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Pacific Employers



MANAGEMENT ADVISOR

Winter 2020
 Over 50 Years of Excellence!

WHAT'S NEWS! Full Service Options!!!!

Pacific Employers has been known for over 50 years for its labor relation consultation over the phone. In addition to that of course, includes our monthly seminars, newsletter, e-newsletters, handbooks, safety programs, and many other resources.

Members have always been able to request someone from Pacific Employers to assist them onsite, attend company meetings, hearings, and assist in file and payroll audits among other things for an hourly rate.

Pacific Employers is now offering those hourly requests as full-service options. If you would like more information about how Pacific Employers can assist you on-site contact our office for a customized package catered to your needs. Our full-service options range depending on your needs.

We want to make sure that we continue to be a resource for you as California labor law continues to evolve and the burden on employers widens. We find on-site visits are being requested more often, and those who request them often want more than one meeting. Contact us for more information at (559)733-4256. [PE]

California Pumps the Brakes on Reopening Businesses

Will it ever end? Just as soon as we see a glimmer of hope that we might be able to establish a sense of normalcy, the rug gets pulled out from under us again as Governor Newsom and the California Department of Public Health issue travel advisories and a limited stay-at-home order that went into effect November 21st, and will remain in place for all those who remain in the Purple Tier (designation for those in areas with widespread transmission of COVID-19).

Details of the issued advisory and stay-at-home orders:

- In effect as of November 21st, 2020
- The travel advisory is enabled for Persons arriving in California from other states or countries, including returning California residents, should practice self-quarantine for 14 days after arrival. These persons should limit their interactions to their immediate household. This recommendation does not apply to individuals who cross state or country borders for essential travel.
- The stay-at-home order puts a curfew requiring people to stay home between the hours of 10:00pm and 5:00am

Those who are not deemed essential are required to stay home during those hours. Enforcing this order will be a task as we approach the holiday season and businesses are desperate to be open. The basis of these advisories is essentially to limit contact with others, however, the number of COVID-19 cases continues to rise. [PE]



Articles in this Newsletter have been extracted from a variety of technical sources and are presented solely as matters of general interest to employers. They are not intended to serve as legal opinions, and should not be deemed a substitute for the advice of proper counsel in appropriate situations.

MINIMUM WAGE IS GOING UP AGAIN

This is probably coming as no surprise to you as we have been phasing in the scheduled increases in California since 2017. We just wanted to remind you as we get closer to the end of the year, that the increase will be happening again come January 1st, 2021. This means that you would need to change any employee who is currently making minimum wage to the new scheduled increase for all hours worked on January 1st, 2021 and thereafter. We will continue to see these scheduled increases until 2022 for employers with 26 or more employees and until 2023 for employers with 25 or fewer employees. Below are the scheduled increases:

- \$13.00 an hour for employers with 25 employees or less
- \$14.00 an hour for employers with 26 or more employees

There will be a new poster given with our all-in-one poster that will include the details of 2021 through 2023. Bear in mind some local minimum wages are higher, and you would need to follow those rates if you have employees working in cities with higher minimum wage rates. [PE]

OUR ANNUAL ALL-IN-ONE LABOR LAW POSTER

It's that time of year again. A new poster is on the horizon and in the making. This is crunch time for us at Pacific Employers. We often get calls about our All-In-One poster regarding timelines and when it will be delivered. We are just as anxious to get it to you as you are to receive it, I can assure you. Here's the dilemma: We are waiting on at least 3 posters to be released by the state with potential for more as guidelines on COVID-19 tighten.

With that being said, it is highly unlikely you will receive your poster any sooner than January. We are trying diligently to get it out to you, but our hands are tied at this point until those posters get released. We are checking daily to make sure we have them as soon as they are released, and as soon as they are, we will be sending them to print. We promise to get them to you in a timely manner, and we appreciate your patience and understanding. [PE]

Want Breaking News by E-Mail?
 Just send a note to
 peinfo@pacificemployers.com
 Tell us you want the News by E-Mail!

2021 Vacation Scheduler Enclosed!

Safety Report

Emergency COVID-19 Standard by Cal/OSHA



During a Standards Board Meeting employer representation from many industries including retail, agriculture, manufacturing, representatives from the California Chamber of Commerce, and others expressed their concern for the recently voted and approved Emergency COVID-19 Regulation. One of the biggest concerns businesses are facing will be the ability to comply with the requirements of this standard. At this point though, the standards that could be in place as early as November 29th, are quite extensive. Below are some key things to know as you prepare your business for drastic changes and protocols.

- This Cal/OSHA standard will be enforceable to all employers in California except those who have one employee who is not in contact with other people, those who are working from home, and employees who are already covered under Cal/OSHA's Aerosol transmission standard.
- Physical distancing, if your employees weren't already doing that, will now be required to maintain at least six feet distance as long as that is possible. Exceptions will be acceptable only for moments in passing.
- Employers will now be required to provide face coverings and personal protective equipment (PPE) and enforce masks be worn indoors and outdoors when six feet distance from others is not

possible. There are several exemptions, but it is an overall standard that will have to be met.

- Written COVID-19 Prevention Program: a new program will need to be established that meets 11 different requirements and establishes the employers' responsibility to prepare, implement and maintain this program, much like you would in your IIPP.
- Notice of Potential exposure will be in place and the details of the notice requirements are stringent.
- Mandatory paid time off for those excluded from the workplace due to COVID-19 requirements to self-isolate. This requirement is not limited to one occurrence which means an employer could be paying an employee for multiple instances of missed work due to COVID-19.
- New testing requirements will be in place which will mandate an employer offer free testing during the employee's working hours when there has been an employee who tests positive and other employees may have been exposed.
- New return-to-work policies and outbreak policies must be in place
- Employer provided housing and transportation requirements will be in place for those who offer these benefits.

This is a cliffnotes version of all that entails this new standard so please reach out to us with further questions. The biggest takeaway is that you get prepared for changes and start establishing your WCPP as soon as possible. [PE]

"Small cheer and great welcome makes
 a merry feast." – William Shakespeare



HR Report

~Tiffany Harris~

California Family Rights Act (CFRA)

SB 1383

Hold on tight because there are required changes coming and they are extremely impactful (particularly to smaller employers). Governor Gavin Newsom signed legislation that expands the California Family Rights Act in a way that will impact both small and large California employers. The CFRA requires employers who are covered to provide up to 12 weeks of unpaid leave during each 12-month period for purposes defined as family and medical leave.

Senate Bill 1383 expands CFRA to apply to employers with five (5) or more employees, and expands the scope of "family members" for whom employees can take leave to include several additional categories.

Smaller Employers Now Included

As a individual in a smaller business, I feel the impact this significant change will have as CFRA moves its threshold of application from 50 employees or more to employers who have only five (5) employees or more. The 75 mile radius rule has also been eliminated. This is BIG news.

This means CFRA will now apply to much smaller employers. Many smaller employers have probably never had to comply with a family and medical leave law such as CFRA, so there will be a lot to learn between now and January 1.

Definition of Family Members Expanded

CFRA currently allows employees to take unpaid leave for a number of reasons, to include caring for a "family member" with a serious health condition. At this point CFRA defines "family member" to include a minor child (unless the child is an adult and a dependent child), a spouse, or a parent.

Under new law CFRA will now expand the definition of "family members." The list of family members is expanded to include siblings, grandparents, grandchildren, and domestic partners. Additionally, the definition of "child" is expanded to cover all adult children (regardless of whether they are dependent) and children of a domestic partner.

This impacts even larger California employers as they will now have to provide leave to employees who are caring for a wider list of family members with a serious health condition.

Other Changes To Existing Law

There are two other big changes to the CFRA. First, it removes the provision of law that specifies that if both parents work by the same employers, the employer is not required to provide more than a total of 12 weeks for leave in connection with the birth, adoption or foster care placement of a child. This means, such an employer may now be required to provide 12 weeks to both employees in that situation.

In addition, SB 1383 deletes language from the CFRA that authorizes an employer to refuse reinstatement to salaried employees who are among the highest 10% of the employees and where the refusal is necessary to prevent substantial and grievous economic injury.

What Do You Need To Do Next?

The biggest to do's are planning and preparing. CFRA is not new, but it will be something smaller businesses will have to implement and plan for in the workplace. Also, it's time to amend those handbooks for the new language of the law and to include the changes within. [PE]

Mandatory Employer Reporting When Employee Tests Positive for COVID-19

We talk a lot about COVID-19, but this bill is one in particular that employers should be paying attention to as it entails specific reporting requirements. Senate Bill 1159 went into effect immediately, and involves workers' compensation presumption during an "outbreak" in the workplace. When an organization has an "outbreak" the employer must presume the employees contracting COVID-19, got the virus while at work unless the employer can prove otherwise.

I put the word "outbreak" in quotations because it has a very specific definition. The definition of an outbreak depends on the business size.

- For employers with 100 employees or less: outbreak is defined by four employees testing positive for COVID-19 during 14 calendar days.
- For employers with more than 100 employees: outbreak is defined by 4% of employees test positive for COVID-19 during 14 calendar days.

Employers will also have to report the following information to its workers' compensation carrier when an employer knows or reasonably should know that an employee tested positive for COVID-19 (within 3 days):

- An employee has tested positive
- The date the employee tested positive
- The specific address/addresses of the employee's place of work during the preceding 14 days of the positive test
- The highest number of employees who reported to work in the 45 day period preceding the last day the employee worked at the place of employment.

Takeaways: Employers need to be tracking COVID-19 diligently to ensure a safe working environment. They must make sure they know the specific dates employees test positive and understand in reference of time from one positive test to the next amongst employees. For employers with 100 or less employees, if you have 4 employees test positive during 14 calendar days, you must recognize that as an "outbreak" in your organization. It is also important to understand the information that must be provided to your workers' compensation carrier once you have knowledge an employee has tested positive. For more information you may review the bill in detail.

The presumption applies from July 6, 2020 and will be in affect until January 1, 2023. The presumption is retroactive back to July 6, 2020. This means all employers must report all positive COVID-19 cases to their workers' compensation companies immediately. The deadline for catch-up reporting is October 17, 2020. [PE]



Human Resources Question with Candice Weaver

THE MONTH'S BEST QUESTION

Reporting Time Pay

Q: "If an Employee comes to work sick and I send them home, do I have to pay them reporting time pay?"

A: It depends on the circumstance. Employers are required to pay employees for reporting to work in a number of circumstances, but there are a number of exceptions.

Situations that trigger reporting time pay:

- Physically appearing at the workplace at the shift's start;
- Presenting themselves for work by logging on to a computer remotely;
- Appearing at a client's job site;
- Setting out on a trucking route;
- Telephoning the store two hours prior to the start of a shift as did in the Tilly's case.

Exceptions to the requirement for reporting time pay:

- When operations cannot begin or continue due to threats to employees or property, or when civil authorities recommend that work not begin or continue; or
- When public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or
- When the interruption of work is caused by an Act of God or other cause not within the employer's control, for example, an earthquake.

Making a Judgement Call and Being Proactive

Ultimately, there are many circumstances in which an employee should be paid reporting time pay. The employee reporting to work should be ready, willing and able to perform his or her duties for that day. If they report to work and an hour into their shift say they are not feeling well and feel like they should go home, they are then leaving on their own by a decision that was made by them. In this circumstance, you would not owe the employee reporting time pay because the employee chose to leave.

If however, you tell the employee that they have to leave, you could owe them for reporting time pay depending on how long they worked and what their scheduled shift was that day. As employers, you deal with a lot of grey area which requires you to make a judgement call. If you send an employee home for example, because you are not satisfied with their performance, you still owe them for reporting time pay if they had not worked at least half of their scheduled shift.

When in doubt, you should err on the side of caution. Paying an employee for an hour or two hours or even four hours could prevent bigger headaches down the line. What is piece of mind worth to you? Also, if you're in doubt, you can always call us. We are here for you always! [PE]

LABOR RELATIONS SEMINARS!

Pacific Employers sponsors a seminar series on employee labor relations topics for all employers Via webinar until further notice.

RSVP to Pacific Employers at 559-733-4256. *These mid-morning seminars may include handouts, but refreshments will be up to you.*

2020 Topic Schedule

◆ **Favorite Things Table Talk - It's the holiday season, and we want to share with you some of our favorite "HR things." Tools that may make your life in HR a bit easier.**

Thursday, December 10th, 2020, 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. Our scheduled dates/times are listed below:

Where: Webinar
When: Wednesday December 9th, 2020
1:00 PM-3:00 PM
Thursday December 18th
8:00 AM-10:00 AM

RSVP Pacific Employers - 559-733-4256