Here Are the Top 10 New Laws Coming Soon to California Workplaces and 5 Key Bills the Governor Surprisingly Vetoed

Insights
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California employers know that the new year inevitably brings new workplace laws that are finalized at the end of the state's legislative session in the fall. This year, state lawmakers considered over 2,700 bills – the most in almost two decades – including some high-profile workplace-related proposals. Governor Newsom had until October 14 to sign or veto the bills on his desk – so we now know what new compliance obligations employers will soon face. Notably, however, the Governor also surprised us by vetoing a few proposed workplace laws. While the vetoes provide some relief for California employers, you'll need to review the flurry of bills that were approved and also be prepared to see some vetoed bills resurrected in future legislative sessions. What are the top 10 new workplace laws you'll need to address in the coming months and the five key vetoes that surprised us?

10 New Laws that Create Compliance Obligations for Employers

1. **California expands paid sick leave under SB 616.** In the wake of numerous California cities passing local Paid Sick Leave (PSL) ordinances in recent years, the State of California has now taken matters into its own hands – and created yet more hurdles for employers. Governor Newsom signed SB 616 into law on October 4, expanding the state's existing paid sick leave law – the Healthy Workplaces, Healthy Families Act of 2014 – in multiple ways. The new law's modifications have widespread implications because they will apply to virtually all employees who work in California for 30 days or more in a year. With the vast majority of employees covered, employers must anticipate these modifications head-on. Click here to read a summary of the new law developed by Alexandra Mills and Ben Ebbink and learn the five steps you can take to prepare for this new law, which will take effect on January 1, 2024.
2. **SB 525 raises the minimum wage for nearly all health care workers.** A new law signed by Governor Newsom on October 13 will significantly impact California health care employers statewide by raising the minimum wage for nearly all health care employees – hourly and salaried – and providing employees a private right of action to enforce the minimum wage requirements. Click here for a summary of the new law developed by Hannah Sweiss and Kiki Okpala, including the main takeaways for employers.
3. **SB 699 equips employees with new ways to challenge noncompetes.** On September 1, Governor Newsom signed a bill into law that prohibits employers from entering into

noncompetes with California employees that are void under state law, and also prohibits employers from attempting to enforce such noncompetes against California employees – regardless of whether the employee executed the agreement in another state or worked in another state when executing the agreement.

4. **AB 1076 creates noncompete notice requirements for employers.** The governor signed another noncompete bill on October 13 that will implement a new burdensome notice requirement for employers, requiring them to notify current and former employees about unlawful noncompete covenants in their employment agreements. Click here to read a summary of SB 699 and AB 1076 developed by Anthony Isola and Sean Kingston, including four top things employers should know about these new noncompete laws in California.
5. **Employees are now entitled to leave for reproductive loss under SB 848.** Governor Newsom signed into law a bill that further expands California unpaid leave by allowing employees to take protected time off due to "reproductive loss." SB 848, signed into law on October 10, will require employers to adjust their policies and procedures for leave of absences in California once it takes effect in January. Click here to read a summary of the new law developed by Christina Anton and Ben Ebbink and learn the top six things you need to know about this impending law.
6. **Employers must develop a workplace violence prevention program under SB 553.** California lawmakers were pushing an aggressive legislative proposal this year that would have required almost every employer in the state to comply with a workplace violence prevention standard developed with healthcare employers in mind. This was despite the fact that Cal/OSHA had been working on a standard that would apply to general industries. Thankfully for employers, SB 553 was amended late in the legislative session to essentially codify the proposal that Cal/OSHA had already been working on and remove some of the more controversial and burdensome requirements. As a result, many business groups dropped their opposition to the bill and Governor Newsom signed it on September 30. But the new law will still impose significant obligations on almost all non-healthcare employers in the state by July 1, 2024. Here's what you need to know about the specific requirements of the new law, as developed by Abby Harrington Putzulu, and the top five steps you should take to comply.
7. **Employers must pay for food handler cards under SB 476.** California has long required food handlers in restaurants to obtain certification — and until now, training and testing has been the employee's responsibility. A new law Governor Newsom approved on October 8, however, shifts this burden entirely to employers by requiring them to pay their workers for all costs associated with obtaining a food handler card. Click here for what you need to know about new obligations under SB 476 in a summary developed by William Okamoto, Alden Parker, Erin Price, and Tyler Woods, including your four-step action plan to ensure compliance when the law takes effect in the new year.
8. **AB 1228 sets $20 fast food minimum wage.** The legislation defines "fast food restaurant" to mean a limited-service restaurant in the state that is part of a national fast food chain. A "national fast food chain" means a set of limited-service restaurants consisting of more than 60 establishments nationally that share a common brand, or that are characterized by

standardized options for decor, marketing, packaging, products, and services, and which are primarily engaged in providing food and beverages for immediate consumption on or off premises where patrons generally order or select items and pay before consuming, with limited or no table service. You can read more about this bill here in a summary developed by Ben Ebbink, Alden Parker, and Tyler Woods.

9. **SB 362 expands data broker registration requirements and makes it easier for consumers to be "forgotten."** The Delete Act amends the state's existing Data Broker Registration law, giving consumers access to a central place where they can submit a single request for deletion of their data by all roughly 500 registered data brokers. Governor Newsom signed this bill on October 10, and the Delete Act will take effect in January 2026. Click here for a summary developed by Usama Kahf and Ben Ebbink, including answers to the five biggest questions data collection businesses have.
10. **Litigation is no longer automatically stayed during appeal thanks to SB 365.** Governor Newsom also signed into law a bill which provides that California trial court proceedings are not automatically suspended during the appeal of an order dismissing or denying a petition to compel arbitration. Effective January 1, 2024, this new law will allow courts the discretion to decide whether a case can proceed while an appeal is heard. Click here for a summary of the new law developed by Hannah Sweiss and the top things employers need to know about this significant change.

5 Vetoes That Surprised Us

In addition to signing the bills mentioned above into law, Governor Newsom vetoed quite a few proposals – even some we fully expected to soon become the law of the land in the Golden State. Here are the vetoed bills we were tracking along with some analysis from our attorneys, including FP's Government Relations Co-Chair, Ben Ebbink, who ranked on a scale of 1 to 10 how surprising each veto was – with 10 being completely shocking.

1. Layoff protections would have been extended to more workers under AB 1356. Ebbink gives this veto a 7 out of 10 in terms of shock factor. "This one was a notable surprise in that there was a lot of attention focused on layoffs this year, particularly in the tech industry," he explained.

The bill would have drastically expanded the scope of the California Worker Adjustment and Retraining Notification Act (Cal WARN) to apply to much smaller companies and to be triggered more often when employers conduct layoffs, shut down operations, or relocate operations. Under Cal WARN, employers of a certain size are required to provide advance notice to employees, unions, and the government when there is a particular triggering event, including mass layoffs, business closures, or relocations. Employers that fail to do so face liability, including having to pay up to 60 days of back wages to each affected employee that did not receive notice, benefits to those same employees for the same period of time, penalties, and attorneys' fees.

The amendments would have drastically change who Cal WARN applies to, when it applies, and how it applies, noted FP attorneys Spencer Waldron and Brandon Kahoush. For now, Cal WARN remains focused only on a single site of employment. Specifically, for Cal WARN to apply, employers must have 75 or more employees within the preceding 12 months working at a single site or location. For there to be a triggering event under Cal WARN, an employer would need to shut down operations at that single site, relocate the employees to another location 100 miles or more away, or layoff 50 or more employees in a 30-day window at that single site.

Governor Newsom essentially said the bill's coverage was too broad. "I urge the author to work with my administration to develop solutions that may better address the problem, while fulfilling the objectives of Cal WARN," he noted in his veto message.

2. Employers dodge new return-to-office obligations under SB 731. Ebbink also gives this veto a 7 in terms of surprise. "This one was fairly surprising in that the bill did not have opposition," he said. The proposal would have imposed a 30-day notice requirement before employers could bring remote workers back to the office. Ebbink noted, however, that the Governor's veto message reflected reasonable concerns about a 30-day written notice requirement being inflexible.

SB 731 aimed to protect employment opportunities for workers with disabilities who can adequately perform their job duties from the comfort of their homes. However, Fisher Phillips attorney Greg Blueford explained that these new notice requirements would have applied broadly to California workers.

This bill would have made it an unlawful employment practice under the Fair Employment and Housing Act (FEHA) to require an employee working from home to return to work in person without providing at least 30 days of advance written notice sent by mail or email.

"Businesses, especially small businesses, may have limited employees to staff in-person positions and the 30-day advance notice requirement of return-to-work could be impractical, especially in times of critical need or emergencies," Newsom said.

3. California was poised to enact the first statewide ban on caste discrimination under SB 403. Ebbink gives this veto a 5 on the surprise scale. "This was a bill with significant and vocal opposition, so I can't say a veto is particularly surprising," he explained. "The veto message also makes some logical sense as this type of discrimination is arguably already covered under 'ancestry.'"

Governor Newsom said California "already prohibits discrimination based on sex, race, color, religion, ancestry, national origin, disability, gender identity, sexual orientation, and other characteristics, and state law specifies that these civil rights protections shall be liberally construed."

SB 403 would have integrated "caste" into the definition of "ancestry" as a characteristic protected from discrimination by California's Unruh Civil Rights Act and the Fair Employment and Housing Act (FEHA). You can read more about the bill here. Additionally, you should note that Seattle recently became the first city to ban discrimination on the basis of caste, which you can read about here.

4. Governor rejects SB 799, which would have provided unemployment benefits for striking workers. Ebbink rates this surprise as a 5, too. "This veto was somewhat surprising in light of the plethora of labor strike activity and that this was a top priority of labor," he said. "However, the Governor hinted at a veto several days before at an event where he mentioned fiscal concerns about this bill – so it's not a complete surprise."

Recent labor activity and worker strikes — particularly in the entertainment and education industries — led labor groups to resurrect the controversial proposal that would have rendered striking employees eligible for unemployment payments if the strike lasted longer than two weeks. Even though SB 799 was not signed by the Governor, strike activity is anticipated to continue to escalate in California as we head into 2024. Also, since the current outstanding debt that is owed by California to the federal government for UI loans was one of the main reasons cited by the Governor for not signing this bill, it is likely that this bill will be reintroduced in future legislative sessions once the existing debt has been paid off. You can read more about it here.

5. Family caregiver status would have been added to anti-discrimination law under AB 524. Ebbink ranks this veto as only a 3 on the surprise scale. "As noble as the intentions behind this bill were, the legislation contained no meaningful definition of 'family caregiver,' so it would have been exceedingly difficult to comply with," he observed.

AB 524 would have incorporated "family caregiver status" as a characteristic protected from discrimination under FEHA. The bill would have caused employers significant headaches since it defined "family caregiver status" extremely broadly and would have created an entirely new category of protected employees, noted Fisher Phillips attorneys Alexandra Mills and David Witkin.

The bill defined a "family caregiver" as "a person who provides direct care to a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner." The definition also included any person identified by an existing employee as a "designated person" under the CFRA and FMLA. Because more than 4.4 million Californians are estimated to provide care to family, relatives, and friends, nearly every employer in the state would have been impacted.

"While I appreciate the intent of this bill, I am concerned about the large burden it will place on employers, particularly small businesses, especially given the ambiguous nature of the language," Newsom said.

Conclusion

Should you need assistance with updating your employee handbook or revising your policies related to new California workplace requirements, please contact your Fisher Phillips attorney, the authors of this insight, or any of our attorneys in our California offices. We will continue to monitor for updates, so make sure you subscribe to Fisher Phillips' Insight System to gather the most up-to-date information on the workplace.

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