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New Employment Laws in 2019 That May Affect Your Company

Each new year brings a myriad of new employment laws that affect corporations and other businesses. Being aware of changes can help you adapt smoothly so that your organization can continue to grow and thrive. Take a look at some of the top employment laws that are new for 2019.

Cap on H-2B Visas
Although the cap on H-2B visas, which allow foreign workers to come to the United States to work on a temporary basis, was raised in 2018, the cap has already been reached. No H-2B visas will be available until the second half of 2019. If you hire employees on H-2B visas, you may have to change your hiring plans to stay compliant. Keep your eye open for possible rules changes that increase the types of jobs that H-2B workers can fill.

Pay Equity Regulations
Many states now make it illegal to ask job candidates for their salary history. The idea behind these laws is to stop penalizing minorities and women who have historically received lower salaries than white males, even in the same position. California is one of those states, so be prepared to offer salary or wages based on the job requirements and your candidates’ experience, rather than on salary history.

Sexual Harassment Training
The #MeToo movement turned a lot of attention toward gender-based harassment, resulting in an updating of training requirements regarding these topics. If you don’t already have a regular training program in place, now’s the time to establish one, as California requires training for every employee every two years. Talent agencies are specifically required to distribute materials about sexual harassment and eating disorders.

Human Trafficking Training
If your organization is involved with transportation or hospitality in California, get ready to provide some new training. New regulations for 2019 require at least 20 minutes a year on how to recognize and report suspected human trafficking.

End to Hiring Discrimination Against Military Reserve
In California, employers are no longer allowed to let an employee go or halt their benefits because they belong to any form of military reserve. This new law holds even if the employee is called up for military duty or training.

Changes to Scheduling and Pay Policies
Do you have employees who have to call two hours before their shift to see if they’re needed? A recent court decision now requires California employers to pay those employees for a minimum of two hours, even if they’re not needed. Employers must make changes to their scheduling policies carefully as a result.

Ownership of Tips
The Fair Labor Standards Act was amended in late 2018 to prohibit employers from keeping any of its employees’ tips, whether the employer takes a tip credit or not. In addition, managers and supervisors may not keep any of its employees’ tips, whether the employer takes a tip credit or not. In addition, attorneys’ fees related to settlement of a sexual harassment claim are now no longer deductible. Employers must make changes to their scheduling policies carefully as a result.

Settlement of Sexual Harassment Claims
Businesses can typically take a business expense deduction when settling sexual harassment claims. However, under new tax law, if that settlement involves a nondisclosure agreement, the expense is no longer deductible. In addition, attorneys’ fees related to settlement of a sexual harassment claim are no longer deductible. Employers must make changes to their scheduling policies carefully as a result.

Other Sexual Harassment Protections
Any contract or settlement provision that waives a party’s right to testify regarding sexual harassment or criminal conduct is now considered void and unenforceable in California for contracts dated beginning 2019. In addition, employee complaints of sexual harassment to their employer and an employer’s communications with interested parties regarding sexual harassment complaints have received stronger protection. When these complaints and communications are made without malice, both the victims and employers are now protected against defamation claims. Make sure to include all the changes regarding sexual harassment protections in your employee training.

Provisions for Lactating Mothers
If your California business employs workers who are nursing their children, you must grant them time to express milk during the workday. And while you have some flexibility regarding the location designated for this activity, it cannot be in a bathroom stall. Check with employees who are preparing for maternity leave ahead of time to make this accommodation.

Elimination of Business Tax Deductions
The Tax Cuts and Jobs Act eliminated several tax deductions that you might have counted on in previous tax years. Because you can no longer deduct transportation fringe benefits for your employees, relocation expenses, and entertainment expenses, you may want to rethink what perks and benefits you offer.

Restrictions on Asking Job Applicants About Criminal History
Just as you can no longer ask job candidates about their salary history during the hiring process in California, it’s also tricky to ask applicants about their criminal history. If you require employees to disclose criminal convictions for security reasons, you must ask about particular convictions within specific categories of criminal offenses.

Employment of Minors
If your California company participates in any government-administered programs that involve employing minors during breaks in the school year, you’re no longer allowed to deny work permits based on those minors’ GPA, grades, or school attendance records.

Workplace Violence
Although no new regulations have been finalized regarding the issue of workplace violence, a substantial bill is pending that would require health care and social service companies to create plans to protect against workplace hazards. These plans are expected to require training on workplace violence hazards and an annual evaluation of the company’s plan. In addition, employers will have to track all violent incidents in a log and summarize those incidents each year.

When you stay on top of the latest regulations and laws affecting your workplace, you help your employees feel confident that you’re looking out for their best interests. At Marquee Staffing, we’re committed to staying up to date on the latest developments in HR law as well as trends, such as the #MeToo movement, that affect both legal issues and everyday practices in the workplace. Contact us when you want to make sure you’re staying compliant with new laws as you seek to fill open positions at your company.

Tom Porter
With a background in finance and investments, Tom Porter opened Marquee Staffing’s first branch in 1989. For the past 30 years, the firm has built a strong reputation based around developing strategic relationships with candidates and clients throughout Southern California. In addition, Tom utilizes his positions on the board for both TSIL and TempNet to provide current and potential clients with the best insight on changing labor laws and best practices within the industry. Contact Tom Porter at tporter@marqueestaffing.com to partner with us!
Employee Lawsuits Ramped Up In California

You hire people, pay them well, provide benefits, and keep a positive working environment. What does your business get in return? Labor Board claims and Employee lawsuits.

California employers are inundated with employee lawsuits ranging from wage and hour claims alleging denial of “overtime pay,” “meal and rest breaks,” and “failure to provide “accurate pay check stubs.” Add to this allegations of “wrongful termination,” and “discrimination,” and you have the perfect storm of a nightmare employee lawsuit.

These types of lawsuits can be a substantial burden on any business and could be devastating to the small business due to the high costs of defense. In addition, Labor laws provide attorney fees to the successful employee which creates a huge risk for the employer that wants to prove they did everything correct and paid the employee. These lawsuits are so far reaching and complex that even if the employer did everything right, it could still lose. Often times the employer ends up paying to “settle” the case just to buy certainty and put an end to the ongoing costs.

What can an employer do to prevent such lawsuits? While it is nearly impossible to prevent every employee claim, the employer can maintain a system of checks and procedures to minimize the risk. This may include an audit of payroll practices and procedures as well as other actions focused on labor law compliance.

If your business is facing an employee lawsuit, or even if you just need some experienced advice about your practices and procedures, contact Southern California Labor Law Attorney Thomas F. Nowland.

Attorney Thomas F. Nowland has brought a unique approach to business matters and complex business litigation through years of hands on personal experience in the business of construction and other business ventures. This experience allows him to advise business clients about real world problems and the solutions that really work in today’s business climate. For More Information regarding business litigation and business related issues, contact Southern California Business Litigation Attorney Thomas F. Nowland at (949) 221-0005.