

CALIFORNIA EMPLOYMENT
LAW CORNER *By Jessica A. Braverman, Esq.*

New Employment Laws for 2008 Affect Many Businesses

Now that we are slowly getting used to putting 2008 on all our correspondence and checks, employers must focus and comply with the new employment laws that began January 1, 2008. With rising gas prices, the new mileage reimbursement has increased, along with minimum wages. There is also a new required I-9 form, so to avoid penalties, all employers must obtain and begin using the new I-9 form. Copies of the new I-9 form can be obtained either through CalChamber or directly from the USCIS website.

For All Employers: NEW I-9 Form Starting Immediately

Starting immediately all employers must start using the revised I-9 form which contains an updated list for acceptable verification documents. Although the United States Citizen and Immigration Services "USCIS" only released this new I-9 form on November 7, the form itself contains the date of June 5, 2007. Don't let that confuse you.

The USCIS states that it will give employers only a 30 day grace period to begin using the new form, but use of any other I-9 form after the 30 day period will result in fines. The new I-9 form is available at the USCIS website or email me at Jessica@CAELTC.com and a copy can be emailed to you.

Worker's Compensation: 3 new laws effective 2008

There are three (3) new changes to the workers' compensation laws for 2008:

- 1) The medical mileage rate for medical and medical-legal travel expenses will increase to **50.5 cents** per mile;
- 2) The temporary total disability (TTD) rate for 2008 increases to \$916.33 per week on Jan. 1, 2008; and
- 3) Employees injured on or after Jan. 1, 2008 will be eligible to receive the 104 weeks of disability payments **within a five-year** period instead of a **two-year period**.

New Minimum Wages & Mileage Rates for 2008

- California minimum wage increases to \$8.00 per hour for 2008.
- San Francisco's minimum wage increases to \$9.36 per hour for 2008.
- The IRS reimbursement rate increases to 50.5 cents per mile.

New Notice Requirements for Earned Income Tax Credit 2008

Effective January 1, 2008, the law requires California employers (meaning those subject to and required to provide unemployment insurance to their employees under the Unemployment Insurance Code) to provide a **new notice** to employees along with their annual wage summaries (i.e., 1099 or W-2 forms). The new written notice provides information about employees' possible right to take an Earned Income Tax Credit on their federal tax returns, and must be hand-delivered or mailed to employees within one week before or after, or at the same time, that the annual wage summaries are provided. Note that employers may not satisfy this obligation by posting the notice on an employee bulletin board or delivering it through interoffice mail, although those methods may be used to supplement the hand-delivered or mailed notice.

Last 4 digits of Social Security Number on Pay Stubs

Pursuant to California Labor Code section 226, California employers are required to provide certain information on employees' pay stubs, including the employees' names and social security numbers. This law, enacted in 2004, mandates that effective January 1, 2008, only the last four digits of an employee's social security number, or an employee identification number other than a social security number, be shown on the pay stubs.

For Employers with 25 or more employees, the new California Military Spouse Leave becomes effective January 1, 2008 that require changes to your handbooks and your procedures:

California's AB 392-Military Spouse Leave requires employers with 25 or more employees to grant qualified employees (those who work more than 20 hours per week) up to 10 unpaid days off when their spouse or domestic partner is on leave from military deployment.

Employers with 50 or more employees need to know this federal law: President Signs Bill Extending FMLA Eligibility

Effective December 26, 2007, there is a new law that extends the federal Family Medical Leave Act (FMLA). This new law allows the use of up to 12 weeks of unpaid leave with job protection for any qualifying exigency arising out of the fact that the spouse, son, daughter or parent of an employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation. This new law **does not** provide a definition of "qualifying exigency" instead it directs Congress to create a definition through the regulatory process. Employers may require that a



request for such leave be supported by a certification of its necessity.

An employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall also be entitled to a total of **26 workweeks** of leave during a 12-month period to care for the service member. Employers may require medical certification in support of this request. Again, Employers with 50 or more employees within a 75 mile radius are required to offer this FMLA benefit to all qualified employees.

For All employers: this should be a reminder that these laws go into effect January 1, 2008

Computer Professional Hourly Rate Lowered (SB 929) – This law exempts a “computer professional” from overtime requirements provided the employee is primarily engaged in work that is intellectual or creative. This Bill lowered the minimum hourly compensation level from \$41 to \$36 per hour in order to qualify for this exemption.

Health Care and Whistleblower Protection (AB 632) – State Assembly Bill 632 prohibits a health facility from discriminating or retaliating against any patient, employee, member of the facility’s medical staff or any other health care worker of the facility because that person has (1) presented a grievance, complaint or report to an entity or agency responsible for accrediting or evaluating the facility or to any other governmental agency; or (2) has initiated, participated or cooperated in an investigation or administrative proceeding related to the quality of care, services or conditions at the facility.

An employee who has been discriminated against in employment in violation of this bill shall be entitled to reinstatement, reimbursement for last wages and work benefits caused by the employer, or to any remedy deemed warranted by the court, as well as lost income and legal costs.

Health Insurance Portability and Accountability Act (AB 1302) – Extends the Act’s duration to July 1, 2010. Employers should make sure they understand and comply with all HIPAA requirements.

If you are an employer and need some assistance in understanding and implementing the new 2008 employment laws, some additional resources to contact: EDD, or the DFEH or the California Labor Commissioner. Additionally, feel free to call your local Chamber of Commerce Resource, Jessica A. Braverman, Esq. of California Employment Law Training Center at (925) 827-4198 or www.CAELTC.com. We are here to help keep you in legal compliance and out of legal trouble.



Happy New Year and Happy New Employment Laws. This is a regular column being brought to you by California Employment Law Training Center, a member of the San Ramon Chamber of Commerce. This column is for informational purposes only and is not intended to provide legal advice. Each month, Jessica will address employment law related topics and all members are encouraged to submit questions or topic ideas to Jessica directly at Jessica@CAELTC.com.

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