

# Law Report

LEGAL NEWSLETTER

VOLUME 7, ISSUE 3

## CALIFORNIA'S NEW EMPLOYMENT LAWS FOR 2007

*Employers Must Comply with New and Revised Workplace Rules*

This article summarizes California employment-related laws to go into effect on January 1, 2007. If such standards are not already in place, employers outside California should also note these new laws as possible models for future regulation of the workplace in their states.

**State Minimum Wage Increases to \$7.50 per Hour.** On January 1, 2007, California's hourly minimum wage will increase from \$6.75 to \$7.50. The minimum wage will again increase on January 1, 2008, to \$8.00 per hour. Labor Code § 1182.12.

This increased minimum wage also requires employers to re-evaluate salary levels for exempt-from-overtime executive, administrative and professional employees. Presuming all the other requirements are in place, only employees paid a salary equivalent to twice the state minimum wage for a 40 hour week qualify for the overtime exemption. Beginning January 1, 2007, the minimum monthly salary for exempt employees will be \$2,600 (or \$31,200 annually). That minimum increases to \$2,773.33 monthly and \$33,280 annually on January 1, 2008.

Commissioned inside salespeople who are exempt from overtime must earn at least one and one-half times the minimum wage for hours worked. Thus, commencing

January 1, 2007, such salespeople must earn at least \$11.25 per every hour worked to qualify. This will increase to \$12 hourly starting January 2008.

The law requires employers to display new California posters showing the minimum wage increase no later than January 1, 2007. Labor Code § 1182.13. Public can download the new poster at [www.dir.ca.gov/IWC/MinWage2007.pdf](http://www.dir.ca.gov/IWC/MinWage2007.pdf).

### **State Minimum Wage Increases to \$7.50 per Hour**

**Employers May Itemize Overtime Hours on Next Regular Pay Stub.** Current law requires employers to provide workers with itemized statements of total hours worked either semimonthly or at the time wages are paid. Labor Code § 204. The new law allows employers to itemize overtime hours worked in a given pay period on the pay stub for the next regular pay period. Any such itemization must of course identify the days on which the overtime work was performed.

### **Clarification of Workplace Smoking Prohibition Law.**

Current law prohibits smoking in "enclosed spaces" in the workplace. Labor Code § 6404.5. The new law expands

the definition to include "lobbies, lounges, waiting areas, elevators, stairwells, and restrooms." Smoking is unauthorized inside public buildings, except in covered parking lots.

**New Overtime Exemption Classification for Private School Teachers.** This new exemption from overtime pay pertains to teachers employed at private elementary or secondary schools. The teacher must be primarily engaged in teaching, instructing or lecturing students (at kindergarten or any grades 1 through 12); customarily and regularly exercise discretion and independent judgment in performing his/her teaching duties; earn at least twice minimum wage for full-time employment; and (a) have attained a baccalaureate or higher degree from an accredited institution; or (b) be in current compliance with the requirements established by the California Commission on Teaching Credentialing, or the equivalent certification authority in another state, for obtaining a preliminary or alternative teaching credential. Labor Code § 515.8. This newly created exemption is in addition to and does not limit, supersede or affect any exemption from overtime established for workers employed in a professional capacity, nor does it affect any exemption from

overtime for workers employed in an executive or administrative capacity.

This exemption does not apply to tutors, teaching assistants, instructional aides, student teachers, day care workers, or vocational instructors.

### **Mandatory Sexual Harassment Training Limited to California Supervisors.**

As discussed in prior newsletters, existing law requires

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## SEXUAL HARASSMENT SEMINARS

*Sexual Harassment Seminars Available for All Employers*

Visit our website at [www.tbowleslaw.com](http://www.tbowleslaw.com) to find times and schedules of our current seminars. We have tentatively scheduled sexual harassment seminars for January 11, 2007; February 23, 2007; and March 14, 2007 in Pasadena, California.

Please contact our office soon if you are interested in attending any of these seminars; act now before we sell out.

Alternatively, we will travel to your company to conduct in-house seminars at your convenience. Please call for a reasonably-priced quote.

*The Law Offices of Timothy Bowles work primarily in employment and health care fraud law; mediation; arbitration; and civil litigation. While published articles convey the firm's views on topics it has found concern many of its clients, the articles are not intended and should not be considered legal advice. Such professional advice requires full disclosure to an attorney of a client's circumstances and that attorney's opportunity to analyze those circumstances against applicable law.*

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employers with 50 or more employees or independent contractors to have provided by January 1, 2006 at least two hours of training and education on sexual harassment to supervisory employees. Thereafter, such employers must provide this training to supervisory employees at least every other year and to all new supervisory employees within six months of their assumption of supervisory responsibilities.

The new law limits the

training requirement to supervisory employees within the state of California only. Government Code § 12950.1.

The California Fair Employment and Housing Commission has proposed additional regulations to further interpret the harassment training law. If enacted, the regulations would allow supervisors who received anti-harassment training from another employer to read and acknowledge receipt of their current employer's anti-harassment policy within six months of hire. Those proposed regulations would also

permit an employer to place such transferee supervisors on a two-year tracking schedule based on their last harassment training from their pre-

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vious employer. Those regulations would also require employers to keep documentation of the training records for a minimum of two years. The records must include the employee's name, date of training, type of training, and name of training provider. We will update you if and when these new regulations go into effect.

***Predesignation of Medical Group as Primary Physician for Workers' Compensation Treatment.*** Under existing law, an employee who noti-

fies his/her employer in writing in advance generally has the right to have a designated personal physician treat him/her for on-the-job injuries. The amended law provides that a personal physician can include a medical group. Thus, an employee may pre-designate a corporation or partnership of a licensed medical or osteopathic doctor as the primary treating physician for on-the-job injuries. This law also extends the right to pre-designate to December 31, 2009, and deletes the maximum percentage of employees who may pre-designate.

California has enacted other employment laws effective in 2007. Please contact our office if you would like a complete list of the new employment laws or if you would like any further information regarding these laws. Also, please contact us for assistance in updating your employment forms and handbook to comply with these new employment laws. ■

## NEW 2007 IRS MILEAGE RATE

On January 1, 2007, the Internal Revenue Service will increase the standard mileage deduction for business use from 44.5 cents per mile to 48.5 cents per mile. Workers may use the 2007 rate to calculate the business-related cost of operating a motor

vehicle. Employers who reimburse their employees should use the new IRS rate or lower; otherwise, employees may need to pay taxes on the difference between a higher reimbursement rate and the IRS standard mileage deduction as "wages." ■