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LOS ANGELES HOTEL WORKERS PROTECTIONS

New safety protections have been enforced for hotel employees in Los Angeles. An ordinance was recently passed that requires each employee to be provided with a personal security device (also referred to as a panic button). This ordinance does specify the "panic button" cannot be a noise maker or an alarm bell. It actually has to notify the security officer and put the staff member and the security officer in direct contact. In addition, all employees must be trained on the purpose of the panic button and when to use it.

In addition to to button and training, a notice must be posted on the back of the entrance door to each hotel guest room and hotel restroom facility. This notice goes over protections of the employees to include paid time off to report threatening behavior, reasonable accommodations to any employee experiencing or subjected to threatening behavior, along with the panic buttons.

There are other various items within the ordinance and on the posting. If you have additional questions about what your obligations are, please don't hesitate to reach out to our office. Keep in mind, this is a Los Angeles ordinance. [PE]

CCPA...ENFORCEMENT IN 2023

In case you've been in avoiding this, here's your reminder that the Legislature enacted the California Consumer Privacy Act ("CCPA") in 2019. The Act's basic purpose is to give consumers control over how businesses use their personal information. Voters then passed the CPRA in a ballot measure in late 2020, expanding the CCPA even further. The CPRA goes into effect on January 1, 2023. If you're an employer covered under this law, you probably already know a bit of the ins and outs, but effective 2023, the employers obligations become a bit heavier. Employees and applicants alike will have the right to:

- Know what personal information has been collected, sold or shared.
- Seek deletion of personal information
- Restrict the use of their personal information
- Correct inaccurate personal information

If you are covered under these requirements, make sure you game plan for how to facilitate this information and assign to appropriate people to take on these tasks. [PE]

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Pacific Employers



MANAGEMENT ADVISOR SAFETY REPORT!

Summer 2022
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Wildfire Season In California Puts Your Employees At Risk

Unfortunately major parts of our State burn each summer and the smoke from wildfires carries throughout California making it difficult to breathe when it is already extremely hot and the air is heavy. Proper protective equipment and training is required for worker safety in wildfire regions. Be sure your employees know what to do if they encounter this type of hazard.

If you're in the central valley, you know that wildfire smoke has a way of drifting into the valley even when the fires are not directly near us. It is very important to understand the precautions you need to know for your employees if they will be performing work outside.

Review your Injury and Illness Prevention Program for compliance if your employees work in wildfire regions and may experience the repercussions of wildfire smoke. [PE]

There's No Such Thing As A Free Lunch

Twenty years ago in a galaxy far, far away there was a court case known only as Brinker. The Brinker case began as a claim filed before the Division of Labor Standards Enforcement (DLSE) in 2002. After moving through the administrative process with the State DLSE and then on to a trial de novo in the Superior court and ultimately ending with the decision in 2012 issued by the California Supreme Court. The significance of the Brinker ruling was primarily addressing the timing of meal and rest periods and the definition of "provide". After waiting on pins and needles for years the headlines in 2012 read as follows... "California Supreme Court Issues Major Victory For Employers In Brinker Case"

"Brinker: The Long and Winding Road Finally Comes to an End"

"The Brinker Decision...at Long Last"

Ten years later it feels more like a black hole as employers and employees continue to get lost in the nuances of meal period requirements such as "meal waivers", "paid lunch breaks", "lunch meetings" and second or "third" meal periods.

As all employers should know employees in the State are required to be provided a meal period of not less than 30 minutes for every five hours worked. There are acceptable situations where an employee can work through their lunch and be paid for it but the employer may also owe the employee a penalty of one additional hour at the employees regular rate of pay for failing to "provide" an uninterrupted 30 minute meal period and yes, even if the employer provides the meal. Hence, No Such Thing as a Free Lunch.

With the possibility of incurring premiums on wages and penalties on premiums, we strongly suggest you review your meal period policies and practices. [PE]

COVID-19 Isolation Chart Enclosed!

What's News!!!

Cal/OSHA ETS To Be Revised Again?



I know, I know, you really don't want to hear about the Cal/OSHA ETS and it possibly getting extended into 2023, but that's where we are with things.

In Mid-September, the California Occupational Safety and Health Standards Board will evaluate discuss whether to make changes or update the Emergency Temporary Standard.

A few proposed changes by the board include:

- changing the terms of "close contact" "exposed group"
- the option to incorporate the COVID-19 Prevention Plan into the IIPP, or maintain it as a stand alone document.
- For more information you review the proposed changes online

If the board agrees to amend and extend, you can expect another requirement to update your COVID-19 Prevention Program (CPP) well into 2023 and beyond. We know you probably don't want to think about the potential future changes you will need to make, but better to be prepared than be uninformed [PE]

Pay Transparency Reporting Obligations

SB 1162 is one step closer to becoming law. What is this bill we speak of? It is a wage and hour bill with a purpose of further expanding pay transparency.

Currently, law requires a private employer with 100 or more employees to file an annual employer information report (EEO-1). This requirement states the report will describe employee information including the number of employees by race, ethnicity, and sex in specified job categories.

This bill would require a private employer with 100 or more employees to submit a pay data report to the DFEH. The timeframe to do so would be revised to on or before the second Wednesday of May each year. This bill would require the pay data reports to include the median and mean hourly rate for each combination of race, ethnicity, and sex within each job category. It would prohibit the employer authorization to submit an EEO-1 in lieu of a pay data report. This amongst other things would be included in the revision. Stay tuned for updates on whether it passes or not. [PE]

"One must maintain a little bit of summer, even in the middle of winter." – Henry David Thoreau



HR Report ~Tiffany Harris~ The COVID Corner (Since It Doesn't End)

CDC Relaxing Guidelines. What It All Means?

The CDC has updated and streamlined its guidance on COVID-19, which of course makes businesses and patrons alike, question which agency's guidance we should be following. We will go over some of the specifics released by the CDC on August 11th, 2022, but as a general rule of thumb, the agency with the most stringent rule wins.

Some Items Changed

- Recommending that instead of quarantining if you were exposed to COVID-19, you wear a high-quality mask for 10 days and get tested on day 5.
- Reiterating that regardless of vaccination status, you should isolate from others when you have COVID-19.
- You should also isolate if you are sick and suspect that you have COVID-19 but do not yet have test results.
- If your results are positive, follow CDC's full isolation recommendations.
- If your results are negative, you can end your isolation.
- Recommending that if you test positive for COVID-19, you stay home for at least 5 days and isolate from others in your home. You are likely most infectious during these first 5 days. Wear a high-quality mask when you must be around others at home and in public.
- If after 5 days you are fever-free for 24 hours without the use of medication, and your symptoms are improving, or you never had symptoms, you may end isolation after day 5.
- Regardless of when you end isolation, avoid being around people who are more likely to get very sick from COVID-19 until at least day 11.
- You should wear a high-quality mask through day 10.
- Recommending that if you had moderate illness (if you experienced shortness of breath or had difficulty breathing) or severe illness (you were hospitalized) due to COVID-19 or you have a weakened immune system, you need to isolate through day 10.
- Recommending that if you had severe illness or have a weakened immune system, consult your doctor before ending isolation. Ending isolation without a viral test may not be an option for you. If you are unsure if your symptoms are moderate or severe or if you have a weakened immune system, talk to a healthcare provider for further guidance.
- Clarifying that after you have ended isolation, if your COVID-19 symptoms worsen, restart your isolation at day 0. Talk to a healthcare provider if you have questions about your symptoms or when to end isolation.
- Recommending screening testing of asymptomatic people without known exposures will no longer be recommended in most community settings.
- Emphasizing that physical distance is just one component of how to protect yourself and others. It is important to consider the risk in a particular setting, including local COVID-19 Community Levels and the important role of ventilation, when assessing the need to maintain physical distance.

Keep in mind, with this clarification you should still refer to the your local health department, Cal/OSHA's guidelines, and the California Department of Public Health, in determining how to operate your business. [PE]

I Have To Pay How Much?

Inflation? What inflation? As the nationwide economy plummets with an overall inflation rate of 7.9 percent in July over the same time a year ago the State of California looks to employers to ease the burden on every minimum wage employee in the State.

In 2016 the State passed a minimum wage increase phase in over the next seven years with employers with 26 or more employees to a rate of \$10.50 per hour with the same for smaller employers the following year. Employers with 25 and fewer employees were scheduled to hit the final rate in the phase in of \$15.00 on January 1, 2023. HOWEVER, as a direct effect of the increase in the inflation rate the Governor issued orders to increase ALL employers to \$15.50 per hour to take effect on January 1st.

So, what do we need to look for with a \$15.50 minimum wage? There are many wage and hour rules that are tied to the minimum wage. Following are just a few.

- Exempt Salaries - California law has exemption for a number of different classifications of "exempt" employee. The two most commonly used exemptions are the Managerial and the Administrative Exemptions. Among other specific requirements to qualify is the minimum salary which must be met. In both of these exemptions, the minimum salary must be two times the current minimum wage based on a 40 hour workweek. The new minimum salary for January 1, 2023 will be \$1,240.00 per week with an annualized salary of \$64,480.00.

- Tools - An employer who requires an employee to provide their own tool that are necessary to perform the necessary function of the job must pay and employee two times the minimum wage.

- Premium Pay - many of the premiums that must be paid to an employee for various wage and hour issues are based on the minimum wage. For instance the premium pay an employer must pay for an employee who works a split shift is one hour's pay at the minimum wage.

Federal, State or Local minimum wage - California's minimum wage has historically been much higher than the Federal minimum that has been \$7.25 per hour since July 24, 2009. In addition, there are several cities and county's that have minimum wages that are greater than \$15.50 per hour already. Some of those cities and counties which had minimum wage increases that took effect July 1, 2022 are listed below.

Alameda: \$15.75/hour
 Berkeley: \$16.99/hour
 Emeryville: \$17.68/hour
 Foster City: \$15.75/hour
 Fremont: \$16.00/hour
 Long Beach: \$16.55/hour for concessionaire workers at the Long Beach Airport and the Long Beach Convention Center; \$16.73/hour for hotel employees at hotels with 100 or more guest rooms
 Los Angeles City: \$16.04/hour; \$18.17/hour for hotel employees at hotels with 150 or more guest rooms
 Los Angeles County (unincorporated areas): \$15.96/hour
 Malibu: \$15.96/hour
 Milpitas: \$16.40/hour
 Pasadena: \$16.11/hour
 San Francisco: \$16.99/hour
 Santa Monica: \$15.96/hour; \$18.17/hour for hotel employees
 West Hollywood: \$16.00/hour for 49 or fewer employees; \$16.50/hour for 50 or more employees; \$18.35/hour for hotel employees

Finally one of the most frequently asked questions we get from employers is, "Do I have to increase the wages of all of my employees when the minimum wage increase provides for a raise to some workers?" The answer is NO. It may be something you consider based on your individual organization but is not required by law outside of the exemptions discussed above.

Should you need further guidance on minimum wage and how it effects your specific organization, please contact a member of our HR consulting team. [PE]



Human Resources Question with Candice Weaver

THE MONTH'S BEST QUESTION

To Pay Or Not To Pay On A Sick Day

Q: "An Employee called in sick, and they are experiencing symptoms similar to COVID-19. Can they use their regular paid sick leave for that?"

A: It used to be so simple, but the answer now depends on a number of different items.

Once upon a time in a land before COVID, things were simpler. If you got sick, you could use your available paid sick leave. It isn't so easy anymore. Now employers are forced to eat sick leave soup, when their employees don't feel well from PSL, Supplemental paid sick leave for COVID-19, and Cal/OSHA exclusion pay under the Emergency Temporary Standard.

HOW - WHAT - WHEN - Here's The Breakdown

How Many Employees In The Workplace?

The number of employees in the workplace helps decipher this question. If the employer has 26 or more in the workplace, the employer is actually required to provide up to 80 hours of supplemental paid sick leave for COVID-19 related circumstances. That is until September 30th of this year. A month away from this requirement sunseting.

The number of employees for regular paid sick leave and exclusion pay are irrelevant so you wouldn't use that as a determining factor.

What?

What kind of paid time are you considering in this circumstance. For starters, if you have 26 or more employees, and the employee hasn't previously exhausted their supplemental paid sick leave, you aren't even considering regular paid sick leave, as they have disclosed they are experiencing COVID-19 symptoms and will await a diagnosis.

If your employee may have been exposed in your workplace, the employee's earnings must be maintained during the period of their absence under Cal/OSHA's ETS under the section titled "exclusion pay." This has been quite controversial and has provided for many tough phone calls because employers cannot fathom how they are supposed to do this. We totally understand your confusion. There are some exemptions to this, and if don't believe your employee was exposed in the workplace, you have the obligation to prove it was not work related exposure. This is because there is a rebuttable presumption that exposure came from the workplace.

When?

- COVID-19 Supplemental Paid Sick Leave: Employers with 26 or more employees, for the listed reasons, until September 30th, 2022.
- Cal/OSHA Exclusion Pay: When an employee is out of work due to COVID-19 exposure that came from your workplace (Some exemptions apply).
- Paid Sick Leave: When an employee calls in sick, wants to use their regular paid sick leave, and COVID-19 is not a factor or it is determined Covid exposure was not work related and the only available option is PSL.

If you still aren't sure which sick bank to use, call us. [PE]

PACIFIC EMPLOYERS WEBINAR SERIES!

Pacific Employers sponsors a seminar series on employee labor relations topics for all employers.

2022 Topic Schedule

◆ **Forms, Posters, Handouts, and More** - What do you

need to have posted? What handouts are our favorite? Join

us to find out.

Thursday, September 15th, 2022, 10 - 11:30am

◆ **Labor Law Update** - What bills were passed? What new

laws will impact your organization?

Thursday, October 20th, 2022, 10 - 11:30am

◆ **Discipline and Terminations** - The steps to take prior to

termination. Managing a progressive approach.

Thursday, November 17th, 2022, 10am - 11:30am



Dinner for 2 at the *Vintage Press!*

That's right! When a business that you recommend joins Pacific Employers, we treat you to dinner for two at the *Vintage Press*.

SEXUAL HARASSMENT PREVENTION TRAINING WEBINAR

Pacific Employers will be hosting sexual harassment prevention training webinars for employees who need 1 hour of training and supervisors who need 2 hours of training. Call to Reserve a spot and get additional information. Scheduled dates/times are listed below:

Where: Webinar
When: October 7th From 8:00AM-10:00AM
 November 9th From 2:00PM-4:00PM