

LOCAL EVERYWHERE

2026 Laws & Regulations: From Legal to Operations

November 21 | CFLCA Ag Labor Forum 2025 | San Luis Obispo

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AGSTAFF LLC



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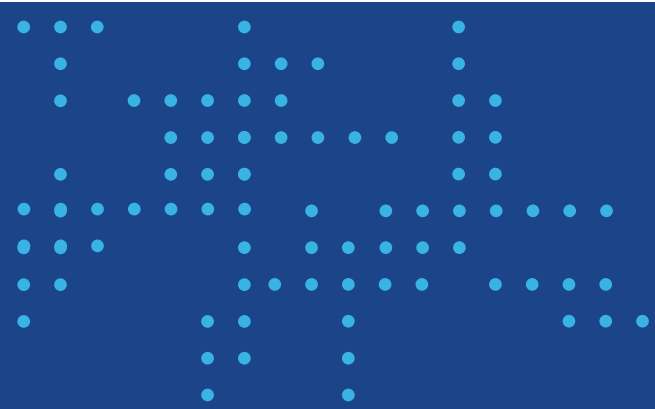
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Roadmap

- Wage and Hour
- Leaves of Absence
- Pay Transparency
- A Big Year for Labor
- Grab Bag





Wage and Hour



Gavin Newsom • Governor

1021 O Street, Suite 3110 • Sacramento CA 95814 • www.dof.ca.gov

August 1, 2025

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Governor

Honorable Mike McGuire
Senate President pro Tempore

Honorable Brian W. Jones
Senate Republican Leader

Honorable Scott Weiner, Chair
Senate Budget and Fiscal Review
Committee

Honorable Anna Caballero, Chair
Senate Appropriations Committee

Honorable Robert Rivas
Speaker of the Assembly

Honorable James Gallagher
Assembly Republican Leader

Honorable Jesse Gabriel, Chair
Assembly Budget Committee

Honorable Buffy Wicks, Chair
Assembly Appropriations Committee

Minimum Wage Increase, Director of Finance Calculation of Adjustment

Labor Code section 1182.12 (c) requires the Director of Finance to annually calculate an adjusted minimum wage on or before August 1 of each year following the implementation of the minimum wage to \$15.00 per hour for all employers, which occurred on January 1, 2023. The Director's calculation of the adjusted minimum wage must be the lesser of 3.5 percent or the rate of change, as specified, for the United States Bureau of Labor Statistics non-seasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The adjusted minimum wage increase takes effect on January 1 following the calculation. Pursuant to section 1182.12, the minimum wage was increased to \$16.50 per hour on January 1, 2025, for all employers.

This year, the Department of Finance calculates the average U.S. CPI-W for the 12-month period from July 1, 2024 to June 30, 2025 increased by 2.49 percent compared to the 12-month period from July 1, 2023 to June 30, 2024. As a result, pursuant to section 1182.12(c), the minimum wage shall increase by 2.49 percent to \$16.90 per hour and shall be implemented for all employers on January 1, 2026.



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Minimum Wage Increase, Director of Finance Calculation of Adjustments

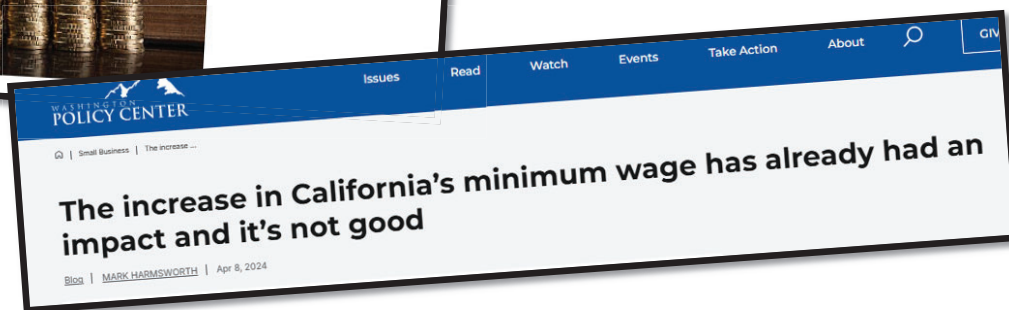
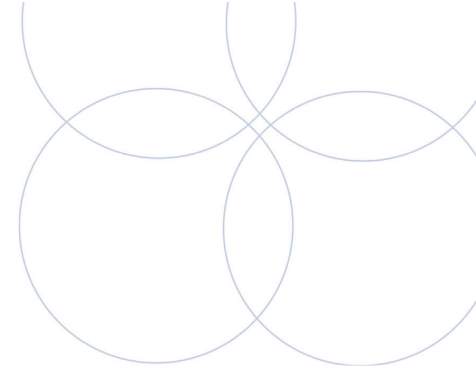
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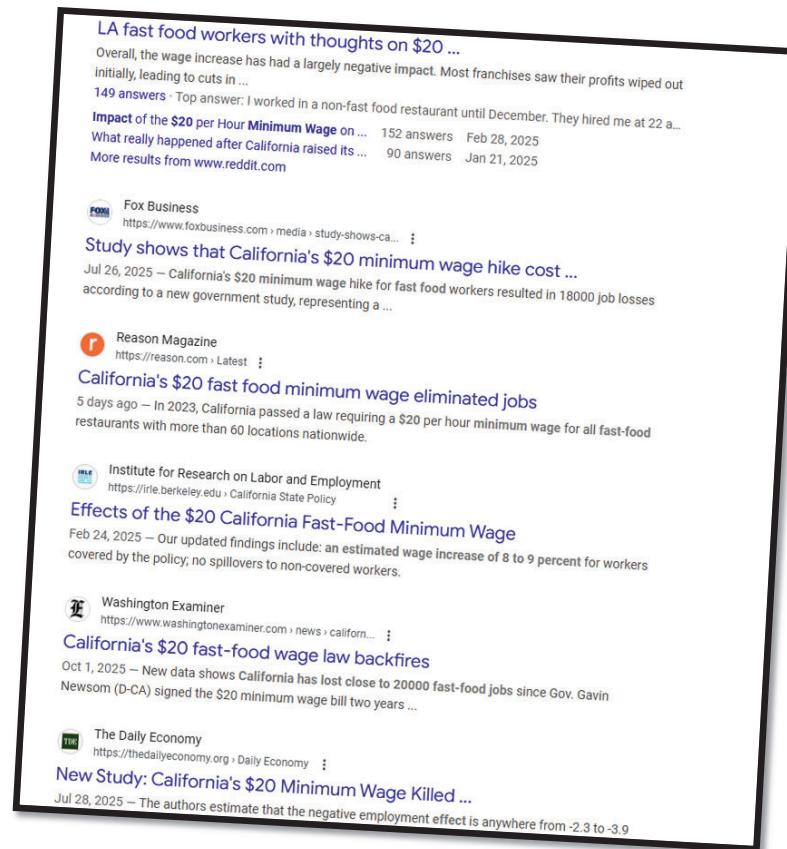
\$16.90

\$70,304

Wage Hike Effect



Conflicting news



New PAGA at One Year

- Private Attorneys General Act (“PAGA”)

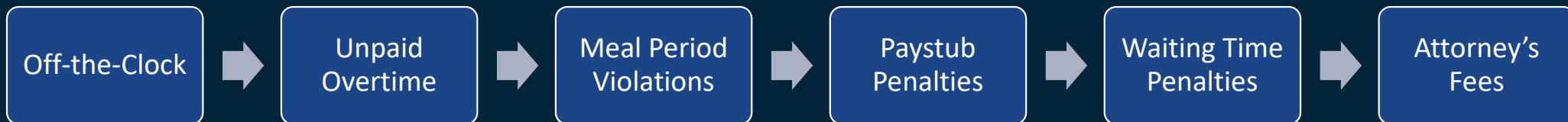
Representative actions where **one employee** sues on behalf of **all other similarly situated** “aggrieved employees.”

- Contrast with “class actions,” which have more procedural hoops to jump through.
- Since 2004, PAGA has gotten out of control.
- July 1, 2024, Governor Newsom signed a highly anticipated PAGA reform bill.

PAGA Penalties Old vs. New

Penalty Description	Old Penalty	New Penalty
Reduced penalties for paystub violations	\$100	\$25
“Isolated” violations	\$100	\$50
“Subsequent” penalties	\$200	\$200
Weekly payroll	100%	50%
“Derivative” violations	\$100	\$0
Good faith compliance	\$100	15% or 30%

Wage and hour dominoes



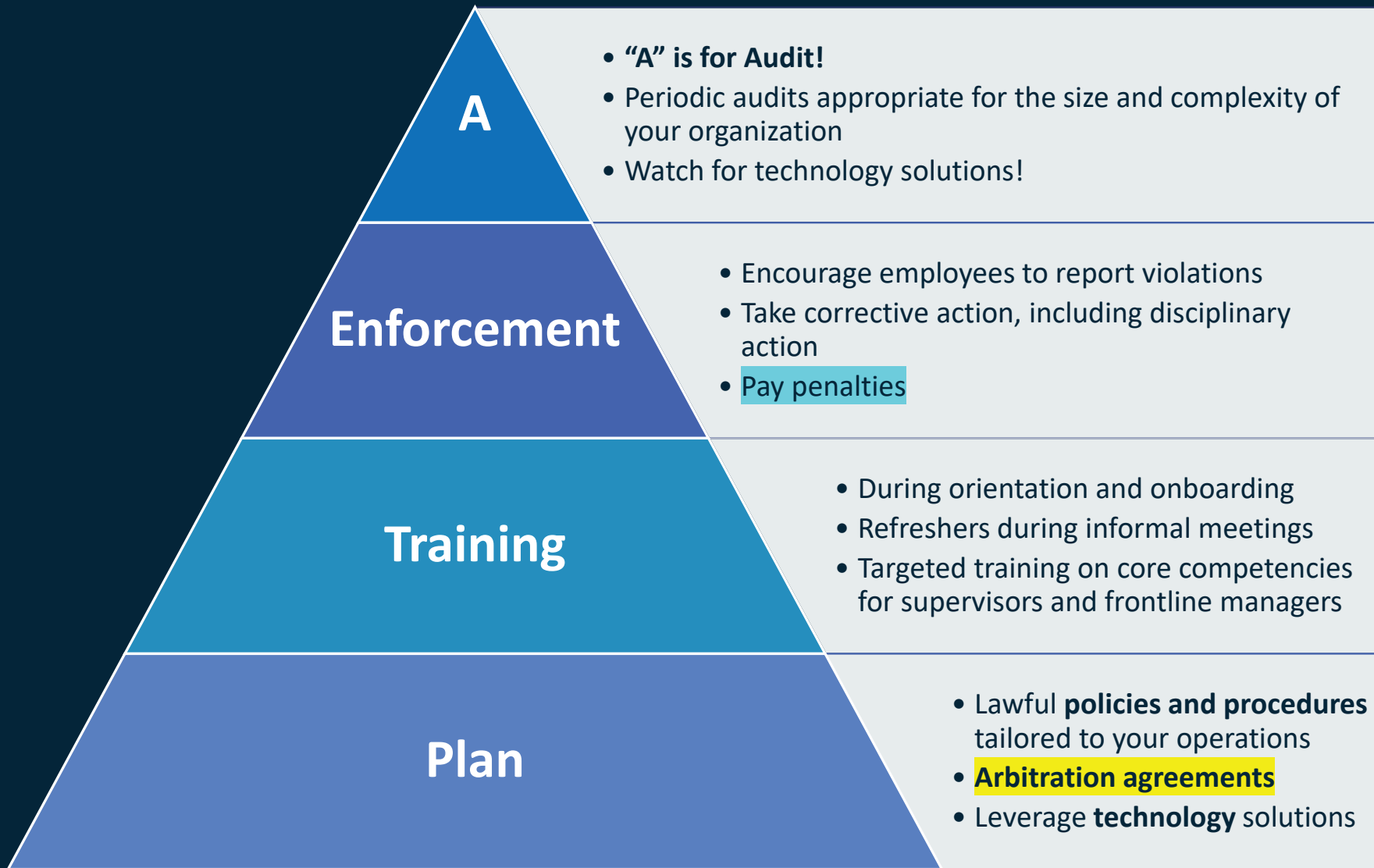
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Good faith compliance	\$100	15% or 30%

What are “all reasonable steps”?

- Conducting periodic payroll audits and taking action in response to the results of the audit;
- Disseminating lawful written policies;
- Training supervisors on applicable Labor Code and wage order compliance; and
- Taking appropriate corrective action with regard to supervisors.

**Evaluated in light of
the employer's size and resources**



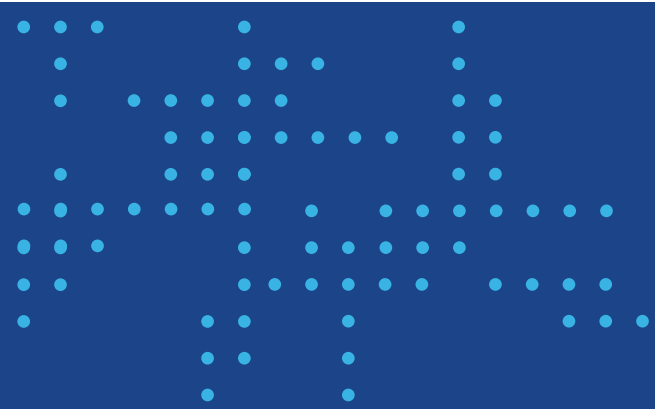
Plan

Training

Enforcement

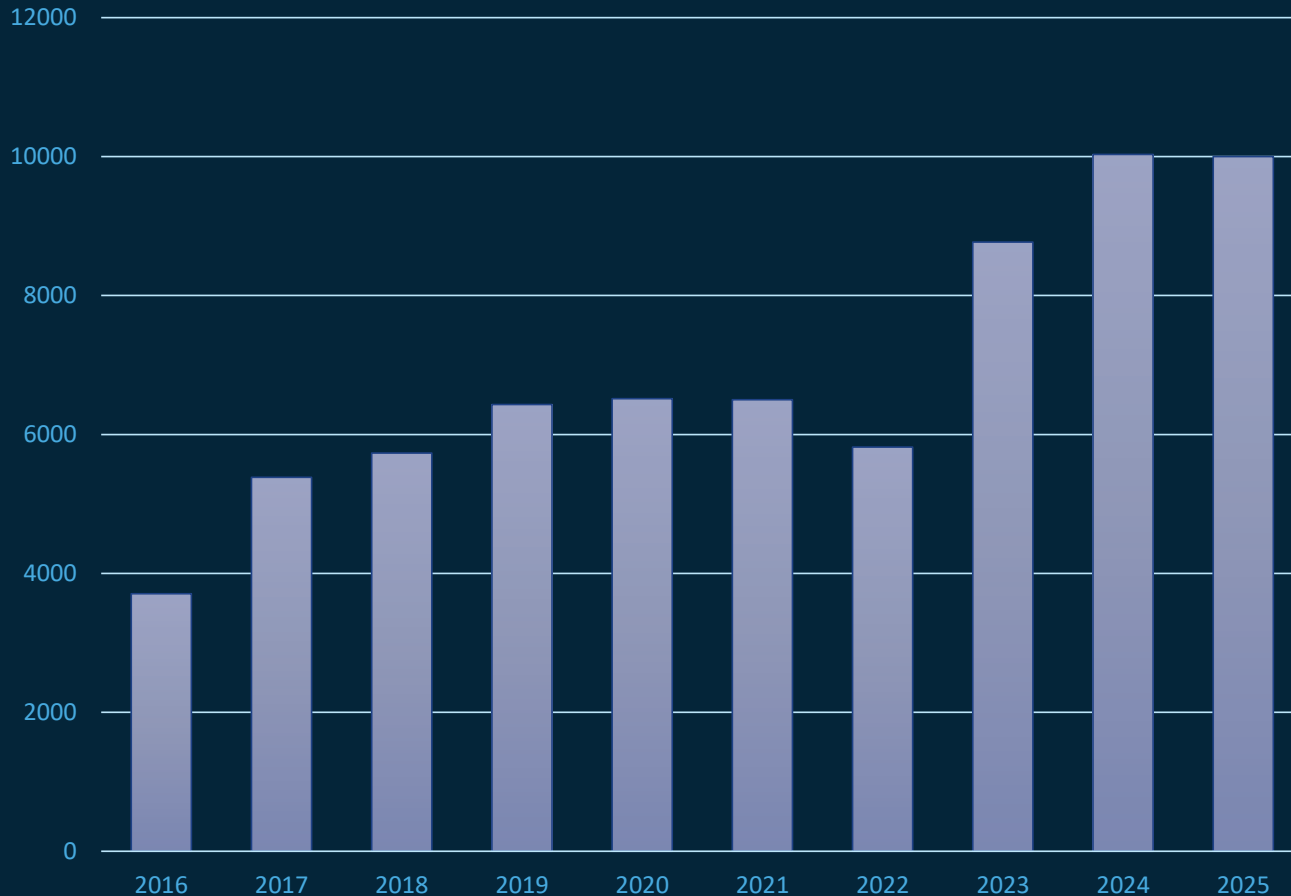
Audit





So, what's changed?!

Annual PAGA Notice Filings



Last year, at this time... **5,838** notices filed...

This year... **5,552** notices filed...

Not much has changed...

Arbitration Agreements

- ✓ Well drafted by experienced employment law counsel
- ✓ Up-to-date and California specific
- ✓ Class and PAGA representative action waiver (individualized arbitration requirements)
- ✓ Carve-outs as required by law (e.g., sexual harassment claims)
- ✓ Rolled out carefully

Expect legal challenges!

ARBITRATION AGREEMENTS ARE NOT A SILVER BULLET

- Still an *expensive* process...
- ***Hohenshelt v. Superior Court*** (this is bad for employers)
- Does not eliminate underlying liability...



*“Pics or it didn’t
happen” - the mantra
of the Instagram era*



**Document
Document
Document
Or it didn't happen...**

COVID-19 right to recall - extended again

- **AB 858** extends the sunset date of the recall and reinstatement rights of employees laid off as a result of the COVID-19 pandemic until January 1, 2027.
- Employers must rehire workers laid off during the pandemic.
- **Only applies to employers in hospitality and service industries** (i.e., hotels, event centers, airports, building services to office, retail, etc.)

AB 5 (“ABC” test) exemptions?

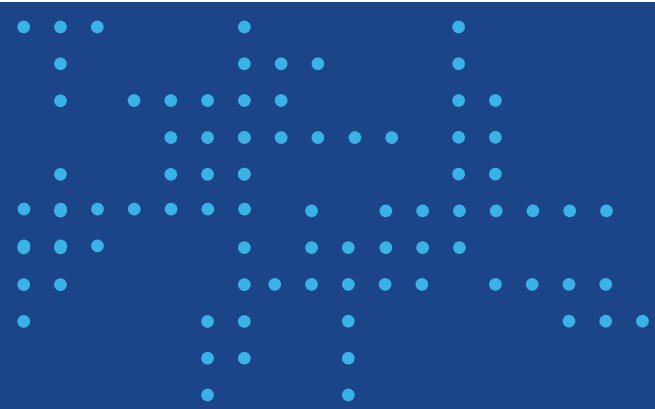
- **AB 1514** continuation of **specific** AB 5 exemptions
 - Only for licensed manicurists and commercial fisherman
- Legislature did not create any new exemptions

So, the default is individuals working for you are employees **unless** you can meet **all** three criteria of the ABC test:

- **A**: free from the **control and direction** of the hiring entity;
- **B**: work performed is **outside the usual course** of hiring entity’s business; and
- **C**: worker is **customarily engaged** in an independently established trade, occupation, or business of the same nature as the work performed.

Labor Commissioner wage awards - enforcement

- **SB 261:** Enhanced Penalties for Unpaid Judgments
- If an employer fails to satisfy a final wage judgment within 180 days after the appeal period ends, they may face a civil penalty up to **three times** the outstanding judgment amount, including interest.
- Exceptions apply if the employer enters and complies with a settlement agreement before the 180-day deadline.
- **Split of penalty funds:** 50% to affected employees, 50% to DLSE for enforcement and education.



Leaves of Absence

Paid Family Leave: Expanded

- **SB 590:** extends California Paid Family Leave (PFL) benefits to care for a “designated person” starting in 2028.
- Expands eligibility to include individuals who take time off work to care for a seriously ill designated person.
- Defines designated person to mean any care recipient related by blood or whose association with the individual is the equivalent of a family relationship
- Aligns with the California Family Rights Act

AB 406: Healthy Workplaces, Healthy Families Act

- **Last year's amendments** expanded the “safe” time reasons to include crime victim leave (a family member was a victim of domestic violence, sexual assault, stalking (and crime), and added new reasons connected to victim status for which leave could be used.
- **This year's amendments** allow employees to use leave if they or a family member are a victim of *certain* crimes and are attending judicial proceedings related to that crime.
- For this covered use only, the law defines “victim” as a person against whom a violent felony, serious felony, and/or felony theft or embezzlement is committed.

AB 406: Expanses Uses of PSL/HWHFA

- **Additional Expanded Paid Sick and Safe Time Covered Uses:** Effective October 1, 2025 - revises the *paid* leave law to incorporate by reference covered uses that already exist under the *unpaid* leave law:
 - An employee (including one who is a victim of *any* crime) is appearing in court as a witness to comply with a subpoena or other court order (California Government Code section 12945.8(a)(2)); and
 - An employee is serving on an inquest jury or trial jury (California Government Code section 12945.8(a)(1)).

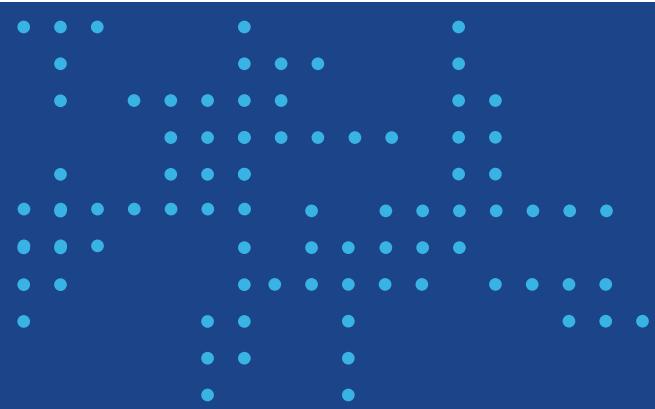
AB 1336: Rebuttable presumption for farmworkers

- If an Ag employer fails to comply with Cal/OSHA's **heat illness prevention standards** (8 CCR 3395), then any resulting heat-related injury shall be presumed to arise out of and in the course of employment.
 - Employers can rebut the presumption but will need evidence.
 - In other words, this law requires the WCAB to find in favor of the employee unless the employer successfully rebuts the presumption.
- Workers' comp findings don't apply in Cal/OSHA proceedings.

Remember: SWEAT

AB 1336: Rebuttable presumption for farmworkers

S	Shade	• Shade must be present when temperatures are greater than 80°F. • Large enough to accommodate the number of workers on rest breaks so they can sit comfortably without touching each other • Located as close as possible to the work areas.
W	Water	• Provide access to potable water that is fresh, suitably cool, and free of charge. • Located as close as possible to work areas.
E	Emergency	• Provide first aid or emergency response to any workers showing heat illness signs or symptoms, including contacting emergency medical services.
A	Acclimatization	• Closely observe new workers and newly assigned workers working in hot areas during a 14-day acclimatization period, as well as all workers working during a heat wave.
T	Training	• Provide regular and frequent training to both workers and supervisors.



Pay Equity & Pay Transparency

Pay Data Reporting

- **AB 464** increases the number of job categories from 10 to 23, providing more detail. Examples
 - Community and Social Service Occupations
 - Educational Instruction and Library Occupations
 - Farming, Fishing, and Forestry Occupations
 - Art, Design, Entertainment, Sports, and Media Occupations
 - Protective Service Occupations
- Also, there is a new subcommittee on pay data reporting, which means...regs are coming.

Demographic Data Handling

- Requires employers and labor contractors to store demographic data separately from personnel records.
- Data on race, ethnicity, and sex.
- How to keep it separated?
 - implement data segregation systems, such as using separate databases or secure folders, ensuring access controls (encryption), so that demographic data is only available to those responsible for compliance reporting, and maintaining an audit trail of who accesses data
- ...regulations

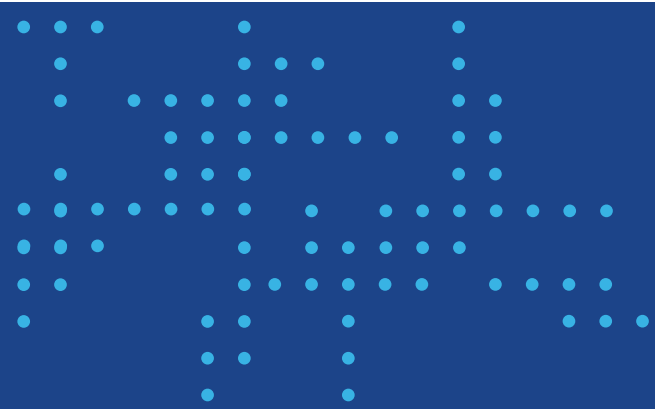
Equal Pay Act

- **SB 642** clarifies pay scale disclosure: good faith estimate of the expected wage range for a position upon hire (*as opposed to some date in the future*).
- Amended Equal Pay Act to replace “opposite sex” with “another sex,” broadening protections to be more inclusive.
- Employees may now recover wages for violations lasting up to *six years*, with a three-year statute of limitations from the last date the violation occurred.
- Cause of action is triggered not only when a discriminatory pay decision is made, but also each time wages are paid under that decision.

Definition of Wages Expanded in EPA

- SB 642 also includes definitions of “wages” and “wage rates” that expressly include **all forms of compensation**:
 - Salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

Note that this newly revised definition of wages applies in the context of **this statute only** and is not to be construed to apply to any other provisions of the Labor Code.



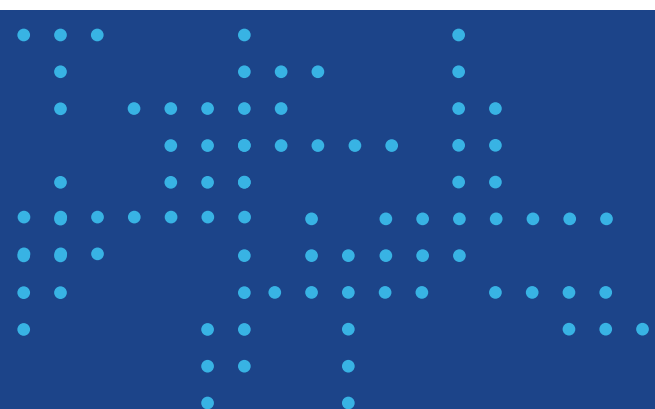
Labor Update

A Big Year for Labor Updates – Overview

- SB 399 Injunction Update
- Independent contractors unionizing
- SB 294 “Know Your Rights” notice
- **Card check implementing regs!**

Throwback from 2024

- SB 399 enacted to prevent “captive audience meetings”
- Employers cannot require employees to attend a meeting pertaining to political or religious matters. Included issues about elections, legislation, and labor organizations.
- Arguments were made that it was preempted by federal law
- Violates employer’s right to free speech



Fast forward to 2025 after a year of
litigation...

Captive Audience Update: SB 399 Halted

- CalChamber sued to enjoin SB 399.
- Injunction granted.
- The Court agrees the law is preempted by NLRA and that it violates the First Amendment.
- The State had until 10/31 to appeal to the Ninth Circuit.
- SB 399 is *currently* unenforceable.
- But! ***Amazon.com Services, LLC (2024)*** 373 NLRB No. 136 still applies...so proceed with caution (work closely with counsel).

NLRB Captive Audience Meeting Refresher

- “Captive audience” meetings are unlawful under current NLRB precedent.
- Exception (safe harbor) where employer can show:
 - Employer **notified employees in advance** of the meeting that the employer intends to express its views on unionization at a meeting and **attendance is voluntary**;
 - Employees will **not be subject to discipline**, discharge, or other adverse consequences for failing to attend the meeting or for leaving the meeting; and
 - The employer will **not keep records** of which employees attend, fail to attend, or leave the meeting.

Independent Contractors – Unionizing?

- **Sectoral Bargaining** is back
- **AB 1340 imposes a new labor relations framework for app-based rideshare drivers** who are classified as **independent contractors** under Proposition 22.
- Key Features:
 - Right to Organize and Bargain
 - PERB Oversight
 - Sector wide agreements covering earnings, benefits, deactivation appeals, etc.
 - Mediation, Arbitration (can issue binding recommendations)
 - Data reporting requirements to PERB

SB 294: “Know Your Rights” Notice

- SB 294: The “Workplace Know Yours Rights Act”
- Effective February 1, 2026, employers required to **annually notice** all employees:
 - Workers’ compensation rights
 - Employee rights during immigration inspections
 - Protection against unfair immigration-related practices
 - Right to unionize and engage in concerted activity
 - Constitutional rights when interacting with law enforcement (e.g., Fourth and Fifth Amendments)

SB 294 (cont'd): Emergency Contacts

- Employers must allow employees to designate an emergency contact by March 30, 2026.
- If an employee is arrested or detained at work or during work hours, the employer **must** notify the emergency contact if they have actual knowledge of the incident.

SB 294 (cont'd): Labor Commissioner Duties

- By January 1, 2026:
 - Publish a template notice in multiple languages.
 - By July 1, 2026: Create two educational videos:
 - One for employees about their rights
 - One for employers about compliance and constitutional obligations
- Stiff penalties: Up to \$500 per employee per violation.
- For emergency contact violations: \$500/day, up to \$10,000 per employee.

ALRB “Card Check” Implementing Regulations



Background:

- AB 2183, effective Jan. 1, 2023, known as the “card check” law.
- Amended by AB 113, effective May 15, 2023.
- Five “card check” elections before the passage of implementing regulations.
- Lots of confusion (and litigation).

ALRB “Card Check” Implementing Regulations

- Implementing regulations, effective April 7, 2025.
- 8 C.C.R. § 20391 (among other implementing regulations).

Most significantly:

- **Signatures** are valid for one year and **cannot be revoked**.
- **Format and language of card** defined by law and required to say “signature = vote.”
- **Eligibility disputes** are handled through the “objections” process (which is *awful* and costly for employers).



¡SI SE PUEDE!
AUTHORIZATION
FOR UNION REPRESENTATION



I authorize the Union of Farm Workers of America to be my union representative to collectively negotiate an employment contract with my employer to improve my wages, working conditions and benefits.

NAME		DATE
TELEPHONE		
ADDRESS	CITY	ZIP CODE
COMPANY	GROUP	

SIGNATURE

WITNESS

AUTHORIZATION FOR UNION REPRESENTATION

I, _____, authorize
(Employee's Name, Printed)

_____ to be my collective bargaining representative
(Labor Organization's Name, Printed)

for purposes of negotiating wages, hours, and other terms and conditions of

employment with _____
(Employer's Name, Printed)

Employee Information

Address: _____

Telephone/Cell Phone: _____

Email: _____

Signature: _____

Date: _____

Witnessed by (if applicable), Printed Name: _____

Witness Signature (if applicable): _____

Signing this card is a vote for the named labor organization. A signature is valid for one (1) year from the date it is signed. A signature on this card cannot be revoked during this one (1) year period.



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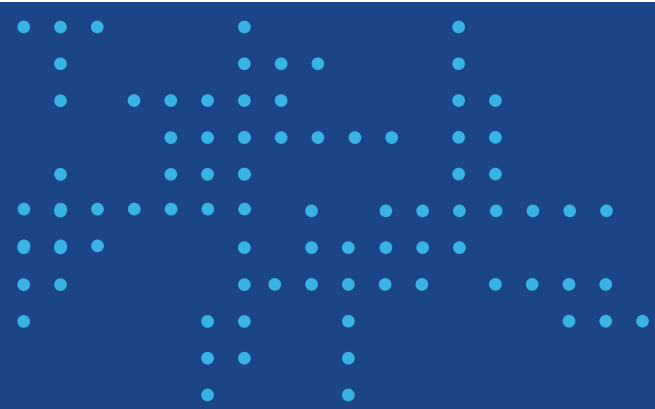
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Grab Bag

Agriculture Employees

- **AB 845** requires collaboration among government agencies:
- ALRB, DIR, DLSE, LWDA or Cal/OSHA, upon intake of a complaint from an agricultural employee “to collaborate with each other” and take all reasonable efforts to transmit the complaint to the appropriate entity for processing and investigation.

SB 513: Personnel files include training records

- Current and former employees (or their authorized representatives) have the right to inspect and copy their personnel records.
- **SB 513** amends Labor Code section 1198.5 to explicitly include **education and training records** as part of the “personnel records.”
- Employers must respond to written requests for inspection or copies within 30 calendar days, unless both parties agree in writing to extend up to 35 days from the date the **employer’s receipt** of the written request.

Bias Training

- **SB 303:** Employees self assessing their bias cannot have their assessments used against them as admissions in a discrimination case.
- Encourages employers to conduct bias trainings without legal repercussions.

New Victim Rights Notice

- In July 2025, CRD issued **new guidance** and a **model notice**.
- AB 2499 expanded leave protections for individuals impacted by qualifying acts of violence.

Action Items:

- Update policies and new hire documents.
- Train supervisors on interactive process and reasonable accommodations.



SURVIVORS OF VIOLENCE AND FAMILY MEMBERS OF VICTIMS RIGHT TO LEAVE AND ACCOMMODATIONS



FAQ

TAKING TIME OFF WORK

4 | I need to take time off work because I am the victim of a qualifying act of violence, or my family is the victim of a qualifying act of violence. What are my rights?

All employees who experience a qualifying act of violence are allowed to take time off work to get a restraining order or other relief to ensure their or their child's health, safety, or welfare.

Employees who work for an employer with 25 or more employees and who experience a qualifying act of violence are allowed to take leave to participate in activities for their health and safety, including seeking supportive or health services, participating in civil or criminal proceedings, moving, or caring for family injured because of a qualifying act of violence. This is also true for employees whose family member experiences a qualifying act of violence.

5 | How much time can I take off work after experiencing a qualifying act of violence?

Employees who experience a qualifying act of violence are allowed to take up to 12 weeks off work for activities protected by law. An employee whose family member dies as a result of a qualifying act of violence is also allowed to take up to 12 weeks off for these activities.

An employee whose family member survived a qualifying act of violence is entitled to up to 10 days off work for activities protected by law. Up to five days may be used to help a family member relocate, which includes searching for housing or enrolling children in a new school or childcare.

6 | Can I use vacation, sick time, or other forms of leave to take time off work after experiencing a qualifying act of violence?

Employees may use available vacation, paid time off, personal leave, or paid sick leave to take time off for any of the reasons described in this FAQ. If an employee is also eligible for leave under the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), their time off resulting from a qualifying act of violence runs at the same time. That means employees are not entitled to back-to-back leave. If they use FMLA or CFRA to take time off for any of the reasons described in this FAQ, it may reduce or prevent their ability to use FMLA or CFRA for other reasons (such as after the birth of a child).

7 | How much notice do I have to give my employer before taking time off work after experiencing a qualifying act of violence?

Employees must give reasonable advance notice before taking leave unless advance notice is not possible.

8 | What if I have an unexcused absence from work after experiencing a qualifying act of violence?

An employer cannot discipline or take action against the employee for an unexcused absence if the employee, within a reasonable time, provides information (called certification) that the act of violence occurred if the employer asks for it. Certification can include:

- Police reports
- Court records or other proof of a court appearance
- Documentation from a supportive service provider

CRD E21Q-BNG / June 2025

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Model Notice:

- https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2025/07/Survivors-Right-to-Time-Off_English-B.pdf

FAQs:

- https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2025/06/Survivors-Right-to-Time-Off-FAQs_English.pdf

Enforcement of FEHA: SB 477

- Clarifies that CRD may file group or class complaints.
- Defines “**group or class complaint**” to include those alleging a **pattern or practice of discrimination**.
- SB 477 also expands circumstances under which statutory filing **deadlines are tolled** (applies retroactively but does not revive expired claims).
 - Employees have one year after CRD provides the written closure notice to file a civil action.
- Allows broader venue options for CRD initiated civil actions.
- Courts may award **attorney’s fees**, costs, penalties up to \$25,000 (per person), and training mandates .

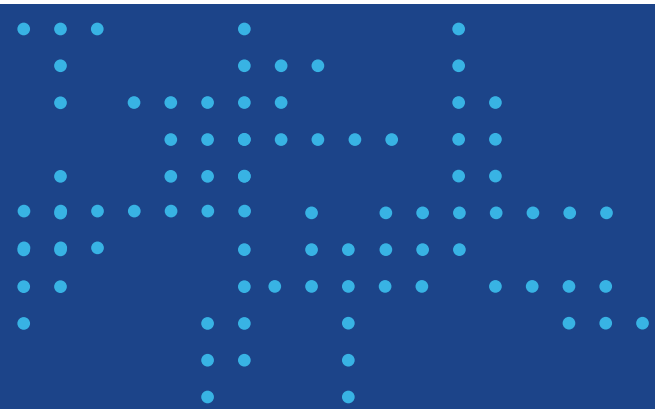
CalWARN

- CalWARN applies to all employers in California that operate a California “covered establishment,” which is defined as any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 months, 75 or more persons.
- CalWARN 60-day notice obligations are triggered if an employer suffers a mass layoff, a termination, or a relocation at a covered establishment.
- **SB 617** amended notice requirements to include more information.

Layoffs - New Required Disclosures

Employers must now include **specific information** in their 60-day advance notices:

- **Whether the employer plans to coordinate services** for affected employees through a **local workforce development board (LWDB)**, the **email and phone number** for the relevant LWDB, and a statutory required statement about LWDA;
- A description of CalFRESH;
- A functioning email and telephone number of the employer for contact.



Is that it?

It's not all Labor and Employment

In 2025, Governor Newsom signed two bills, which established two new state symbols:

- the bigberry manzanita as the state shrub.
- the giant garter snake as the state snake.



It's not all Labor and Employment

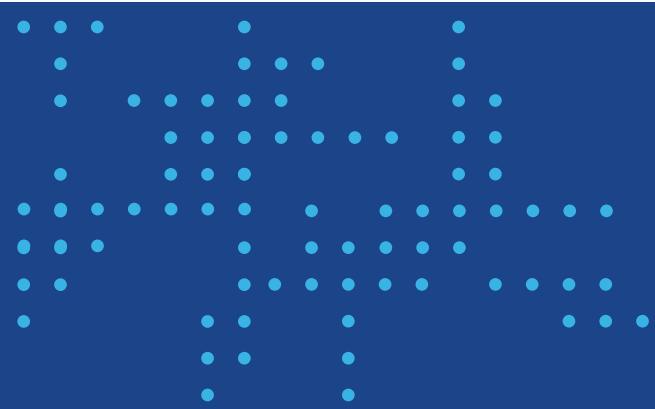
In 2025, Governor Newsom announced two new state symbols:

- the bigberry manzanita
- the giant garter snake



...ished two new state





AI REGULATIONS!

AI Regulations: Civil Rights Council

- FEHA prohibits discrimination in employment-related decisions, such as recruitment, hiring, promotion, training, and termination.
- The Civil Rights Council regulates the use of “artificial intelligence, machine-learning, algorithms, statistics, and/or other data processing” **to facilitate human decision-making**.
- The regulations define automated-decision systems, require anti-bias testing, details prohibited uses of ADS, defines an employer’s affirmative defense, and more.

Privacy and AI Regulations: CCPA

- In September 2025, California Privacy Protection Agency (CPPA) finalized its regulations concerning the use of automated decisionmaking technology (ADMT).
 - Think: application screening tools; performance evaluation analytics; productivity monitoring software; etc.
- Imposes the most stringent requirements in the United States on employers' use of artificial intelligence and other automated tools in employment decision-making.
- Employers must now conduct detailed risk assessments, provide pre-use notices, and honor certain opt-out and access rights.

“AI Made me do it” is not a legal defense

- **AB 316** is a very short bill:

“In an action against a defendant who developed, modified, or used artificial intelligence that is alleged to have caused a harm to the plaintiff, it shall not be a defense, and the defendant may not assert, that the artificial intelligence autonomously caused the harm to the plaintiff.”

(Can still argue other defenses, including comparative fault)



Thank You



This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.