

# It's 2017: Are You In Compliance? The Top 8 New Employment Laws That Impact Your Business Right Now!

*By Jason L. Morris*



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As the clock struck midnight on January 1st and 2016 became a distant memory, no doubt you had a glass of champagne in one hand and a stack of new employment laws in the other. What? No!? Don't fret, we have you covered. Here's a reminder of some of the new laws that went into effect January 1, 2017, that may impact your business.

**Juvenile Criminal History.** Employers are now prohibited from asking applicants about information regarding juvenile convictions or utilizing any information about juvenile arrests, detentions, or court dispositions as a factor in employment decisions. Ensure your employment applications are compliant and personnel involved in recruiting and hiring are trained and aware of the changes.

**Unfair Immigration-Related Practices.** It's now unlawful to request more or different documents than are required under federal law to:

- Verify an individual's authorization to work in the United States;
- Refuse to honor documents tendered that on their face reasonably appear to be genuine;
- Refuse to honor documents or work authorizations based on the specific status or term that accompanies the authorization to work; or
- Attempt to reinvestigate or re-verify an incumbent employee's authorization to work.

Violations may result in a penalty of up to \$10,000. Train your hiring personnel regarding correct I-9 procedures and permissible questions.

**Minimum Wage.** Have 26 or more employees? The minimum wage for your employees is now \$10.50 per hour. Have employees in Los Angeles, San Francisco, or one of 25 other jurisdictions across California? Make sure you're in compliance with higher local minimum wage laws. Oh, and don't jeopardize your exempt employees' status: conduct an audit and ensure all exempt personnel are paid a salary equivalent to at least two times the new, higher minimum wage.

**Wage Discrimination.** Prior salary no longer can be the sole justification for any disparity in compensation for employees of the opposite sex performing substantially similar work. Also, all of the provisions of last year's Fair Pay Act now apply to employees of the opposite race or ethnicity, not just the opposite sex. Audit your wage rates to ensure any pay differential is fully attributable to



a seniority system, merit system, quantity or quality of production, or a bona fide factor other than sex, race, or ethnicity, and not solely attributable to wage history.

**Restrooms.** Have a single-user restroom (a “one-seater” or a “one-seater” plus a urinal)? There’s a sign for that. Ensure your single-user restrooms have a compliant “all-gender toilet facility” sign.

**Smoking.** Most (though not all) exemptions to smoke-free laws have been removed, including those for warehouse facilities, employee break rooms, and businesses with five or fewer employees. By the way, the smoke-free laws apply to vaping and e-cigarettes too. Update your personnel policies and signage to avoid your company’s revenue going up in smoke!

**Speaking of Smoking: Marijuana.** Recreational use is now legal, but employers may still implement and enforce workplace policies prohibiting the use and possession of marijuana. Update your personnel policies and handbooks to make clear whether marijuana violates your company’s drug and alcohol policy.

**Choice of Law and Forum Provisions in Employment Contracts.** Employers are now prohibited from requiring an employee who works and resides in California to agree, as a condition of employment, to a provision that would either require the employee to litigate or arbitrate disputes outside of California, or to litigate or arbitrate disputes pursuant to another state’s laws. Review your employment and arbitration agreements and ensure they don’t impose such requirements.

Phew – that’s a lot to deal with. And as everyone who attended our Newmeyer & Dillion’s 2017 California Employment Law Legislative Update knows, these are just some of the new laws for 2017 that will impact your business and may require changes to your policies, contracts, and handbooks.

We’ll keep you posted regarding new changes in California law that impact your company, and please contact us with any comments or questions.

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