



2018 NEW LAWS

新法規

Dear Clients and Friends:

In the last legislative session, Governor Brown of California signed approximately 859 new laws. We highlight a few of those laws that may impact businesses in California. These laws are effective on January 1, 2018, unless noted otherwise.



Chang & Cote serves businesses throughout Southern California and in the Pacific Rim with decades of legal experience. We are here to help businesses navigate the legal issues in a variety of practice areas including business, real estate, employment and labor, trademarks, estate planning, immigration, and civil litigation. This newsletter is a summary of a select laws and is not intended to be a comprehensive review of each law. If you would like to learn more about any of the laws and how to comply with the new laws, we encourage you to contact us for more information. We are ready to assist your legal needs. (626) 854-2112.

EMPLOYMENT LAWS 勞工法

California Minimum Wage Increase

加州最低工資提升

Effective January 1, 2018, California's statewide minimum wage is \$10.50 per hour for employers with 25 or fewer employees and \$11.00 per hour for employers with 26 or more employees. Exempt salaries are \$43,680 (\$3,640/month) for 25 or fewer employees and \$45,760 (\$3,813.34/month) for 26 or more employees.

Minimum Wage : Local Ordinances

最低工資:當地條例

Numerous cities and localities have local ordinances with a higher minimum wage than California including, but not limited to, Berkeley, El Cerrito, Emeryville, Los Angeles, Unincorporated areas of Los Angeles County, Pasadena, San Diego, San Jose, Santa Clara, Santa Monica and Sunnyvale. Please contact us to learn more whether a local ordinance applies to your company and your employees.

SB 63**New Parent Leave Act
育嬰假**

Employers with 20 or more employees must provide eligible employees up to 12 weeks of unpaid, job-protected leave in a 12 month period to bond with a new child within one year of the child's birth, adoption, or foster care placement. If, on or before the commencement of this parental leave, the employer does not provide a guarantee of employment in the same or a comparable position upon the termination of the leave, the employer shall be deemed to have refused to allow the leave. Employer must maintain and pay for coverage under a group health plan, if any. Eligible employees must work 12 months of service, at least 1,250 hours within the previous 12 month period and work at a worksite with 20 or more employees. Gov't Code §12945.6.

SB 295**Harassment Prevention
Training for Farm Labor
Contractors 農場勞動承包
商的防騷擾培訓**

Sexual harassment prevention training and reporting for agricultural employees must be in the language understood by that employee. Farm labor contractor licensees applying for license renewal are required to provide the CA Labor Commissioner with a list of all materials or resources used to provide sexual harassment prevention training and the number of employees trained. The Labor Commissioner may assess \$100 for each violation. Labor Code §§1684 et seq.

AB 1008**Ban the Box: Applicant's
Prior Conviction History
禁止詢問犯罪紀錄**

Employers with 5 or more employees are prohibited from inquiring about or considering a job applicant's criminal conviction history before a conditional offer of employment has been made including asking about criminal convictions on job applications. Once a conditional offer of employment is made, the employer may seek criminal conviction information.

If an employer intends to deny an applicant a position solely or in part because of the criminal conviction history, the employer must make an individualized assessment. This assessment must justify denying the applicant the position by linking relevant conviction history with specific job duties of the position sought. The employer who makes a preliminary decision to deny employment must provide the applicant a written notification and grant the applicant 5 business days to respond.

If the applicant notifies the employer in writing, disputes the accuracy of the conviction history, and is obtaining evidence to support that assertion, the employer must grant the applicant an additional 5 business days to respond to the notice. The employer must consider the information submitted by the applicant before making a written final decision. Gov't Code §12952.

AB 450**Immigrant Worker
Protection Act
移民工保護法**

Employers are prohibited from: (a) voluntarily allowing federal immigration enforcement agents access to nonpublic workplace areas without a judicial warrant, and (b) voluntarily providing access to employee records without a subpoena or court order. The foregoing prohibition excludes Form I-9 or other documents for which a Notice of Inspection (NOI) was provided. Employers must post a notice informing employees of any federal immigration agency inspection of Form I-9 or other employment records within 72 hours of receiving the Notice of Inspection. Employers must provide a copy of the notice upon reasonable request and must give each affected employee a copy of the inspection results and notice of the employer's and employee's obligations arising from the inspection. Fines for violations are \$2,000-5,000 for the first violation and \$5,000-10,000 for each subsequent violation. Gov't Code §7285.1.

AB 1556**FEHA Amended for Gender
Neutral Language
FEHA 以性別中立語言修正**

The gender-specific pronouns "he" and "she" in the California Fair Employment and Housing Act (FEHA) (anti-discrimination, anti-harassment, pregnancy disability and family/medical leave laws) are revised to be gender neutral ("the person" or "the employee") so that these laws are applicable to all persons. Gov't Code §§ 12904 et seq.

AB 168 No Salary History Questions 禁止薪资历史问题

Employers are prohibited from asking about a job applicant's salary history information including compensation and benefits to determine whether to hire and how much to pay the applicant. However, employers may consider such information if voluntarily disclosed by the applicant. Upon reasonable request, employers are required to provide a job applicant with the pay scale for the position. Labor Code §432.3.

AB 908 EDD Paid Family Leave and Disability Insurance Benefits 带薪家庭假和残疾保险福利

Effective January 1, 2018, the amount of Paid Family Leave (PFL) benefits or state disability insurance (SDI) benefits increases to either 60% or 70% of earnings, depending on the employee's income, subject to a maximum weekly benefit limit. The 7 day waiting period for benefits is removed for PFL but not removed for SDI.

SB 396 New Harassment Prevention Training Topics: Gender Identity, Gender Expression & Sexual Orientation

新专题：性别认同、性别表达 & 性取向的骚扰预防培训
Employers with 50 or more employees must provide supervisors mandatory 2 hour sexual harassment prevention training course every 2 years. Beginning 2018, training must also include topics on gender identity, gender expression and sexual orientation. Training must include practical examples intended to address these types of harassment. California employers are

also required to display a new poster by the DFEH on Transgender Rights in the Workplace. Gov't Code §12950.

SB 306 Labor Commissioner Authorized to Investigate Without Receiving a Complaint 劳工局长毋须接获投诉的调查权力

The CA Labor Commissioner may investigate an employer, with or without receiving a complaint, if the employer is suspected of retaliating or discriminating against a complaining employee or other specified investigation conducted by the Labor Commissioner.

The Commissioner can seek a court order to prevent an employer from firing an employee, even before completing its investigation. The Commissioner may issue a citation to employers in a retaliation complaint. Cited employers can seek review through the Labor Commissioner and through the courts. Employers who willfully refuse to comply with a court order pursuant to this provision shall be subject to civil penalties, payable to the affected employee. Labor Code §§98.7 et seq. and §§1102.61 et seq.

GENERAL BUSINESS (商业)

SB 258 Cleaning Product Right to Know Act of 2017

2017清理产品知情权法
Manufacturers of cleaning products are required to disclose the product's ingredients and contaminants of concern, in order

of concentration – including the chemicals used in fragrance mixtures – both on the product label and online. Employers whose employees may be exposed in the workplace to these contaminants of concern (i.e., those that require a safety data sheet under OSHA regulations – such as chemical laboratories, or certain manufacturers of cosmetics, food products, insecticides, etc.) are also required to make this information readily accessible to their employees. A violation of this requirement would be a crime.

AB 260 Human Trafficking Notice required for Hotels, Motels, Bed and Breakfast Inns 人口贩运通招贴：酒店、 汽车旅馆、旅店

Hotels, motels, and bed and breakfast inns are required to post a notice relating to slavery and human trafficking, including information regarding specified nonprofit organizations, and specify a person can also text a specified number for services or support.

AB 1221 Responsible Beverage Service (RBS) Training Act of 2017

Beginning July 1, 2021, businesses with a license to serve alcohol must ensure its alcohol servers complete training on alcohol responsibility and obtain certification. Training includes topics on how alcohol impacts the body, state laws and regulations relating to alcoholic beverage control.

Prop 65 : Clear and Reasonable Warnings Re: Chemical Exposure 明确和合理的警告 關於化学接触



New legislation imposes new requirements regarding the warnings companies have to provide, which include: the name of at least one chemical that prompted the warning, link to the state's Prop 65 website, and a triangular yellow and black warning symbol. Title 27, Cal. Code of Regs. Art. 6, §§ 25601 et seq.

Proposition 65 requires businesses to provide warnings to Californians about significant exposures to chemicals that cause cancer, birth defects or other reproductive harm. Violations can be as high as \$2,500 per violation per day. Both plaintiff's attorneys and private citizens can file lawsuits against businesses they claim are not fully complying with the law and be awarded one-quarter of the civil penalty.

AB 1102 Protections for Whistleblowers of Health Facilities

醫療設施舉報人的保護

The maximum fine for a misdemeanor violation of this law has been increased from \$20,000 to \$75,000. Health facilities cannot discriminate or retaliate against a patient, employee or health care worker because that person has presented a grievance, complaint, or has initiated, or cooperated in an investigation or administrative proceeding related to the facility. Health & Safety Code §1278.

REAL ESTATE 房地產法

AB 73

Real Property Disclosures: Death of Occupant 不動產披露：居民死亡

Real property owners and their agents do not have to disclose the occurrence or manner of death of an occupant, or that a prior occupant was living with HIV or died from AIDS related complications. Civil Code §1710.2.

AB 1650

Real Estate Advertisements 房地產廣告

In all advertisement (solicitation) materials and media, real estate brokers must disclose their name, license number, and their responsible broker's identity. Bus. & Prof. Code §10140.6.

AB 1701

Joint Liability for Construction Contractors 建筑承包商的连带责任

For private construction contracts entered into after 1/1/2018, a general contractor is liable for unpaid wages owed by a subcontractor to a laborer.

The Labor Commissioner may bring a civil action to seek payment for this liability. Third parties may bring a civil action to against a general contractor for owed fringe or other benefits. Subcontractors, upon request from the director contractor, have to provide specified information regarding the subcontractor's and third party's work. A general contractor may withhold disputed sums when a subcontractor fails to provide such requested information. Labor Code 218.7.

AB 652

Property Taxation: Base Year Value of New Construction

物業稅：新建筑的基準年 價值

New real estate constructions cannot acquire a new base year for purposes of real property taxes until the construction has been completed. Rev. & Tax. Code §§50 et seq.

LITIGATION

訴訟

SB 33

Arbitration Agreements 仲裁協議

Courts are generally required to enforce arbitration agreements. The new law creates an exception when the agreement that is the basis for enforcing arbitration was itself created fraudulently without the consumer's consent and by unlawfully using the consumer's personal identifying information – which was the case when it was discovered that Wells Fargo employees misused consumer names and personal information to create new accounts to inflate their sales targets without the consumers' consent. Code of Civil Procedure §1281.2.

For more information, please contact Chang & Coté, LLP at (626) 854-2112. We stand ready to assist you with all of your legal needs.

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