

Happy December Employer! This is the 3rd of four (4) 2016 new law updates for California employers. 2016 brings with it a barrage of changes that place a greater burden on operating a business in the great state of California. The best HR advice I can give you is *don't wait to get sued*, be proactive.

In terms of time, expense, disruption to your operation, and damage to your company's reputation, an audit of HR practices to determine your vulnerabilities, before something happens, is way cheaper than a lawsuit. A handbook clearly outlining your policies that is compliant with new and existing laws is a better investment than a wage and hour complaint.

With that in mind here are two more updates.

The information below is designed to provide general information and guidance concerning employment-related issues. It is presented with the understanding that Greear Consultant Group, LLC is not engaged in rendering any legal opinions. If a legal opinion is needed, please contact the services of your own legal advisor, or ask GCG for a referral.

2016 Posting Requirements

Every year employers are required to update their employee postings. These are postings required **by law** to be visibly posted in a place where employees congregate. This seemingly simple requirement has brought many an employer down the path of Department of Labor Standards Enforcement (DLSE) complaints. The first thing DLSE looks for when they visit your place of business is the current years posting. If that isn't right, what else isn't compliant?

The posting must be the current year, so take down the 2015 "out with old" and put up the 2016 "in with the new." GCG recommends for employers to be compliant they order what is called an all in one. This poster includes all State and federal laws. For a complete list of what posting's are required for your company industry and size [please visit the Department of California Industrial Relations](#).

In addition cities and counties in California have their own specific posting and employee notification requirements. January 1, 2016 Company's in Oakland, Richmond and Palo Alto have additional notification requirements.

Oakland and Richmond Minimum Wage

January 2016

Oakland and Richmond have revised their Minimum Wage notices. The new wage in Oakland will be \$12.55 as of January 1st, 2016. The new wage in Richmond will be \$11.52 (\$10.76 for employers for whom 50% or more of their income is derived from transactions where the employer's goods and services are produced by the employer in Richmond) as of January 1st, 2016.

Palo Alto Minimum Wage

January 2016

The city of Palo Alto has released their new minimum wage notice. The new wage will be \$11.00 as of January 1st, 2016. The notice must be posted in English and any language spoken by 5% of the employees. The notice must also be given to the employees.

Paid Sick Leave

As many of you remember January of 2015 all employers were required to post notices and give employees written notification of their Paid Sick leave and how it would accrue. Most employers are using the [wage theft protection form](#) provided free by DLSE. The actual law went into effect July 1, 2015. Ten days later Governor Brown passed an emergency amendment clarifying (so they said) employer responsibilities.

While the amendment has many different components some important clarifications were as follows:

The amendment (AB 304) clarifies how employers were to pay non-exempt employees for their sick time. Employers have two options¹

1. Calculate paid sick leave in the same manner as the regular rate of pay for overtime purposes is calculated for the workweek in which paid sick time is used, whether or not the employee works overtime in that workweek. Therefore, employers who are already set up to include all forms of non-discretionary compensation (such as commissions, shift premiums and service charges) into the overtime rate, can simply use those calculations for the sick pay rate.
2. The prior option, which is to divide the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. If employers have already figured out a formula for this option, they can continue to use it.

For exempt (salaried) employees, the bill clarifies that the sick pay rate shall be calculated in the same manner as the employer calculates other forms of paid leave time.

Secondly and notable for employer in multiple states, is that an employee must work for 30 days with the same employer (not just within California) to be eligible for paid sick leave.

Thirdly, and of interest to employers who use a Paid Time Off (PTO) system in California the amendment states that sick pay need not be reinstated to an employee rehired within a year if it was paid out as PTO at the time of separation, and that the amount reinstated need only be the minimum amount accrued under the statute (i.e. no more than 48 hours or 6 days). Therefore, if the employer had a larger cap, the entire balance need not be restored.

On that note, it's another great day to be a California Employer. Good luck out there!

¹ Mondaq