



NEW LAWS FOR 2017

DECEMBER 15, 2016
KATHLEEN A SPERO, ESQ.

OVERVIEW

- NEW CALIFORNIA LAWS FOR 2017
- UPDATE ON FLSA DECEMBER 1 EXEMPT STATUS MINIMUM SALARY (NATIONWIDE)
- NEW MINIMUM WAGE CHANGES FOR 2017 (CALIFORNIA)
- PAID LEAVE (SAN FRANCISCO, SANTA MONICA, AND BERKELEY)



HOME BREW IN CALIFORNIA – EXISTING LAW



- EXISTING LAW:

- INDIVIDUALS OVER 21 MAY MANUFACTURE BEER OR WINE FOR PERSONAL OR FAMILY USE WITHOUT A LICENSE OR PERMIT, WITH AGGREGATE ANNUAL AMOUNTS CAPPED AT 100 GALLONS (SINGLE ADULT HOUSEHOLD) OR 200 GALLONS (MULTIPLE ADULT HOUSEHOLD).
- HOMEBREW BEER OR WINE MAY ONLY BE REMOVED FROM PREMISES WHERE IT WAS MANUFACTURED FOR (A) PERSONAL OR FAMILY USE; (B) BONA FIDE COMPETITION OR JUDGING; (C) BONA FID EXHIBITION OR TASTING; OR (D) DONATION TO NON-PROFIT ORGANIZATION ESTABLISHED TO PROMOTE HOME BREWING FOR SERVICE AT A FUNDRAISING EVENT.
- HOMEBREW BEER OR WINE MUST BE PROVIDED OR SERVED IN A CLEARLY IDENTIFIED AREA WITH BARRIER AND NO CO-MINGLING WITH LICENSEE-PRODUCED BEER OR WINE.

HOME BREW BILL (AB 2172) – 01/01/2017



- NEW LAW, EFFECTIVE JANUARY 1, 2017
 - REMOVAL AND USE OF HOMEBREW BEER FOR A CLUB MEETING OR HOMEBREW COMPETITION HELD ON THE PREMISES OF AN AUTHORIZED LICENSEE.
 - EXCHANGE AND CONSUMPTION OF HOMEBREW BEER AT CLUB MEETINGS.
 - CONSUMPTION OF HOMEBREW BEER BY COMPETITION ORGANIZERS, JUDGES, AND STEWARDS
- STILL MAY NOT PERMIT CONSUMPTION BY MEMBERS OF THE PUBLIC OR PATRONS OF AUTHORIZED LICENSEE
- MUST BE BARRIER/SIGNAGE THAT DESIGNATE RESTRICTED AREA FOR HOMEBREW CLUB MEETING OR COMPETITION

BARBER SHOP BILL (AB 1322) – 01/01/2017



- PERMITS BARBER SHOPS AND BEAUTY SALONS TO SERVE BEER OR WINE WITHOUT A LICENSE, PROVIDED THE FOLLOWING RULES ARE MET:
 - NO EXTRA CHARGE FOR BEER OR WINE.
 - PREMISES MUST BE IN GOOD STANDING WITH THE STATE BOARD OF BARBERING AND COSMETOLOGY.
 - NO MORE THAN 12 OZ. OF BEER OR 6 OZ. OF WINE PER CLIENT.
 - ONLY PROVIDED DURING BUSINESS HOURS, AND IN NO CASE LATER THAN 10 P.M.



POWDERED ALCOHOL (AB 1554 AND SB 819) – 01/01/2017

- MODIFIES A LAW PASSED ON SEPTEMBER 28, 2016
- PROHIBITS LICENSES FOR THE MANUFACTURE OF POWDERED ALCOHOL (“ALCOHOL PREPARED OR SOLD IN A POWDER OR CRYSTALLINE FORM TO BE USED FOR HUMAN CONSUMPTION IN THAT FORM OR RECONSTITUTED AS AN ALCOHOLIC BEVERAGE)
- MAKES PURCHASE, POSSESSION, OR USE OF POWDERED ALCOHOL AN INFRACTION SUBJECT TO A \$125.00 FINE
- DOES NOT INCLUDE VAPORIZED ALCOHOL (ALREADY ILLEGAL)



ADA DISCLOSURES IN LEASE NEGOTIATIONS (AB 2093) – 09/16/2016

- EXPANDS EXISTING CASP REQUIREMENTS
- COMMERCIAL PROPERTY OWNERS MUST PROVIDE CURRENT DISABILITY ACCESS INSPECTION CERTIFICATE AND/OR CASP INSPECTION REPORT AND STATE PROVIDED IN LEASE; IF NO CASP REPORT, MUST STATE AGREEMENT AS TO TIME AND MANNER OF INSPECTION, PAYMENT OF FEE, AND COST OF REPAIRS (PRESUMED TO BE OWNER),
- TENANT/LESSEE MUST RECEIVE 48 HOURS PRIOR TO EXECUTION OF LEASE/RENTAL AGREEMENT
- TENANT/LESSEE MAY RESCIND LEASE/RENTAL AGREEMENT FOR UP TO 72 HOURS AFTER EXECUTION BASED ON CASP REPORT



EXPANSION OF CA FAIR PAY ACT (SB 1063 & AB 1676) – 01/01/2017

- EXPANDS EXISTING CALIFORNIA FAIR PAY ACT TO INCLUDE RACE AND ETHNICITY, AS WELL AS GENDER (01/01/2016)
- EMPLOYER HAS BURDEN TO SHOW PAY DISPARITY IS BASED ONLY ON THE FOLLOWING:
 - SENIORITY SYSTEM
 - MERIT SYSTEM
 - QUALITY/QUANTITY OF PRODUCTION SYSTEM
 - BONA FIDE FACTOR RELATED TO POSITION, ARISING FROM BUSINESS NECESSITY, THAT IS NOT PRIOR PAY
- ALSO CONTAINS NO RETALIATION PROVISIONS AND DOCUMENTATION REQUIREMENTS



ITEMIZED WAGE STATEMENTS FOR EXEMPT (AB 2535) – 01/01/2017

- CLARIFIES EXISTING LAW ON PAY STUBS
- AMENDS THE CALIFORNIA LABOR CODE TO CLARIFY THAT INDIVIDUALS WORKING IN EXEMPT POSITIONS OF ANY KIND – PROFESSIONAL, ADMINISTRATIVE, EXECUTIVE, OUTSIDE SALES, COMPUTER SOFTWARE PROFESSIONALS, AND OTHER CATEGORIES – NEED NOT HAVE HOURS WORKED REFLECTED ON PAY STUBS



JUVENILE CRIMINAL BACKGROUND CHECK – (AB 1843) – 01/01/2017

- EXPANDS EXISTING PROHIBITIONS ON INQUIRIES REGARDING JUVENILE CONVICTIONS
- EMPLOYERS MAY NOT ASK AN APPLICANT FOR EMPLOYMENT TO DISCLOSE ANY INFORMATION RELATED TO:
 - JUVENILE ARRESTS, DETENTIONS, ADJUDICATIONS, OR COURT DISPOSITIONS
 - JUVENILE PROCESSING
 - JUVENILE DIVERSION OR SUPERVISION PROGRAMS
- EMPLOYERS MAY ALSO NOT SEEK OUT OR USE ANY SOURCES THAT PROVIDE INFORMATION ABOUT THESE EVENTS, AND MAY NOT USE THIS INFORMATION AS A FACTOR IN DETERMINING ANY EMPLOYMENT OFFER OR CONDITION OF EMPLOYMENT.



UNFAIR IMMIGRATION-RELATED PRACTICES (SB 1001) – 01/01/2017

- SPECIFIC TO I-9 VERIFICATION (GOVERNED BY FEDERAL LAW)
- MAKES IT AN UNLAWFUL EMPLOYMENT PRACTICE TO:
 - REQUEST MORE OR DIFFERENT DOCUMENTS THAT REQUIRED BY FEDERAL LAW TO VERIFY THE INDIVIDUAL IS NOT AN UNAUTHORIZED ALIEN
 - REFUSE TO HONOR DOCUMENTS TENDERED THAT APPEAR TO BE GENUINE ON THEIR FACE
 - ATTEMPTING TO RE-INVESTIGATE OR RE-VERIFY AN EXISTING EMPLOYEE'S WORK AUTHORIZATION USING AN UNFAIR IMMIGRATION-RELATED PRACTICE
- CAN BE INVESTIGATED BY DLSE AND UP TO \$10,000 FINE



NEW I-9 FORM – 01/22/2017

ON NOV. 14, USCIS RELEASED A REVISED VERSION OF [FORM I-9, EMPLOYMENT ELIGIBILITY VERIFICATION](#).

EMPLOYERS MAY CONTINUE USING FORM I-9 WITH A REVISION DATE OF 03/08/2013 N. THROUGH JAN. 21, 2017. BY JAN. 22, 2017, EMPLOYERS MUST USE THE REVISED FORM.

EMPLOYERS SHOULD CONTINUE TO FOLLOW EXISTING STORAGE AND RETENTIONS RULES FOR ALL OF THEIR PREVIOUSLY COMPLETED FORMS I-9.

READ THE [USCIS NEWS RELEASE](#), AND VISIT [I-9 CENTRAL](#) FOR MORE INFORMATION.



CHOICE OF LAW IN EMPLOYMENT CONTRACTS (SB 1241) – 01/01/2017

- APPLIES TO EMPLOYEES WHO PRIMARILY RESIDE AND WORK IN CALIFORNIA
- MAY NOT FORCE EMPLOYEE TO SIGN A CONTRACT THAT:
 - REQUIRES AN EMPLOYEE TO ADJUDICATE A CLAIM ARISING IN CALIFORNIA OUTSIDE OF CALIFORNIA
 - DEPRIVES AN EMPLOYEE OF THE SUBSTANTIVE PROTECTION OF CALIFORNIA LAW WITH RESPECT TO A CONTROVERSY ARISING IN CALIFORNIA
- APPLIES TO ALL FORMS OF CONFLICT ADJUDICATION, INCLUDING ARBITRATION
- BUT.... DOES NOT APPLY IF EMPLOYEE HAS HIS OR HER OWN ATTORNEY IN TERMS NEGOTIATION (NEED TO CONFIRM THIS IN A CONTRACT TERM)



ARBITRATION AGREEMENT (SB 1007) – 01/01/2017

- ANY PARTY IN AN ARBITRATION PROCEEDING WILL HAVE THE RIGHT TO HAVE A CERTIFIED SHORTHAND REPORTER TRANSCRIBE ANY DEPOSITION, PROCEEDING, OR HEARING AS AN OFFICIAL RECORD



SINGLE USER BATHROOM BILL (AB 1732) – 03/01/2017

- REQUIRES ALL SINGLE USER TOILET FACILITIES IN ANY BUSINESS ESTABLISHMENT, PLACE OF ACCOMMODATION, OR GOVERNMENT AGENCY TO BE DESIGNATED AS “ALL GENDER”
 - SINGLE USER = DESIGNED FOR USE BY NO MORE THAN ONE OCCUPANT A TIME, OR FOR FAMILY OR ASSISTED USE
- MUST STILL COMPLY WITH ADA, CBC, AND LOCAL REQUIREMENTS FOR SIGNAGE
 - DESIGNATED 12” CIRCLE WITH DESIGNATED 12” TRIANGLE IN CONTRASTING COLOR SUPERIMPOSED (CBC 1115B.6.3)
 - EDGE DETAILING OF TACTILE SYMBOLS (CBC 1115B.6)
 - LOCAL CODE MAY ALSO REQUIRE PICTOGRAM OR ACCESSIBILITY SYMBOL (CHECK CODE ENFORCEMENT)



DOMESTIC VIOLENCE NOTICE (AB 2337) – 07/01/2017

- CALIFORNIA EMPLOYERS WITH 25 OR MORE EMPLOYEES TO OFFER UNPAID, JOB-PROTECTED LEAVE TO EMPLOYEES WHO ARE THE VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING
 - MEDICAL ATTENTION FOR RELATED INJURIES
 - OBTAIN SERVICES FROM A DOMESTIC VIOLENCE SHELTER, PROGRAM, OR RAPE CRISIS CENTER
 - OBTAIN PSYCHOLOGICAL COUNSELING
 - PARTICIPATE IN SAFETY PLANNING OR TAKE OTHER SAFETY-RELATED ACTIONS.
- EMPLOYERS MAY ALSO NOT RETALIATE OR TAKE ADVERSE EMPLOYMENT ACTIONS AGAINST EMPLOYEES TAKING TIME OFF FOR THIS PURPOSE.
- NEW LABOR NOTICE MUST BE PROVIDED CONFIRMING THESE RIGHTS AS OF 07/01/2017



STATE RUN RETIREMENT PLAN (SB 1234) – 01/01/2017, BUT NOT LIKELY UNTIL 2018

- EMPLOYER WITH 5 OR MORE EMPLOYEES MUST OFFER OWN RETIREMENT PLAN OR ENROLL WORKERS IN THE “CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS PROGRAM”
- “CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS PROGRAM” WILL BE STRUCTURED AS A PORTABLE 401(K), WITH SMALL PERCENTAGE OF WAGES DIVERTED INTO AN EMPLOYEE ACCOUNT.
- EMPLOYEES WILL KEEP ACCOUNT EVEN AFTER JOB CHANGE.
- ENROLLMENT WILL NOT BEGIN UNTIL SECURE CHOICE IS CREATED, AND WILL BE STAGGERED BASED ON EMPLOYER SIZE.
- EMPLOYEES MAY OPT OUT.



PAID FAMILY LEAVE (AB 908) – 01/01/2017, BUT NOT OPERATIVE UNTIL 01/01/2018

- INCREASES BENEFITS FOR PAID FAMILY LEAVE AND STATE DISABILITY INSURANCE PROGRAM
 - PAID FAMILY LEAVE: 6 WEEKS OF WAGE REPLACEMENT BENEFITS TO EMPLOYEES WHO ARE PROVIDED WITH A LEAVE OF ABSENCE BY THE EMPLOYER TO CARE FOR A SERIOUSLY ILL OR INJURED FAMILY MEMBER OR TO BOND WITH A MINOR CHILD WITHIN ONE YEAR OF BIRTH, ADOPTION, OR FOSTER CARE PLACEMENT.
 - STATE DISABILITY INSURANCE: BENEFITS TO INDIVIDUALS WHO ARE UNABLE TO WORK BECAUSE OF THEIR OWN ILLNESS OR INJURY.
- CHANGES THE FORMULA FOR DETERMINING BENEFITS FOR PERIODS OF DISABILITY COMMENCING AFTER JANUARY 1, 2018, BUT BEFORE JANUARY 1, 2022
- WILL RAISE THE BENEFIT PAID FROM 55% OF AN APPLICANT'S INCOME TO EITHER 60% OR 70% OF INCOME
- WILL ALSO REMOVE A 7 DAY WAITING PERIOD FOR DISABILITY BENEFITS, EFFECTIVE JANUARY 1, 2018.



CHANGES TO PROPOSITION 65 – 08/30/2018

- ADOPTED ON 08/30/2016 BUT 2-YEAR DELAY FOR IMPLEMENTATION
- DURING INTERIM PERIOD, BUSINESS MAY USE 08/2016 RULES OR 08/2018 RULES
- NEW WARNING LANGUAGE AND DISPLAY REQUIREMENTS
 - “WARNING: DRINKING DISTILLED SPIRITS, BEER, COOLERS, WINE, AND OTHER ALCOHOLIC BEVERAGES MAY INCREASE CANCER RISK AND, DURING PREGNANCY, CAN CAUSE BIRTH DEFECTS. FOR MORE INFORMATION, GO TO WWW.P65WARNINGS.CA.GOV/ALCOHOL..”
 - SERVING ALCOHOL: 8 ½ X 11 SIGN PLACED AT CONSPICUOUS, EYE-LEVEL LOCATION AT EACH PUBLIC ENTRANCE, OR ON MENU OR LIST IDENTIFYING ALCOHOL BEVERAGES SERVED
 - RETAIL OF ALCOHOL: BOX IN A NOTICE OR SIGN NO SMALLER THAN 5X5 AT EACH RETAIL POINT OF SALE OR DISPLAY



CHANGES TO PROPOSITION 65 – 08/30/2018

- LIABILITY BETWEEN RETAILERS, MANUFACTURERS, AND OTHERS IN THE SUPPLY CHAIN
- MANUFACTURERS, PRODUCERS, PACKAGERS, IMPORTERS, SUPPLIERS, AND DISTRIBUTORS MAY AFFIX AN APPROPRIATE WARNING TO THE PRODUCT, **OR**
- PROVIDE A WRITTEN NOTICE WITH THE APPROPRIATE WARNING TO THE RETAILER, THAT INCLUDES (1) STATEMENT THAT THE PRODUCT MAY RESULT IN AN EXPOSURE TO ONE OR MORE LISTED CHEMICALS; (2) THE EXACT NAME OR DESCRIPTION OF THE PRODUCT, OR OTHER PRODUCT IDENTIFICATION SUCH AS A UPC CODE; AND (3) ALL NECESSARY WARNING MATERIALS SUCH AS LABELS, SHELF SIGNS, ETC., OR LANGUAGE TO USE IN CASE OF AN INTERNET SALE.
 - THE NOTICE MUST BE RENEWED WITHIN 6 MONTHS DURING THE FIRST YEAR AFTER THE EFFECTIVE DATE, AND MUST BE ANNUALLY RENEWED THEREAFTER.
 - THE MANUFACTURER MUST HAVE CONFIRMATION OF THE RETAILER'S RECEIPT OF THE NOTICE, EITHER ELECTRONICALLY OR IN WRITING.
 - IF THE MANUFACTURER COMPLIES WITH THESE REQUIREMENTS, AND THE RETAILER EITHER FAILS TO POST THE NOTICES, OR OBSCURES/ALTERS THE NOTICE, THE LIABILITY WILL FALL ON THE RETAILER (NOT THE MANUFACTURER) FOR FAILING TO WARN CUSTOMERS.



EMPLOYEE HEAT SAFETY (SB 1167) – 01/01/2019

- DIVISION OF OCCUPATIONAL SAFETY AND HEALTH SUBMIT PROPOSALS TO MINIMIZE HEAT-RELATED ILLNESSES AND INJURIES AMONG WORKERS WHO WORK IN INDOOR PLACES TO THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD.
- THESE PROPOSALS WOULD BE SLATED FOR ADOPTION BY JANUARY 1, 2019.



MINIMUM WAGE 2017 - FLSA

- DECEMBER 1, 2016: \$47,476 FOR EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL EXEMPT CATEGORIES
- NOVEMBER 22, 2016 – INJUNCTION ISSUED TO STOP IMPLEMENTATION OF THE RULE
- DECEMBER 1, 2016 – DEPT. OF LABOR FILES APPEAL ON THE INJUNCTION TO 5TH CIRCUIT

FUTURE REMAINS UNCLEAR... KEEP ABREAST OF UPDATES HERE:

[HTTPS://WWW.DOL.GOV/WHD/OVERTIME/FINAL2016/LITIGATION.HTM](https://www.dol.gov/whd/overtime/final2016/litigation.htm)



MINIMUM WAGE 2017 - CALIFORNIA

- 26 OR MORE EMPLOYEES
 - \$10.50 PER HOUR FOR NON-EXEMPT
 - \$43,680 FOR ADMINISTRATION, EXECUTIVE, AND PROFESSIONAL EXEMPTIONS
 - \$15.75 FOR INSIDE SALES, WITH 50% COMING FROM COMMISSIONS
- 25 OR FEWER EMPLOYEES
 - \$10.00 PER HOUR FOR NON-EXEMPT
 - \$41,600 FOR ADMINISTRATION, EXECUTIVE, AND PROFESSIONAL EXEMPTIONS
 - \$15.00 FOR INSIDE SALES, WITH 50% COMING FROM COMMISSIONS
- MUST MAKE WAGE INCREASES AS SOON AS 26TH EMPLOYEE STARTS WORK
- MAY MAKE ROLL BACKS IF FALL TO 25 OR FEWER, BUT TAKE CARE



MINIMUM WAGE 2017 – LOCAL

Berkeley - \$12.53 (10/01/17)	Campbell (<25) - \$10.00 (01/01/17)	Campbell (26+) - \$10.50 (01/01/17)
Cupertino - \$12.00 (01/01/17)	El Cerrito - \$12.25 (01/01/17)	Emeryville (<55) - \$14.00 (07/01/2017)
Emeryville (56+) - \$15.20 (07/01/2017) (Estimated)	Gilroy (<25) - \$10.00 (01/01/17)	Gilroy (26+) - \$10.50 (01/01/17)
Long Beach (<25) - \$10.00 (01/01/17)	Long Beach (26+) - \$10.50 (01/01/17)	Los Altos - \$12.00 (01/01/17)
City of L.A. and UI County (<25) - \$10.50 (07/01/17)	City of L.A. and UI County (26+) - \$12.00 (07/01/17)	Los Gatos (<25) - \$10.00 (01/01/17)
Los Gatos (26+) - \$10.50 (01/01/17)	Milpitas (<25) - \$10.00 (01/01/17)	Milpitas (26+) - \$10.50 (01/01/17)



MINIMUM WAGE 2017 – LOCAL

Monte Sereno (<25) - \$10.00 (01/01/17)	Monte Sereno (26+) - \$10.50 (01/01/17)	Morgan Hills (<25) - \$10.00 (01/01/17)
Morgan Hills (26+) - \$10.50 (01/01/17)	Mountain View - \$13.00 (01/01/17)	Oakland - \$12.86 (01/01/17)
Palo Alto - \$12.00 (01/01/17)	Pasadena (<25) - \$10.50 (07/01/17)	Pasadena (26+) - \$12.00 (07/01/17)
Richmond - \$12.30 (01/01/17)	Sacramento (<100) - \$10.50 (07/01/17)	Sacramento (101+) - \$10.50 (01/01/17)
San Diego - \$11.50 (01/01/17)	San Francisco - \$14.00 (07/01/17)	San Jose - \$10.50 (01/01/17)
San Jose - \$12.00 (07/01/17)	San Leandro - \$12.00 (07/01/17)	San Mateo - \$12.00 (01/01/17)



MINIMUM WAGE 2017 – LOCAL

Santa Clara - \$11.10 (01/01/17)	Santa Monica (<25) - \$10.50 (07/01/17)	Santa Monica (26+) - \$12.00 (07/01/17)
Saratoga (<25) - \$10.00 (01/01/17)	Saratoga (<25) - \$10.00 (01/01/17)	Saratoga (26+) - \$10.50 (01/01/17)
Sunnyvale - \$13.00 (01/01/17)		

PAID LEAVE



- SAN FRANCISCO PAID PARENTAL LEAVE – 01/01/2017
- SANTA MONICA PAID SICK LEAVE – 01/01/2017
- BERKELEY PAID SICK LEAVE – 10/01/2017

- ALREADY IN EFFECT: STATE OF CALIFORNIA; EMERYVILLE; LOS ANGELES; OAKLAND; SAN DIEGO; AND SAN FRANCISCO

THANK YOU

Please feel free to contact me with any other questions!



KATHLEEN A. SPERO, ESQ.

THE CRAFT BEER ATTORNEY, APC

619-749-4115

KATIE@CRAFTBEERATTORNEY.COM