

# CALIFORNIA HR QUARTERLY

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DECEMBER, 2005

## Year-End/Year Starting Checklist For Employers

Here is a checklist of some of the significant new laws and responsibilities that may impact your business. Make sure you are complying with all of these new issues.

- ✓ Final wages may be paid by direct deposit to an employee's previously authorized account, provided that all other requirements for payment of final compensation are met.
- ✓ The period for filing discrimination claims by minors under the Fair Employment and Housing Act (FEHA) is extended to one year from the minor's eighteenth birthday.
- ✓ Starting June 1, 2005, a new federal law requires proper destruction of documents that contain personal information of the type obtained in credit reports.
- ✓ Failing to train managers involved in the hiring process as to when and how to make employment offers, or how to refrain from making unintended verbal offers or misstatements that can result in significant company liability.
- ✓ Rude or aggressive supervisory conduct directed at one sex more frequently than another constitutes sexual harassment, as does conduct favoring employees who engage in sexual conduct with a supervisor.
- ✓ An employer may lawfully discharge an employee for using federally prohibited drugs even if use is protected by state criminal law.
- ✓ A California court shifted to employers the burden of proving that an employee or applicant is not qualified to work because of a disability in a claim filed under FEHA.
- ✓ An employee who refuses to carry out an order he or she reasonably believes to be discriminatory is protected from retaliation even if he or she never advises her employer of that belief;
- ✓ The Age Discrimination in Employment Act (ADEA) permits lawsuits based solely on differential impact on older workers without the need to prove intent to discriminate.
- ✓ A California employer may deduct unearned commissions from future compensation advances without violating the California Labor Code.

- ✓ Corporate agents and managers acting within the scope of their agency are not personally liable under California law for their corporate employer's failure to pay its employees' wages.
- ✓ California law permits an employer to replace salary on an exempt employee's partial day off with time charged against the employee's vacation or PTO bank, provided the employee has such time available.
- ✓ The California Fair Employment and Housing Act (FEHA) goes farther than federal law in protecting employees and applicants with disabilities. A recent decision illustrates two important differences: 1) FEHA says a medical condition is disabling if it merely "limits a major life activity," while the federal Americans with Disabilities Act (ADA) requires a "substantial" limitation; and 2) When considering the major life activity of working, the court said an individual is disabled under California law if he or she is prevented from working a particular kind of employment, something less than a substantial class or broad range of jobs as under federal law.
- ✓ Beginning January 1, the amount employers may deduct for the reimbursement of employees who use their own cars for company business will be 44.5 cents per business mile driven.
- ✓ Make sure to update your federal & state labor poster kits to reflect changes in the USERRA law as well as other state changes.

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Sources:  
California Chamber of Commerce  
Fintechtax, Inc.  
Ceridian

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