

Guide to New California Employment Laws (2019)

Sexual Harassment Bills	Subject
<u>AB 2338</u> (Levine)	Talent Agencies. Requires talent agencies to provide educational material on sexual harassment training, retaliation, nutrition and eating disorders to adult artists, and requires minors (and their parents) to receive training in sexual harassment prevention.
<u>AB 2770</u> (Irwin)	Defamation. This bill codifies California defamation case law as it relates to allegations of workplace sexual harassment, making it explicit in statute that: (1) employees who report sexual harassment to their employer are not liable for any resulting injury to the alleged harasser’s reputation, so long as the communication is made based on credible evidence and without malice; (2) communications between employers and anyone with an interest in a sexual harassment complaint, such as victims and witnesses, are not liable for any resulting damage to the alleged harassers reputation, as long as the communication is made without malice; and (3) former employers are not liable for any resulting injury to a former employee’s reputation if, in response to inquiries from prospective employers, the former employers indicate that they would not rehire the former employee based on a determination that the former employee engaged in sexual harassment, so long as the statement is made without malice.
<u>AB 3082</u> (Gonzalez Fletcher)	In-Home Supportive Services (IHSS). Requires the Department of Social Services (DSS) to develop or otherwise identify standard educational material and a proposed method for uniform data collection addressing sexual harassment of providers of IHSS and to provide these materials to appropriate Legislative committees.
<u>AB 3109</u> (Stone)	Contracts: Right to Testify. Makes void any provision in a contractor or settlement agreement that waives a party’s right to testify in an administrative, legislative or judicial proceeding concerning alleged criminal conduct or sexual harassment. To read more about this bill, see our recent <u>Legal Alert</u> .
<u>SB 224</u> (Jackson)	Sexual Harassment: Professional Relationships. Adds “investor, elected official, lobbyists, director and producer” to the list of examples in Civil Code Section 51.9 that imposes liability for sexual harassment in “business, service or professional” relationships.
<u>SB 820</u> (Leyva)	Non-Disclosure Agreements. Prohibits provisions in settlement agreements that prevent disclosure of factual information related to act of sexual assault, sexual harassment, or sex discrimination or retaliation. Allows a claimant to request language that shields their identity or facts that could lead to the discovery of their identity. Does not apply to disclosure of the amount paid in settlement of a claim. To read more about this bill, see our recent <u>Legal Alert</u> .

Sexual Harassment Bills (cont.)	Subject
SB 1300 (Jackson)	<p>Unlawful Employment Practices. Prohibits employers, in exchange for a raise or a bonus, or as a condition of employment or continued employment, from requiring an employee to sign a release of claim under FEHA or to sign a nondisparagement agreement. Permits employers to provide “bystander intervention training.” Makes legislative findings and declarations, including (1) that a single incident can constitute harassment, and (2) that harassment cases are rarely appropriate for summary judgment. To read more about this bill, see our recent Legal Alert.</p>
SB 1343 (Mitchell)	<p>Training. Requires employers with 5 or more employees to provide 2 hours of sexual harassment prevention training to all supervisory employees, and at least 1 hour of sexual harassment prevention training to all nonsupervisory employees by January 1, 2020. Requires DFEH to develop online training courses that employers can utilize to satisfy these requirements. To read more about this bill, see our recent Legal Alert.</p>
Lactation Accommodation	Subject
AB 1976 (Limón)	<p>Lactation Accommodation. Provides that a lactation room must be “other than a bathroom.” Provides for temporary lactation locations that meet certain conditions, and allows agricultural employers to utilize the air-conditioned cab of a truck or tractor. Allows an employer to request a hardship exemption under certain conditions. To read more about this bill, see our recent Legal Alert.</p>
Human Trafficking Bills	Subject
AB 2034 (Kalra)	<p>Training. Requires operators of mass transit intercity passenger rail systems, light rail systems, and bus stations by 2021 to provide employees who may interact with human trafficking victims with 20 minutes of training on recognizing the signs of human trafficking and similar matters. To read more about this bill, see our recent Legal Alert.</p>
SB 970 (Atkins)	<p>Training. Requires a hotel or motel employer, by 2020, to provide 20 minutes of training to employees that are likely to come into contact with victims of human trafficking. Thereafter, training shall be provided once every two years. To read more about this bill, see our recent Legal Alert.</p>
OSHA Related Bills	Subject
AB 2334 (Thurmond)	<p>Employer Electronic Reporting. Provides that if federal OSHA eliminates the proposed Improve Tracking of Workplace Injuries and Illnesses rule, Cal/OSHA shall convene an advisory committee to evaluate how to implement the changes at the state level. This bill also provides that an “occurrence” for purpose of recordkeeping requirements continues until it is corrected, Cal/OSHA discovers the violation, or the duty to comply ceases to exist. To read more about this bill, please see our recent California Employers Blog post.</p>

OSHA Related Bills (cont.)	Subject
AB 2799 (Jones-Sawyer)	Cannabis. Requires an applicant for a cannabis license to provide a statement that it employs, or will employ within one year, one supervisor and one employee who have completed a 30-hour Cal/OSHA general industry course.
SB 1113 (Monning)	Mental Health: Voluntary Standards. Authorizes the Mental Health Services Oversight and Accountability Commission to establish a framework and voluntary standards for mental health in the workplace, and to provide guidance to California employers.
Construction/Public Works Bills	Subject
AB 235 (O'Donnell)	Apprenticeship and Pre-apprenticeship. Establishes a two-part process for the approval of apprenticeship programs, maintaining the current process for building trades and firefighter programs and establishing a separate process for newly emerging areas. Establishes pre-apprenticeship
AB 1565 (Thurmond)	General Contractor Liability. This bill is a clean-up measure to AB 1701 from last year and responds to the Governor's signing message asking for technical clarifications.
AB 2031 (O'Donnell)	School Project Bidding Requirements. Removes the January 1, 2019 sunset date on the requirement of general contractors and specified subcontractors to complete and submit prequalification information prior to bidding on school construction projects.
AB 2358 (Carrillo)	Apprenticeships: Discrimination. Prohibits discrimination in building and construction trades apprenticeship programs based on enumerated categories with regards to acceptance into or participation in the program.
AB 3018 (Low)	Skilled and Trained Workforce Requirements. Increases reporting requirements and penalties for noncompliance with existing provisions related to skilled and trained workforce requirements on state public works projects.
AB 3231 (Gray)	Certified Payroll Records. Authorizes a joint labor- management committee to bring an action against an employer who fails to provide payroll records as required by state law.
SB 913 (Hertzberg)	Public Works: Graffiti Abatement. Creates an exemption to the requirement to pay prevailing wage on public works projects for graffiti abatement in Los Angeles County if the graffiti abatement is done by a non-profit and the work is done by volunteers or individuals enrolled in a pre-apprenticeship program.
Miscellaneous Bills	Subject
AB 375 (Chau)	Privacy. AB 375 enacted the California Consumer Privacy Act of 2018, which goes into effect in 2020. To read more about this bill, see our recent Legal Alert .
SB 1121 (Dodd)	SB 1121 makes a number of clean-up changes to the provisions of SB 375.

Miscellaneous Bills (cont.)	Subject
AB 1654 (Rubio)	Labor Code Private Attorneys General Act (PAGA). Establishes a collective bargaining agreement exemption for PAGA claims filed by employees in the construction industry. To read more about this bill, please see our recent California Employers Blog post .
AB 2138 (Chiu)	Licensing Boards: Criminal Conviction. Limits a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.
AB 2282 (Eggman)	Salary History Information. Makes clarifying changes to the existing provisions regarding the use of a job applicant's prior salary to prohibit use of prior salary to justify any disparity in compensation. This bill also specifies that the prohibition on asking a job applicant about prior salary does not forbid an employer from asking the applicant about his or her salary expectations for the position being applied for. To read more about this bill, please see our recent California Employers Blog post .
AB 2388 (Chu)	Employment: Minors. Clarifies that employers do not have to obtain permission from the Labor Commissioner to employ minors in digital exhibitions, provided the minor is not compensated, the exhibition is limited to one hour and an admission fee is not charged for attendance.
AB 2455 (Kalra)	Home Care Aide Registry. Requires the Department of Social Services, upon request, to provide an electronic copy of a registered home care aide's name and certain contact information to specified labor organizations, unless the aide has opted-out.
AB 2587 (Levine)	Paid Family Leave. Removes language in the California Unemployment Insurance Code referencing a code section that no longer exists.
AB 2605 (Gipson)	Rest Breaks: Petroleum Facilities. Establishes an exemption from the "relieved of all duty" rest period requirements of the recent <i>Augustus</i> case for employees in safety sensitive positions in petroleum facilities covered by a valid collective bargaining agreement. This bill contains an urgency clause and went into effect immediately upon signature. To read more about this bill, please see our recent California Employers Blog post .
AB 2610 (Aguiar-Curry)	Meal Periods. Authorizes a commercial driver employed by a motor carrier transporting nutrients and byproducts from a licensed commercial feed manufacturer to a customer located in a remote rural location to commence a meal period after 6 hours of work, if the regular rate of pay of the driver is no less than one and one-half times the state minimum wage and the driver receives overtime compensation in accordance with specific provisions of existing law.

Miscellaneous Bills (cont.)	Subject
AB 2751 (Stone)	Agriculture Labor Relations Board (ALRB). Requires the ALRB to process to final board order all decisions with monetary remedies within one year of a finding of liability. This bill also requires the immediate implementation of a final board order and contract resulting from mandatory mediation.
AB 2844 (Cooley)	Insurance: Agents and Brokers: Commissions. Provides that a commission payable to an insurance broker-agent shall be conclusively presumed to be based on the written contract between the insurer and broker-agent if the insurer has complied with two specified provisions of law.
AB 3247 (Judiciary Committee)	Arbitration Agreements. Provides that a court is not required to order parties to arbitrate a controversy if it determines that grounds exist for rescission of the agreement, rather than revocation of the agreement.
SB 785 (Weiner)	Evidence: Immigration Status. Prohibits the disclosure of a person’s immigration status in open court unless the judge presiding over the matter first determines that the evidence is admissible in an in camera hearing, as provided.
SB 826 (Jackson)	Board of Directors: Women. Requires each publicly held corporation whose principal executive offices are located in California to have a minimum number of women on its board of directors, as specified. To read more about this bill, see our recent Legal Alert .
SB 954 (Wieckowski)	Mediation: Confidentiality: Disclosure. Requires an attorney representing a client participating in a mediation or a mediation consultation to provide the client with a written disclosure containing the mediation confidentiality restrictions provided in the Evidence Code. The attorney is required to obtain a printed acknowledgment signed by the client stating that the client has read and understands the confidentiality restrictions.
SB 1123 (Jackson)	Paid Family Leave. Permits an individual who misses work due to their spouse, domestic partner, parent or child being on active duty in the armed forces to receive paid family leave benefits.
SB 1194 (Lara)	Privacy: Lodging and Common Carriers. Prohibits places of lodging, bus companies, movie theaters, sports arenas, and performance venues from handing over the name or identifying information of guests, passengers, or audience members, except to California peace officers or in response to a court-issued subpoena, warrant, or order.
SB 1252 (Bradford)	Payroll Records. Provides that when an employee asserts his or her right to inspect and copy payroll records, the employer is required to make the copies.
SB 1402 (Lara)	Port Drayage Trucking: Liability. Requires joint and several liability for customers who contract with port drayage motor carriers who have unsatisfied judgments regarding unpaid wages, damages, expenses, penalties and workers’ compensation liability. To read more about this bill, please see our recent California Employers Blog post .

Miscellaneous Bills (cont.)	Subject
SB 1412 (Bradford)	Criminal History. Narrows certain exceptions to existing “ban the box” prohibitions to limit their consideration only to “particular” convictions.
SB 1428 (McGuire)	Minors: Work Permits. Prohibits a school from denying a work permit for a minor on the basis of the pupil's grades, grade point average, or school attendance, if the permit would allow the pupil to participate in a government-administered employment and training program that will occur during the regular summer vacation of the school that the pupil attends.
SB 1442 (Weiner)	Community Pharmacies: Staffing. Prohibits a community pharmacy from requiring a pharmacist employee to engage in the practice of pharmacy at any time the pharmacy is open to the public, unless another employee is made available to assist the pharmacist at all times.
SB 1500 (Veterans Affairs Committee)	Prohibited Discrimination Against Service Members. Updates references to specific military rank categories to clarify that all members of the state or federal military forces are protected against discrimination in employment and public accommodation.
Public Sector Bills	Subject
AB 2012 (Medina)	School and Community College Employees: Parental Leave. Requires that a person employed in a position requiring certification qualifications, a person employed in an academic position, or a classified employee will receive no less than 50% of his or her regular salary for the remaining portion of the 12 workweek period of parental leave, regardless of the type of differential pay system used by the school district or community college district.
AB 2128 (Kiley)	School Employees: Dismissal or Suspension. Authorizes a decision relating to the dismissal or suspension of an employee to be made based on evidence of specified allegations more than four years in the past.
AB 2160 (Thurmond)	Classified Employees: Part-Time Playground Positions. Removes the exemption from classified service for part-time playground positions in both school districts and community colleges.
AB 2234 (Jones-Sawyer)	School Districts: Testimony of Minor Witnesses. Specifies the following for purposes of a certificated or classified employee dismissal hearing: (1) authorizes minor witness testimony under 18 years of age, in egregious misconduct cases, be taken in a room outside the hearing room and be televised by two-way closed circuit television (CCTV); (2) requires a witness under 18 years of age or a dependent with cognitive impairment be protected from undue harassment or embarrassment; (3) requires a support person to be appointed for a minor witness; and (4) requires a court order or subpoena to obtain pupil contact information.

Public Sector Bills (cont.)	Subject
<u>AB 2261</u> (Friedman)	School Employees: Community Representatives. Requires positions established for the employment of community representatives in advisory or consulting capacities in elementary and secondary school districts to be considered part of the classified service.
<u>AB 2327</u> (Quirk)	Peace Officers: Misconduct: Employment. Requires peace officers seeking employment with a law enforcement agency to give written permission for the hiring law enforcement agency to view his or her general personnel file and any separate disciplinary file. This bill also requires each law enforcement agency to make a record of any investigations of misconduct involving a peace officer in his or her general personnel file or a separate file designated by the department or agency.
<u>AB 3224</u> (Thurmond)	Public Social Services: County Employees. Requires eligibility decisions for certain public benefit programs that are made by counties to be made by a county merit or civil service employee.
<u>SB 846</u> (Budget Committee)	Public Employees: Lawsuits for Pre-Janus Damages. Specifies that the Controller, a public employer, an employee organization, or any of their employees, as defined, shall not be liable for, and would have complete defense to, specified claims regarding agency or fair share fees from current or former public employees. The bill also specifies that employees shall not have standing to pursue claims if fees were permitted prior to June 27, 2018.
<u>SB 1085</u> (Skinner)	Public Employees: Bargaining Representative Service. Requires public employers to provide “lost time” to employee representatives, as specified, to allow employees to serve as stewards or officers of the employee representative or its state or national affiliates.
<u>SB 1086</u> (Atkins)	Workers’ Compensation: Firefighters and Police Officers. Deletes the sunset clause on a law that provides an extended statute of limitations for workers' compensation death benefits payable to the survivors of public safety officers who die as a result of work-related cancer or other specified diseases.