The Compliance Checklist: 2027 Employment Law Updates



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Agenda

- Minimum Wage and Salary Updates
- Agricultural Employer Updates
- Restrictions on the Use of Artificial Intelligence in Employment Decisions
- “Stay or Pay” Bonus Repayment Restrictions
- Arbitration Agreement Updates
- Immigration Updates
- Workplace Safety
- Other Updates
- Takeaways/Next Steps
- Questions

Minimum Wage and Salary Updates

- New statewide minimum wage: $17.40/hour
- New statewide minimum salary: $72,384 per year ($6,032 per month)

Agricultural Worker Minimum Wage

- AB 2646: Minimum Wage for Agricultural Workers
  - Beginning January 1, 2027, “approved agricultural employees” must be paid at least $19.75/hour
  - “Approved agricultural employee”: resides outside of California but is permitted to work in California on a temporary or seasonal basis through an application or job order approved by LWDA or EDD
  - Same minimum wage also applies to a “corresponding employee,” which is a California-resident agricultural worker who performs the same or substantially similar work during the same period for the same employer in the same county
  - Will be adjusted every January based on annual Social Security Administration cost-of-living adjustment

Restrictions on the Use of AI in Employment Decisions

- SB 947: “No Robo Bosses Act”
  - Automated decision system cannot be the sole basis for discipline or termination; be used to violate applicable employment or safety laws; infer an employee’s protected status; or predict and take action against employees for asserting legal rights
  - If an employer “primarily relies” on an ADS for discipline or termination decisions, human review is required and notice must be given to the employee afterwards.
  - Employees may request (and employers must provide) a description of the employee’s own data used by the ADS

Restrictions on the Use of AI in Employment Decisions

- SB 951: AI-related layoffs
  - Cal/WARN layoff notices must say when a layoff is caused "in whole or in substantial part" by AI or automation
  - The notice must identify the category of AI or the automated system that resulted in job displacement

- AB 1883: Workplace surveillance
  - Bans workplace surveillance tools that use facial, gait, or emotion recognition or collect neural data
  - For example, tools that will flag if someone is stressed, tired, or disengaged
  - Employees can sue directly for violations

“Stay or Pay” Bonus Repayment Restrictions

- Last year, California’s legislature passed restrictions on “stay or pay” agreements requiring repayment of bonuses or other amounts upon termination
- AB 1697 delays application of this law to January 1, 2027 and confirms there will be no liability for agreements entered into before 2027
- Also adds exceptions to the rule:
  - Allows employer to recoup retention and similar bonuses provided later in the employment relationship (instead of just hiring bonuses)
  - Creates or expands exceptions for bonuses or grants paid through government-funded recruitment and retention programs
  - Allows repayment of up to 40 hours of advanced PTO upon voluntary separation, subject to certain conditions

“Stay or Pay” Bonus Repayment Restrictions

- Still requires:
  - Separate agreement;
  - Notice of right to consult attorney;
  - At least 5 business days to consider the agreement;
  - Repayment must be interest-free;
  - Repayment obligation prorated over a retention period of no more than two years;
  - Option to defer receipt of the payment until the retention period ends;
  - Repayment triggered only by resignation or termination for “misconduct.”

Arbitration Agreement Updates

- AB 2155: Arbitration agreement is not enforceable under California law to the extent the agreement is not enforceable under the Federal Arbitration Act
  - Intended to incorporate federal arbitration exclusions into the California Arbitration Act, including exclusions for certain transportation workers and federal limitations applicable to sexual harassment and sexual assault cases
  - Limits the ability to rely upon the California Arbitration Act as an alternative basis to compel arbitration where federal law renders the arbitration agreement unenforceable

Immigration Updates

- AB 2495: Broadens protections for immigrant workers
  - Existing law prohibits retaliation against workers through immigration tactics, such as threatening to call authorities, misusing E-Verify, or demanding excessive work documents, for exercising rights under state or local labor laws
  - The new law expands the protection to also encompass an employee's exercise of rights under any local, state, or federal employment law
  - Also bans conduct tied to a person's perceived immigration status that would reasonably discourage exercising a workplace right or induce them to give one up
  - Presumption of retaliation if adverse conduct occurs within 90 days of protected activity
  - Civil penalty up to $10,000 per person per violation, plus suspension of business licenses for repeat violations

Workplace Safety

- AB 1961: Workplace Violence Restraining Orders
  - Employers may seek a workplace violence restraining order to protect an entire worksite or group of employees, so long as the threat or violence is aimed at the location or group rather than a single employee
  - Not required to name a specific employee that has been threatened

- AB 2179: Allows electronic filing of workplace violence restraining order petitions and permits remote appearances at hearings

Other Updates

- SB 1149: “Designated Person” for Bereavement Leave
  - Employee may take up to 5 days of bereavement leave for one “designated person” per year
  - Person related by blood or whose association with the employee is “the equivalent of a family relationship”

- AB 1803: Harassment prevention training must include an anti-hate speech component (2028)
  - Practical guidance on recognizing, reporting, and confronting workplace speech that vilifies, humiliates, or incites hatred against individuals based on any protected characteristic

- AB 1331: No Surveillance in Workplace Bathrooms
  - Employers may not use workplace surveillance tools to monitor or surveil employees in workplace bathrooms, absent a court order
  - Employers may monitor a one-time entry and exit and may require employees to

Other Updates

- SB 1237: Increased penalty for repeatedly failing to provide annual pay data report to CRD
  - Penalty increased from $200 per employee to $1,000 per employee
  - CRD must also publish the number of total pay data reports submitted annually

- AB 2563: FEHA definition of “sex” expanded
  - Now includes actual or perceived sex characteristics, conformity to sex or gender stereotypes, access to gender-affirming care, decisions about pregnancy-related care, and intersex traits

Next Steps/Takeaways

- Update pay rates to comply with new minimum wage/salary requirements
- Evaluate AI tools for legal risk, especially those related to discipline, termination, or surveillance; ensure humans review any employment decisions to which AI contributed; develop written notice and data request procedure
- Revise handbook policies on bereavement leave, anti-discrimination, and workplace surveillance
- Review repayment terms in template employment documents
- Check arbitration agreements against Federal Arbitration Act requirements
- Ensure compliance with pay data reporting requirements
- Update 2028 harassment training to include anti-hate speech content

Questions?



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