form that must be furnished to employees and \$280 per form filed with the IRS.
- According to reports, the IRS is especially focused on employers who may not be satisfying ACA requirements that all health plans they offer their staff must be “affordable,” which means costing no more than 9.83% of the employee’s household income for the 2021 tax year
- Thanks to the American Rescue Plan Act, more Americans qualified for premium tax credits on ACA exchanges and the act drastically increased those tax credits to the point where some people were paying \$1 a month for coverage. Employers could face reporting problems if any of their staff dropped their employer coverage and got coverage on an exchange. ❖

IMPORTANT DATES

Jan. 31 (extended to March 2): Deadline for furnishing 1095 forms to employees.

Feb. 28: Deadline for filing paper 1094 and 1095 forms with the IRS (only for employers with fewer than 250 employees).

March 31: Deadline to file forms electronically with the IRS.



LIABILITY COVERAGE

Personal Umbrella Essential to Protect Your Assets

FOR HIGH-NET worth individuals, the financial consequences of being sued can be serious business.

They typically have more assets at risk should they be hit with a large court settlement or judgment. While compensatory damages may be standard across the board, some juries punish the rich especially hard for their negligence.

But if you don't think it can happen to you, consider these scenarios:

- You host a charity function at your home and when 65 guests are on your deck, it collapses, injuring many.
- One of your children is involved in cyber-bullying a child and his parents sue your child for inflicting emotional harm.
- You are at fault in an auto accident that kills two passengers in the other car and severely injures the driver.

While your underlying automobile or homeowner's policy would pay for many of these damages, the policies usually cap liability payouts at a certain amount – typically \$500,000.

Any damages above that would come out of your pocket, unless you have an umbrella policy, which will kick in after your primary insurance limits are breached.

But the problem for high-net-worth individuals is that a typical umbrella policy is often capped at \$5 million, and that may not be enough if a large judgment is leveled against you.

Your assets could be at risk in the event of an especially large judgment.

Fortunately, there is a select group of companies that offer specialized personal umbrella policies that have limits as high as \$100 million – and they can be customized specifically to your situation.

Why you need it

High-net-worth individuals often have more liability risks as they are more apt to:

- Hold a charity function or other event at home
- Serve on boards of directors
- Have swimming pools, trampolines and personal watercraft
- Employ residential staff like maids, nannies, drivers and gardeners.

How the policy works

The policy begins to pay when you've exhausted the limits of the primary auto or homeowner's policy. There are two main types of liability that the policy will cover:

- Physical injury to someone and personal injuries (such those sustained from slander or defamation).
- Property damage to a third party that was caused by the insured. ❖



Produced by Risk Media Solutions on behalf of George Petersen Insurance Agency. This newsletter is not intended to provide legal advice, but rather perspective on recent regulatory issues, trends and standards affecting insurance, workplace safety, risk management and employee benefits. Please consult your broker or legal counsel for further information on the topics covered herein. Copyright 2022 all rights reserved.