

TOP 10 TAKEAWAYS FROM HOG E FENTON'S ANNUAL EMPLOYMENT LAW UPDATE SEMINAR

In 2014, the California Legislature introduced a number of new laws affecting California employers. Hoge Fenton's employment law team covered those new laws as well as the courts' clarifications of existing laws at its 2015 Annual Employment Law Update Seminar in January. Here are the top highlights:

1. Create or revise **sick leave policies** to comply with California's new paid sick leave laws (California Healthy Workplaces, Healthy Families Act) – and with regional sick leave ordinances, in Oakland and San Francisco. Pick one of the following three options for California's paid sick leave requirement: (1) permit eligible employees to accrue paid sick leave at a rate of at least 1 hour for every 30 hours worked; (2) grant eligible employees at least 3 paid sick days per year (year of employment, calendar year, or 12-month basis); or (3) use a Paid Time Off policy that is at least as generous as the sick leave law (but if you do so, the time must carry over from year to year and must be paid out at termination). Also, revise your Wage Theft Prevention Act notice to add paid sick leave, and post the required sick leave posters.*
2. Be aware of all increases in **minimum wage** (California is currently \$9.00 per hour) – including those passed at the city level (e.g. San Jose, San Francisco, others) – and ensure your compensation structure for other employees remain in compliance accordingly.
3. Reimburse employees who are required to use personal cell phones for work purposes, and revise your **reimbursement policy** to include discussion of reimbursement for cell phones and other personal devices.
4. Review and revise your **contracts with staffing agencies**, to ensure they include a strong indemnity provision, to protect your company in the event an agency employee sues your company based on alleged wage or workers' compensation violations.
5. Comply with San Francisco's new "**Ban the Box**" **Ordinance**, which prohibits asking employment applicants about criminal convictions in the application or interview process. This applies if you are hiring employees who will spend time working in San Francisco—even telecommuters.
6. Be sure to include a **workplace bullying** ("prevention of abusive conduct") component to your sexual harassment training for supervisors, which employers with 50 or more employees are required to provide every two years (and within 6 months of any employee becoming a supervisor).
7. Add a **class action waiver** to your company's arbitration agreement (if you have or want one) and consider the risks and benefits of including a **PAGA waiver** (a claim under the

Private Attorney General Act) notwithstanding that PAGA waivers are not enforceable under California law (but are enforceable under federal law).

8. Do not ask employees to show you their driver's licenses except where job-related; do not discriminate against employees or applicants who present **driver's licenses issued to undocumented workers** ("AB 60 licenses").
9. Consider revising your company's policies to require exempt employees to draw down from their vacation, sick leave or accrued PTO banks for **partial-day absences**.
10. Do not deduct "sleep time" from the wages of employees who are required to be **on-site and on-call for 24-hours**.

*California's new sick leave law is nuanced and sometimes in conflict with regional sick leave ordinances. We recommend having counsel review your new, existing, or revised policies for compliance.

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