



2024 EMPLOYMENT LAW LEGISLATIVE UPDATE

Pascal Benyamini | Phyllis W. Cheng | Ramit Mizrahi

October 9, 2024

SPEAKERS



[Pascal Benyamini, Esq.](#)



[Phyllis W. Cheng, Esq.](#)



[Ramit Mizrahi, Esq.](#)



OVERVIEW

2024 legislative session:

- Election year
- Economy
- State budget deficit
- PAGA reform

990 bills sent to Governor:

- 807 (81.5%) signed and 183 (18.5%) vetoed
- More than 100 employment bills signed (84%) (see handouts) and 19 (16%) vetoed
- Effective January 1, 2025, except for emergency measures effective immediately or otherwise noted
- Vetoes mostly tied to economy and budget





PRIVATE ATTORNEY GENERALS ACT



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform

- ▶ Significant PAGA reforms based on a compromise reached by plaintiffs' and employer groups to avoid ballot measure on November 2024 ballot which would have potentially gutted PAGA.
- ▶ Standing:
 - AB 2288 provides that plaintiffs will need to have personally experienced the alleged Labor Code violations they are seeking to pursue on a representative basis in order to have standing. There is an exception for PAGA actions brought by certain nonprofit legal aid organization.
 - AB 2288 expressly provides that a PAGA plaintiff must have personally experienced each alleged violation within one year of filing a PAGA notice with the LWDA in order to have standing.
- ▶ Manageability: AB 2288 explicitly endorses trial courts' power to limit both the scope of PAGA claims and the evidence presented at trial to ensure the claims can be effectively and manageably tried.



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform (cont.)

▸ New Penalty Structures:

- An employer who (1) cures an alleged violation and (2) takes “all reasonable steps to be prospectively in compliance” either before or within 60 days of receiving a notice of a claimed PAGA violation will not be liable for any penalty.
- Penalties will be capped at 15% of the applicable penalty amount if an employer demonstrates that it “has taken all reasonable steps to be in compliance” with the law prior to receiving a PAGA notice or a request for personnel records.
- Penalties will be capped at 30% of the applicable penalty amount if, within 60 days after receiving a PAGA notice, an employer “has taken all reasonable steps to prospectively be in compliance with all provisions identified in the notice.”
- Penalties will be reduced by 50% if an employee’s regular pay period is weekly rather than biweekly or semimonthly, equalizing the potential penalties for employers who pay employees on a weekly basis as opposed to every two weeks or twice a month.



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform (cont.)

▸ New Penalty Structures:

- Penalties will be capped at \$15 per employee per pay period if an employer cures the alleged violations but does not take “all reasonable steps to prospectively be in compliance” with the law.
- Penalties for wage statement violations under Labor Code Section 226 that do not cause injury will be capped at \$25 per employee per pay period. Note: there is no cap on penalties for a failure to provide wage statements.
- The penalty for isolated errors that do not extend beyond the lesser of 30 days or four consecutive pay periods will be capped at \$50.
- PAGA’s heightened penalty of \$200 will be assessed only after (1) a court or agency “has issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful” within the five years preceding the allegation violation, or (2) the court determines an employer acted maliciously, fraudulently or oppressively.



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform (cont.)

- New Penalty Structures:
 - Employees may not receive penalties for “derivative” violations for (1) failure to timely pay wages at termination; (2) failure to timely pay wages during employment if the violation was neither willful nor intentional; or (3) wage statement violations that are neither knowing or intentional, or a failure to provide a wage statement.
 - The share of penalties allocated to the LWDA will decrease from 75% to 65%.
 - Aggrieved employees’ share of penalties will increase from 25% to 35%.
- Injunctive Relief: PAGA plaintiffs may seek injunctive relief for the first time.



[AB 2288](#) (Kalra) and [SB 92](#) (Umberg) PAGA Reform (cont.)

- Cure Provisions:
 - Employers will be able to cure violations of Labor Code Section 226 (wage statement violations; Section 226.7 (failure to pay meal/rest period premiums); Section 510 (overtime violations); and Section 2802 (expense reimbursement violations) by correcting the violations alleged, complying with the underlying statutes specified in the notice, and making each aggrieved employee whole through payment of all wages due under the specified statutes going back three years from the date of the notice, plus 7% interest, any liquidated damages as required by statute, and reasonable attorneys' fees and costs.



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform (cont.)

▸ Cure Provisions:

- Small employers (those with under 100 employees during the PAGA period) may, within 33 days of receipt of an employee's PAGA notice, submit to the LWDA a confidential proposal to cure one or more of the alleged violations. The LWDA may set a conference with the parties to determine, among other things, (1) whether the proposed cure is sufficient, (2) what additional information may be necessary to evaluate the sufficiency of the cure, and (3) the deadline for the employer to complete the cure. If the LWDA determines that the employer's proposal is not sufficient or does not act upon the employer's cure proposal, the employee may proceed with filing a PAGA action in court.
- Large employers (those with more than 100 employees during the PAGA period) may, after a PAGA claim is filed in court, file a request for an "early evaluation conference" and a request for a stay with the court, requiring the court to stay all discovery and responsive pleading deadlines.



AB 2288 (Kalra) and SB 92 (Umberg) PAGA Reform (cont.)

- Effective Dates:
 - AB 2288 and SB 92 provide that the amendments to PAGA will apply to actions brought on or after June 19, 2024 (unless the plaintiff gave notice to the LWDA prior to that date).
 - Further, the early resolution provisions became operative on October 1, 2024.



AB 1034 (Grayson) PAGA Exemption: Construction Industry Employees

- ▶ Under existing law, until January 1, 2028, PAGA contains an exemption for employees in the construction industry with respect to work performed under a valid collective bargaining agreement in effect any time before January 1, 2025.
- ▶ The CBA must, among other things, expressly provide for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and for employees to receive a regular hourly pay rate of not less than 30% more than the state minimum wage rate.
- ▶ Any claim would have to be resolved by binding arbitration.
- ▶ AB 1034 deletes the January 1, 2025 date and extends the sunset of the exemption until January 1, 2038.





EMPLOYMENT DISCRIMINATION



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence

- ▶ Revises/expand and recasts the jury, court, and victim time off provisions for employees as unlawful employment practices within the Fair Employment and Housing Act, repealing Labor Code Section 230 and 230.1 and adding Government Code § 12945.8. In doing so, it brings these protections within the enforcement authority of the Civil Rights Department.
- ▶ Expands protections to cover not just victims themselves but employees whose family members are victims.
- ▶ Expands the list of crimes for which victims of crimes and their family members can take off, replacing “crime or abuse” with “qualifying act of violence,” and defining “victim” as an individual against whom a qualifying act of violence is committed.



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

Defines “qualifying act of violence” as any of the following, regardless of whether it results in an arrest, prosecution, or conviction:

- (a) domestic violence;
- (b) sexual assault;
- (c) stalking; and
- (d) an act, conduct, or pattern of conduct that includes any of the following:
 - (i) In which an individual causes bodily injury or death to another individual.
 - (ii) In which an individual exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual.
 - (iii) In which an individual uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

- ▶ Broadens the definition of “family member” to mean a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as those terms are defined in Section 12945.2, or designated person. For purposes of this paragraph, “designated person” means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for leave pursuant to this section.
- ▶ Defines “employer” as any person who directly employs one or more persons to perform services for a wage or salary; and the state, and any political or civil subdivisions of the state and cities.
- ▶ § 12945.8(b) prohibits an employer with 25 or more employees from discharging or in any manner discriminating or retaliating against an employee who is a victim or who has a family member who is a victim for taking time off work for any of a number of additional prescribed purposes relating to a qualifying act of violence.



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

Permits an employer to limit the total leave taken pursuant to § 12945.8(b), as specified:

- (1) If the employee is a victim, an employer may limit total leave time taken to 12 weeks.
- (2) If the employee is not a victim and the employee's family member is a victim who is not deceased as a result of crime, the employer may limit the total leave taken pursuant to subdivision (b) to 10 days.
- (3) If the employee is not a victim and the employee's family member is a victim who is not deceased as a result of a crime, the employer may limit the leave taken pursuant to § 12945.8(b)(6) (to relocate or secure a new residence) to five days.



[AB 2499](#) (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

- ▶ Allows an employee to use vacation, personal leave, paid sick leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off.
- ▶ Requires that the leave taken by an employee pursuant to these provisions run concurrently with leave taken pursuant to the FMLA and CFRA if the employee would have been eligible for that leave.
- ▶ Expands paid sick leave under the Healthy Workplaces, Healthy Families Act of 2014—which provides paid sick leave to victims of domestic violence, sexual assault, or stalking—to cover the additional purposes laid out in this bill.



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

- ▶ Expands the eligibility for reasonable accommodations to include an employee who is a victim or whose family member is a victim of a qualifying act of violence for the safety of the employee while at work. (Omits the reinstatement and reimbursement provisions included in existing law.)
- ▶ Requires an employer to inform each employee of their rights under the bill, to be provided to new employees upon hire, to all employees annually, at any time upon request, and any time an employee informs an employer that the employee or the employee's family member is a victim.



AB 2499 (Schiavo) Employment: Unlawful Discrimination and Paid Sick Days: Victims of Violence (cont.)

- Requires the CRD to develop and post a model form by July 1, 2025, titled “Survivors of Violence and Family Members of Victims Right to Leave and Accommodations,” that sets forth the rights and duties of employers and employees under this section and that employers may use to comply with their notice requirements.



SB 1100 (Portantino) Discrimination: Driver's License

Amends the FEHA to add § 12940(q), making it unlawful:

(1) For an employer to include a statement in a job advertisement, posting, application, or other material that an applicant must have a driver's license unless both of the following conditions are satisfied:

- (A) The employer reasonably expects driving to be one of the job functions for the position.
- (B) The employer reasonably believes that satisfying the job function described in paragraph (1) using an alternative form of transportation would not be comparable in travel time or cost to the employer.

(2) For purposes of this subdivision, "alternative form of transportation" includes, but is not limited to, all of the following:

- (A) Using a ride hailing service.
- (B) Using a taxi.
- (C) Carpooling.
- (D) Bicycling.
- (E) Walking.

(Old subdivision (q) renumbered to subdivision (r).)



SB 1137 (Smallwood-Cuevas) Discrimination Claims: Combination of Characteristics

- ▶ Makes legislative findings, including that the Legislature recognizes the concept of intersectionality in California's civil rights laws. "Intersectionality is an analytical framework that sets forth that different forms of inequality operate together, exacerbate each other, and can result in amplified forms of prejudice and harm." California's civil rights laws prohibit discrimination not just because of one protected class but because of the combination of two or more protected classes.
- ▶ Amends the Unruh Civil Rights Act, Civil Code § 51, to include in its definitions of the various protected characteristics "any combination of those characteristics."
- ▶ Amends the FEHA, including in § 12920 (to provide protections against "discrimination not just because of one protected trait, but also because of the combination of two or more protected bases"), Gov't Code § 12926(o) (defining the protected characteristics to include "any combination of those characteristics").
- ▶ Also amends the Education Code.
- ▶ These provisions are declaratory of existing law.



SB 1340 (Smallwood-Cuevas) Discrimination

Amends Government Code § 12993 to specify that nothing in the Fair Employment and Housing Act limits or restricts efforts by any city, city and county, county, or other political subdivision of the state to enforce local law prohibiting discrimination in employment against classes of persons covered by the act if all of the following requirements are met:

- (i) The local enforcement concerns an employment complaint filed with the department.
- (ii) The local enforcement occurs after the department has issued a right-to-sue notice under Section 12965.
- (iii) The local enforcement commences before the expiration of the time to file a civil action specified in the right-to-sue notice described in clause (ii).
- (iv) The local enforcement is pursuant to a local law that is at least as protective as this part.

Requires the CRD to promulgate regulations governing local enforcement pursuant to those provisions.



AB 1815 (Weber) Discrimination: Race: Hairstyles

- Various laws protect against discrimination on the basis of various classifications including sex, race, color, religion etc. See, e.g., Unruh Civil Rights Act, California Fair Employment and Housing Act (FEHA)
- Existing law also prohibits discrimination because of a perception that a person has one of those protected characteristics or is associated with a person who has, or is perceived to have, any of those characteristics.
- The FEHA and the state's public school policy define the term race to include traits "historically" associated with race, including, but not limited to, hair texture and protective hairstyles.
- AB 1815 removes the term "historically" from the definitions of race and adds those definitions for "race" and "protective hairstyle" to the Unruh Civil Rights Act.
- This bill also declares that these provisions are declaratory of existing law.





HUMAN TRAFFICKING



AB 1832 (Rubio) Civil Rights Department: Labor Trafficking Task Force

- ▶ Establishes the Labor Trafficking Task Force within CRD to take steps to prevent labor trafficking, coordinate with CalDOJ's Labor Enforcement Task Force, and DLSE to combat labor trafficking, and receive and refer complaints to the department or other agencies for potential investigation, civil action, or criminal prosecution.
- ▶ Authorizes the task force to coordinate with other relevant agencies to combat labor trafficking, support law enforcement agencies that investigate criminal actions relating to labor trafficking in coordination with specified entities, and coordinate with state or local agencies to connect survivors with available services.
- ▶ Require Cal/OSHA to notify the task force when, upon investigating businesses under their purview, there is evidence of labor trafficking.
- ▶ Requires CRD to include specified information in the annual report described above, including the activities of the task force, the number of complaints referred to the department, and the status or outcome of those complaints.
- ▶ Operative only upon appropriation by the Legislature in the annual Budget Act or another measure.



AB 1888 (Arambula) Department of Justice: Labor Trafficking Unit

- ▶ Establishes within CalDOJ the Labor Trafficking Unit to receive labor trafficking reports and complaints from law enforcement agencies and other governmental entities and refer the reports or complaints to appropriate agencies for investigation, prosecution, or other remedies.
- ▶ Requires the unit to coordinate with DIR, CRD and other state agencies, state and local law enforcement agencies, tribal law enforcement agencies, and district attorneys' offices.
- ▶ Makes efforts to ensure the unit and local, state, and tribal entities use a victim-centered approach when receiving and processing victim reports or complaints of labor trafficking and when reporting suspected labor trafficking to the unit.
- ▶ Requires collaboration with DIR and CRD to develop policies, procedures, and protocols to track, record, and report potential labor trafficking to the unit for further investigated or referred for civil action, criminal prosecution, or other remedy.
- ▶ Requires the unit, from April 1, 2027, to January 1, 2036, to annually submit a report to the Legislature relating to labor trafficking complaints or reports.
- ▶ Operation is contingent upon adequate appropriation by the Legislature in the annual Budget Act or another statute.



AB 1966 (Davies) Human trafficking: Notice: Primary Ticket Sellers

- ▶ Requires a primary ticket seller, upon the purchase of a mobile or electronic ticket for an event at an entertainment facility, to include a notice with the ticket purchase confirmation electronically to the buyer that contains information relating to commercial sex and labor trafficking, including information regarding specified nonprofit organizations that a person can call or text for services or support in the elimination of slavery and human trafficking.
- ▶ Requires the primary ticket seller to provide the notice in English, Spanish, and in one other language that is the most widely spoken language in the county where the entertainment facility is located and for which translation is mandated by the federal Voting Rights Act of 1965.



SB 963 (Ashby) Hospitals: Self-Identification Procedure: Human Trafficking or Domestic Violence

- ▶ SB 963 requires all general acute care hospitals with an emergency department to adopt and implement policies and procedures to facilitate the self-identification of an emergency department patient as a victim of human trafficking or domestic violence to hospital personnel.
- ▶ The policies and procedures are required to meet certain minimum requirements, including, among others, providing for patient confidentiality and facilitating a reasonably prompt, private, and voluntary interview of the patient by medical personnel for the purpose of providing certain information to the patient relating to local services and resources for victims of human trafficking or domestic violence, if any.
- ▶ SB 963 limits the liability of a general acute care hospital acting in compliance with the law.





WAGE AND HOUR



AB 224 (Rubio) Worker Status: Employees and Independent Contractors: Newspaper Distributors and Carriers

- ▶ Under the ABC Test, there is a presumption that a worker who performs services for a hiring entity is an employee and not an independent contractor.
- ▶ Existing law exempts specified occupations and business relationships from the application of the ABC Test: e.g., B2B exemption under Labor Code 2776.
- ▶ Newspaper distributors working under contract with a newspaper publisher and newspaper carriers had a temporary exemption until January 1, 2025.
- ▶ And, as part of that temporary exemption, every newspaper publisher or distributor that hires or directly contracts with newspaper carriers were required to submit prescribed information on carrier payroll taxes, wage rates, and wage claims to the LWDA, on or before March 1, 2022, March 1, 2023, and March 1, 2024.
- ▶ AB 224 extends exemption until January 1, 2030 and requires the information on carrier payroll taxes, wage rates, and wage claims to be reported to the LWDA on or before March 1, 2025, March 1, 2026, March 1, 2027, March 1, 2028, and March 1, 2029.



AB 375 (Davies) Food Delivery Platforms: Disclosure of Delivery Drivers' Identity

- ▶ The Fair Food Delivery Act of 2020 defines a “food delivery platform” as an online business that acts as an intermediary between consumers and multiple food facilities.
- ▶ The Act also requires, among other things, for the food delivery platform to: (a) pay tips in their entirety to the person delivering the food / beverage; and (b) disclose to customers an accurate and itemized cost breakdown of each transaction.
- ▶ AB 375 requires that, commencing on March 1, 2025, the food delivery platform provide to customers the first name and picture of the driver on its online-enabled application or platform at the time the customer is notified their purchase is out for delivery.
- ▶ But an exemption applies to food delivery platforms if: (a) the food facility uses its own delivery drivers for the delivery of the order; or (b) receives the order through the food facility's internet website or a third party that is not the food delivery platform.





WHISTLEBLOWER



[AB 2299](#) (Flora) Labor Commissioner: Whistleblower Protections: Model List of Rights and Responsibilities

- ▶ Requires the Labor Commissioner to develop a model list of employees' rights and responsibilities under the whistleblower laws that complies with Labor Code § 1102.8(a).
- ▶ Specifies that an employer that posts the model list shall be deemed in compliance with the existing requirement to prominently display the list of employees' rights and responsibilities under the whistleblower laws.





OCCUPATIONAL SAFETY

AB 1976 (Haney) Occupational Safety and Health Standards: First Aid Materials: Opioid Antagonists

- ▶ Requires Cal/OSHA, before December 1, 2027, to submit a draft rulemaking proposal to revise specified regulations on first aid materials and emergency medical services to require first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist approved by the FDA to reverse opioid overdose and instructions for using the opioid antagonist.
- ▶ Requires Cal/OSHA, in drafting the rulemaking proposal, to consider, and provide guidance to employers on, proper storage of the opioid antagonist in accordance with the manufacturer's instructions. Requires the standards board to consider for adoption the revised standards on or before December 1, 2028.
- ▶ Provides that an individual who administers naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose in a suspected opioid overdose emergency shall not be liable for civil damages. Same for an individual who is licensed as part of a local emergency medical services agency unless the individual was acting as a paid first responder at the time of the action.





EMPLOYER COMMUNICATION



SB 399 (Wahab) Employer Communications: Intimidation

- ▶ Newly enacted California Worker Freedom from Employer Intimidation Act.
- ▶ Prohibits an employer from subjecting, or threatening to subject, an employee to discharge, discrimination, retaliation, or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's opinion about religious or political matters.
- ▶ Requires that an employee who refuses to attend a meeting as described to continue to be paid, as specified.
- ▶ Imposes a civil penalty of \$500 on an employer who violates these provisions.
- ▶ Authorizes the Labor Commissioner to enforce the bill's provisions.



SB 399 (Wahab) Employer Communications: Intimidation (cont.)

- ▶ Authorizes an employee who has suffered a violation of the bill's provisions to bring a civil action for damages caused by the adverse action, including for punitive damages, and to petition for injunctive relief.
- ▶ Multiple exemptions, including being Inapplicable religious corporations and other entities exempt from the requirements of Title VII of the Civil Rights Act of 1964, or exempt from employment discrimination protections of state law. Also inapplicable to political organizations or parties to communicate their political tenets or purposes, educational institutions requiring lectures on matters that are part of regular coursework, etc.
- ▶ Contains a severance provision.





LEAVES



[AB 2011](#) (Bauer-Kahan) Unlawful Employment Practices: Small Employer Family Leave Mediation Program: Reproductive Loss Leave

- ▶ Deletes sunset provision in the small employer family leave mediation pilot program, thereby making it a permanent program.
- ▶ Expands the program to include resolution of alleged violations of the reproductive loss leave provisions of Government Code § 12945.6, in addition to the existing coverage for claims alleged under § 12945.2 (CFRA) and 12945.7 (bereavement leave).
- ▶ Adds the following as a circumstance in which mediation is deemed complete: the mediator determines that the employer does not have between 5 and 19 employees. This does not apply if the parties disagree about whether the employee has 5-19 employees and the mediator cannot make the determination.



AB 2123 (Papan) Disability Compensation: Paid Family Leave

- ▶ Changes the Paid Family Leave program so that, for any disability commencing on or after January 1, 2025, an employer can no longer require an employee to take up to 2 weeks of earned but unused vacation before, and as a condition of, the employee's initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits.



SB 1105 (Padilla) Paid Sick Leave: Agricultural Employees: Emergencies

- ▶ Amends the Healthy Workplaces, Healthy Families Act of 2014 to provide for paid sick leave to agricultural employees, as defined in Labor Code § 9110, who work outside and are entitled to paid sick days, as described, to avoid smoke, heat, or flooding conditions created by a local or state emergency, as described.
- ▶ Declares that these provisions are declarative of existing law to the extent that the sick days are necessary for preventive care, as provided.



[SB 1090](#) (Durazo) Unemployment Insurance: Disability and Paid Family Leave: Claim Administration

- ▶ Requires that unemployment compensation disability benefits payments be issued within 14 days of receipt of the claimant's properly completed first disability claim or as soon as eligibility begins, whichever is later.
- ▶ This timing also applies to payments under the paid family leave program.
- ▶ Allows claimants to initiate a claim for SDI or PFL benefits up to 30 days in advance of the first compensable day.
- ▶ Makes these changes operative when these changes are incorporated in EDD's integrated claims management system as part of the EDD Next project.





SLAVERY



AB 3089 (Jones-Sawyer) – Chattel Slavery: Formal Apology

- AB 3089 provides that:
 - The State of California recognizes and accepts responsibility for all of the harms and atrocities committed by the state, its representatives, and entities under its jurisdiction who promoted, facilitated, enforced, and permitted the institution of chattel slavery and the enduring legacy of ongoing badges and incidents from which the systemic structures of discrimination have come to exist.
 - The State of California apologizes for perpetuating the harms African Americans have faced and affirms its role in protecting the descendants of enslaved people and all Black Californians.
- AB 3089 requires, among other things, that (a) a plaque memorializing this apology to be publicly and conspicuously installed and maintained in the State Capitol Building; (b) the Legislature to prepare the formal apology and be signed by specified state leaders; and (c) the Secretary of State to submit a final copy of this formal apology to the State Archives, where it would be available for viewing by the general public in perpetuity.





MISCELLANEOUS

SB 1089 (Smallwood-Cuevas) Food and Prescription Access: Grocery and Pharmacy Closures

- ▶ Requires grocery and pharmacy establishments to provide notices of closures to various stakeholders, including – to their employees within 45 days if they have more than five employees, 30 days if they have five or fewer employees, as well as to the EDD, State Department of Social Services, local workforce development boards, chief elected officials, and for pharmacies the California State Board of Pharmacy. (Partial exemptions for certain establishments from some but not all of the non-employee notice requirements, e.g., pharmacy or grocery establishments owned by persons or entities with 15 or fewer locations nationwide, or under certain circumstances.)
- ▶ Requires a written notice of closure posted in a conspicuous location at the entrance that includes the planned closure date and, if a pharmacy, information about where prescriptions will be transferred and how to get information on transferring them elsewhere.



SB 1089 (Smallwood-Cuevas) Food and Prescription Access: Grocery and Pharmacy Closures (cont.)

- Allows for civil penalties of up to \$10,000 for each closure in which the notice requirements are not met.
- Private right of action for employees who do not receive timely notices, with liquidated damages of \$100 per day to each employee who does not receive timely notices (no double recovery with Labor Code § 1403).
- Provides for counties to provide information about safety net programs to entities who have provided notice, to in turn be relayed to affected employees.
- Requires the State Department of Social Services to transmit to the Food and Nutrition Service of the United States Department of Agriculture information stating that the grocery establishment will be closing and the closing date.
- Makes finding and declarations related to these provisions.



AB 2602 (Kalra) Contracts against Public Policy: Personal or Professional Services: Digital Replicas

Adds Labor Code § 927, which provides that a provision in an agreement between an individual and any other person for the performance of personal or professional services is unenforceable as it relates to a new performance on or after January 1, 2025 if:

- (1) It allows for the creation and use of a digital replica of the individual's voice or likeness in place of work the individual would otherwise have performed in person;
- (2) It does not include a reasonably specific description of the intended uses of the digital replica; and
- (3) Is not negotiated with legal counsel or by a labor union, as specified.

“Digital replica” is defined to mean a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered, except as prescribed.



AB 2705 (Ortega) Labor Commissioner (Public Works)

- ▶ The Labor Commissioner has the power to issue a civil wage and penalty assessment to a contractor or subcontractor for violations of the Labor Code for work performed on a public works project.
- ▶ The Labor Commissioner must issue the assessment in writing and served not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last.
- ▶ Existing law generally limits claimants from commencing an action to enforce the liability on a payment bond at any time after the claimant ceases to provide work, but not later than 6 months after the period in which a stop payment notice may be given.
- ▶ AB 2705 provides a limitations period for any action on a payment bond filed by the Labor Commissioner to be governed by the same timing requirements for the Labor Commissioner to serve a civil wage and penalty assessment.



Educational Institutions

- ▶ [AB 1905](#) (Addis)– Public postsecondary education: employment: settlements, informal resolutions, and retreat rights)
- ▶ [AB 2047](#) (Fong) – Public postsecondary education: discrimination prevention
- ▶ [AB 2048](#) (Fong) – Community colleges: systemic campus reforms: sexual harassment: report
- ▶ [AB 3105](#) (Flora) – Employment: wages and hours: exemption for faculty at private institutions of higher education



Civil Procedure

- [AB 1870](#) (Ortega) – Notice to employees: legal services
- [AB 2337](#) (Dixon) – Workers' compensation: electronic signatures
- [AB 2049](#) (Pacheco) – Motions for summary judgment: filing deadlines



Civil Procedure (cont.)

- [AB 2283](#) (Pacheco) – Civil actions: electronic service
- [AB 2837](#) (Bauer-Kahan) – Civil actions: enforcement of money judgments
- [AB 3283](#) (Committee on Judiciary) – Enforcement of judgments: claims of exemption
- [SB 940](#) (Umberg) – Civil disputes
- [SB 1386](#) (Caballero) – Evidence: sexual assault



THANK YOU

Pascal Benyamini, Esq.
Faegre Drinker Biddle & Reath LLP
1800 Century Park East, Suite 1500
Los Angeles, California 90067
310.203.4050

pascal.benyamini@faegredrinker.com
www.faegredrinker.com

Phyllis W. Cheng, Esq.
ADR Services, Inc.
550 S. Hope St., Suite 1000
Los Angeles, CA 90071
213.683.1600

pcheng@adrservices.com
hawardLAteam@adrservices.com
www.adrservices.com

Ramit Mizrahi, Esq.
Mizrahi Law, APC
225 S Lake Ave., Suite 300
Pasadena, CA 91101
626.380.9000

ramit@mizrahilaw.com
www.mizrahilaw.com

