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### Headline Summary

- Legislative Review
- New Discrimination Law
- Manufacturing Equipment Exemption
- Where Is Your IIPP?
- Transportation Charges
- Wireless Card Surcharge

### New Discrimination Law

In mid-January Governor Brown signed AB 987 which amends the California Fair Employment and Housing Act (FEHA) to provide that employers are prohibited from retaliating against employees who request a religious accommodation or an accommodation for a physical or mental disability.

The law was enacted in response to the California Court of Appeals' 2013 decision in *Rope v. Auto-Clor System of Washington, Inc.* In that case, the court found no existing authority indicating that a request for accommodation, without more, could support a FEHA retaliation claim. The law takes effect January 1, 2016.

# WatchDog

Guarding the Business of Print

October 2015

## Legislative Review

The first year of what we expect to be a very active 2015-16 Legislative session came to a close on September 11th. In all, the Legislature introduced more than 2,700 bills and sent a grand total of 1,217 bills to the Governor over the year. The last day for the Governor to sign or veto bills is October 11th.

Below is a list of important bills that that PIC either supported or opposed during this session.

**Opportunity to Cure Minor Air Violations.** AB 335 (Patterson; R-Fresno) Reinstates the Air Resources Board's Minor Violation Program, which allows businesses to fix minor air violations before being fined. **Support.** Failed Passage in Assembly Natural Resources.

**Significant Expansion of California Family Rights Act.** SB 406 (Jackson; D-Santa Barbara) Creates less conformity with federal law by expanding the family members for whom leave may be taken, which will provide a potential 24-week protected leave of absence for employers to administer. **Oppose.** To Governor for signature.

**Flexible Workweek.** AB 1038 (Jones; R-Santee) Provides employers with the opportunity to accommodate employees' needs as well as business demands by allowing employees to request a voluntary, flexible workweek agreement that can be repealed by the employee at any time with proper notice. **Support.** Failed Passage in Assembly Labor and Employment.

**New Labeling Mandate.** AB 708 (Jones-Sawyer; D-South Los Angeles) Imposes unnecessary burdens on businesses by requiring manufacturers of specific consumer products to disclose the 20 most prevalent ingredients contained in the product on the product label. **Oppose.** Held in Assembly Business and Professions.

**Regulatory Reform.** AB 19 (Chang; R-Diamond Bar) Creates opportunity for regulations to be less costly and burdensome to small business by requiring ongoing review of regulations primarily affecting small business. **Support.** Held in Assembly Appropriations Suspense File.

**Rulemaking Process.** AB 866 (E. Garcia; D-Coachella) Paves the way for less costly and less burdensome regulations for small business organizations with a rulemaking agency by the Office of the Small Business Advocate. **Support.** Held in Senate Business, Professions and Economic Development.

**Split Roll.** SCA 5 (Hancock; D-Berkeley) Undermines the protections of Proposition 13 by unfairly targeting commercial property owners and increasing their property taxes by assessing their property based upon current fair market value instead of acquired value. Such costs will ultimately be passed on to consumers and tenants through higher prices and will result in job loss as businesses struggle to absorb such a dramatic tax increase. **Oppose.** Held in Senate Governance and Finance.

## Sales Commissions

For the period beginning July 1, 2014, through December 31, 2016, the state has adopted a partial sales and use tax exemption for the purchase or lease of manufacturing equipment. The exemption will reduce the state sales and use tax rate from 7.5% to 3.3125%. The exemption does not apply to any local, city, county, or district taxes, which would have to be added to the 3.3125 state rate. Business can take advantage of the exemption beginning July 1, 2014.

Sellers who make qualifying sales or leases must obtain a timely exemption certificate from the purchaser or lessee. You will be able to claim the deduction for sales subject to the manufacturing exemption on your sales and use tax return.

Purchasers do not need to apply to the BOE for the exemption. When you make qualifying purchases outside California, you must provide the seller with a timely exemption certificate to obtain the reduced tax rate.

If you pay the full amount of sales tax at the time of purchase, and later discover that you have met all of the qualifications, you may issue a partial exemption certificate along with supporting documentation to your retailer. The retailer may then file a claim for refund for the overpaid portion of sales and use tax on your behalf. If the transaction was subject to use tax, the purchaser may file a claim directly with the Board of Equalization.

If you make a qualifying purchase and did not pay sales tax to the seller, you must report the tax at the partial rate on your sales and use tax return. You may claim a deduction for purchases subject to the manufacturing exemption. Use line 2 on your sales and use tax return to report use tax on these purchases. Then use Section D (Partial State Tax Exemption for Manufacturing and Research and Development Equipment) to reconcile the total tax and partial tax exemption.

If you purchased equipment and need a copy of the exemption certificate, please call Gerry Bonetto at ext. 248

## Where is Your IIPP?

In California every employer has a legal obligation to provide and maintain a safe and healthful workplace for employees. As of 1991, a written, effective Injury and Illness Prevention Program (IIPP) is required for every California employer.

The written program must include specific procedures and practices. A PDF program with fill-in forms can be found at: [www.pic-gov.org/documents/Safety/SB198/SB198.pdf](http://www.pic-gov.org/documents/Safety/SB198/SB198.pdf). Print out pages 1-6 instructions. Open up the forms on page 4 and fill-in. Note on the instructions page there are hot links on page 6 that you'll need to access to complete the program. There is also an Appendix of additional programs for companies that may need them.

EXCEPTION: Companies with less than 20 employees which have a Workers' Compensation Experience Modification Rate (ExMod) of 1.1 or less can limit written documentation of the IIPP to the following requirement:

- The identity of the people(s) with authority and responsibility for program implementation;
- Scheduled periodic "inspections" to identify unsafe conditions and work practices; and
- Training and instruction provided to employees.

## Transportation Charges

Transportation charges for shipments of taxable merchandise are generally not taxable if all of the following conditions apply:

- The charges are separately stated;
- The transportation is made by facilities other than that of the retailers, such as the U.S. mail, an independent contractor or common carrier;
- The merchandise is shipped directly to the purchaser; and
- The amount charged is the actual cost of the transportation.

Some businesses charge more for shipping than their actual cost. The amount in excess of the actual cost of (third party) shipping must be included in your taxable sales.

Supporting documents demonstrating the actual cost of transportation should be maintained in your records on a transaction-by-transaction basis.

## Wireless Card Surcharge

Beginning January 1, 2016, a surcharge will be imposed on purchases of prepaid wireless services. This new surcharge is called the prepaid mobile telephone services (MTS surcharge).

This new surcharge consists of:

- Emergency Telephone User (911) Surcharge;
- California Public Utilities Commission's (CPUC) surcharges and fees (which support the following programs: universal lifeline telephone service, deaf and disabled telecommunications program, California high cost funds, California teleconnect fund, and the California advanced services fund); and
- Local user utility taxes and local access or all charges, where applicable

Sellers of prepaid wireless services/cards will be required to charge and collect the prepaid MTS surcharge as a percentage of the retail sales price from the purchaser at the time of sale.

