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Headline Summary

- Sales Tax Increase
- 2013 Posters Available
- Curbing Shakedown Lawsuits
- New Employer Laws
- Mileage Reimbursement Rates

Curbing Shakedown Lawsuits

Governor Brown signed a measure that will curtail shakedowns of business owners arising from technical violations of the law designed to protect disability access at California businesses.

SB 1186, among other things, prohibit pre-litigation "demands for money" by attorneys; establish new provisions to prevent "stacking" of multiple claims to increase statutory damages; reduce statutory damages and provide litigation protections for defendants who correct violations.

The bill was introduced to curtail runaway litigation in California which has 40% of the nation's ADA lawsuits but only 12% of the country's disabled population.

WatchDog

Guarding the Business of Print

December 2012

Sales Tax Increase

Californians approved a state constitutional amendment (Proposition 30) which, among other things, increases the statewide sales and use tax rate by 0.25 percent. The current statewide rate is 7.25 percent. Proposition 30 increases the statewide rate to 7.50 percent for four years—from January 1, 2013, through December 31, 2016.

Please visit the website at www.boe.ca.gov, where the BOE will provide more information on the statewide tax rate increase as it becomes available.

For a listing of tax rates, go to http://www.boe.ca.gov/cgi-bin/rates_2013.cgi. As an additional resource for obtaining the sales and use tax rate for a specific address, you may use the free tax rate locator service on the <http://www.geotax.com/USTaxLookup/website>. That site allows any person to determine local tax jurisdictions and tax rates based on address. That site is not maintained by the Board of Equalization, and the link to that site is provided only as a public service.

2013 Posters Available

All California businesses must display up-to-date labor and safety notices, where all employees can see them to be in compliance with federal and state laws.

The 2012 all-in-one posters do not meet the federal and state 2013 requirements. Updated posters include those listed below:

- CA Discrimination & Harassment is prohibited by Law (December 2012)
- CA Family and Medical Leave Notice B ((December 2012)
- CA Pregnancy Disability Leave Notice A (December 2012)
- CA Unemployment Insurance/Disability Insurance/Paid Family Leave (Revised 11/08 - Released December 2012)

The posters are

- Laminated on both sides and printed in high-quality full color
- Combo measures 27" x 39"
- Posters are guaranteed to be the most up to date versions available

Some companies may also require to post additional notices depending on their operation, such as forklift safety, fire extinguisher use, safe lifting, and bloodborne pathogens. We also have those available and ready to ship.

The cost for the 2013 all-in-one poster is \$24.50, which includes postage and sales tax. To order your 2013 labor laws posters, contact Marcos Uribe at marcos@piasc.org (323-728-9500, ext. 299) or you can order online at piasc.org.

New Employer Laws - 2013

California lawmakers introduced 4,280 bills in the two-year legislative session that ended August 31st. Thereafter, Governor Brown had 30 days (until September 30th) to sign or veto legislation in his possession on the day legislature adjourns or legislation becomes law without his signature. By the end of the session, 1,866 bills crossed his desk. He vetoed 233 bills (13 percent).

There are several new laws that employers must implement in 2013.

Written Commission Sales Agreement

AB 1396 requires that whenever the contemplated method of paying an employee involves commissions, there must be a written contract that sets forth the method by which the commissions will be computed and paid. You must also provide the employee with a signed copy of the contract and obtain a signed receipt for the contract from him.

If the contract expires but the employee continues to work under its terms, the terms will be presumed to remain in full force and effect until the contract is superseded by a new contract between the parties or either party terminates the employment relationship.

A sample sales compensation agreement can be found at piasc.org under the Human Resource tab.

Social Media and Personal Passwords

AB 1844 prohibits employers from requiring or requesting employees or job applicants to provide user names or passwords for personal social media accounts and from requesting an employee or applicant to divulge personal social media. There are limited exceptions, including an exception relating to employer investigations.

Religion and Reasonable Accommodation

AB 1964 clarifies that religious dress and grooming standards are subject to protection under the Fair Employment and Housing Act (FEHA). The new law also specifies that segregating an employee from customers, the public, or coworkers based on religious dress or grooming standards (e.g., head coverings, facial hair, or jewelry) is not a reasonable accommodation.

Although the law makes an exception for situations where accommodation would create an "undue hardship," as a practical matter, it still means that employers must be much more careful when defining and enforcing employee dress codes. In addition, you should ensure that employees who wear religious clothing or hairstyles are not being systematically isolated from customers or public view.

Sex Discrimination and Breastfeeding

AB 2386 changes the definition of "sex" under California Fair Employment Housing Act for protection against discrimination includes breastfeeding and related medical conditions. There is a mandatory update to the Discrimination and Harassment Notice, which will be included in the 2013 all-in-one California and Federal Employment Notice Poster that PIC makes available to members.

Inspection of Personnel Records

AB 2674 amends Labor Code section 1198.5, relating to inspection and retention of personnel records. The new law makes several significant changes, including in the following areas: (1) who has the right to inspect or request copies of personnel files; (2) any deadlines for providing access to files; (3) where and how records must be made available; (4) an employer's obligations to retain files; and (5) penalties for failure to comply.

If an employee asks for an employer-provided form to make the inspection request, the employer must provide the employee with such a form.

Private Pension Plans

SB 1234 provides private sector workers an opportunity to enroll in the California Secure Choice Retirement Savings Program, a voluntary retirement plan with guaranteed benefits, to be administered by the California Secure Choice Retirement Savings Investment Board, which would also be established by the bill.

Mileage Reimbursement Rates

The Internal Revenue Service recently issued the 2013 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

The rates take effect on January 1, 2013. According to the IRS, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 56.5 cents per mile for business miles driven;
- 24 cents per mile driven for medical or moving purposes;

A taxpayer always has the option of calculating the actual costs of using his/her vehicle rather than using the standard mileage rates, the IRS said in its statement.

Under California Labor Code Section 2802, employers must fully reimburse employees for all expenses actually and necessarily incurred. Many employers typically choose to use the IRS mileage reimbursement rate, but its use is optional.

The Division of Labor Standards Enforcement has stated that using the IRS mileage rate will generally satisfy an employer's obligation to reimburse for business-related vehicle expenses, absent evidence to the contrary. If an employee can show that the chosen mileage reimbursement rate, even the IRS rate, does not cover all actual expenses the employee has incurred, however, the employer must pay the difference.