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PRACTICE BRIEF · EMPLOYMENT LAW

Recent Developments in California Employment Law: 2024-2025

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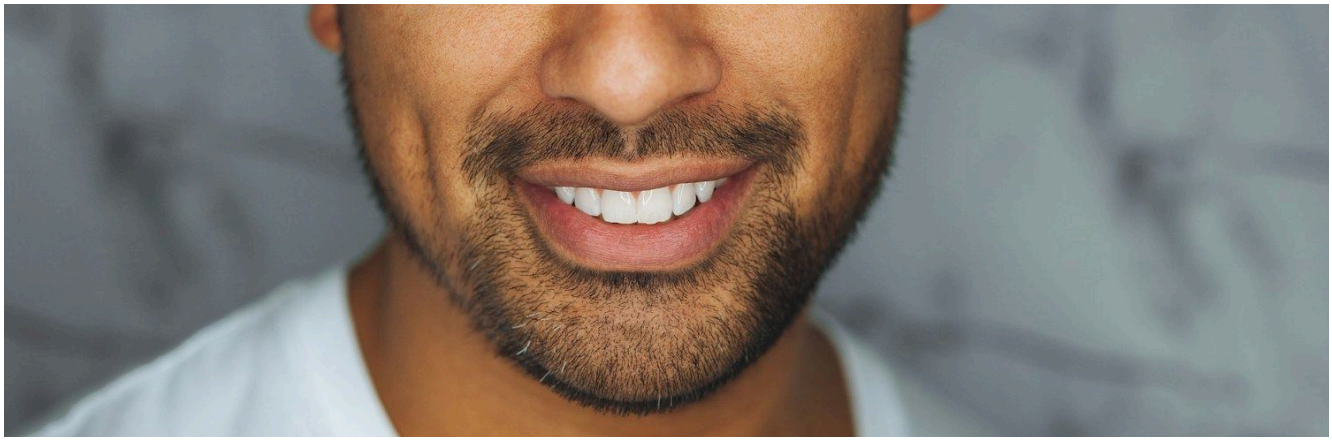

The 2024-2025 legislative cycle brought a wave of consequential changes to California employment law. From a new industry-specific minimum wage for fast food workers to expanded protections for reproductive autonomy and off-duty cannabis use, these developments materially altered the compliance landscape for California employers and expanded the rights available to the state's workforce. This article examines the five most significant developments, their statutory frameworks, and their practical implications for employers and employees alike.

I. AB 1228: Fast Food Minimum Wage ($20/hr)

On April 1, 2024, California's **Fast Food Minimum Wage Law** took effect, establishing a $20.00 per hour minimum wage for employees of national fast food chains with 60 or more locations nationwide. Codified as Labor Code sections 1474 through 1474.5, AB 1228 replaced the earlier AB 257 (the FAST Act) after an industry-backed referendum threatened to take the original law to voters. The compromise preserved the concept of a Fast Food Council -- a nine-member body housed within the Department of Industrial Relations -- but narrowed its authority. The Council may recommend annual wage increases capped at the lesser of 3.5% or the change in the consumer price index, with adjustments effective each January 1 through 2029.

From a litigation perspective, AB 1228 created immediate PAGA exposure for operators who were slow to implement the new floor or who misclassified supervisory employees to avoid paying the higher rate. The $20 minimum applies to all non-exempt employees at covered establishments regardless of job title, meaning shift leads and assistant managers who do not meet the executive

exemption test under Wage Order 5 must be paid at or above the new floor. Additionally, the elevated minimum wage recalibrates premium pay obligations: missed meal period premiums under Labor Code section 226.7 now calculate at the higher rate, and overtime rates anchored to the regular rate of pay must reflect the $20 base.

A critical feature of AB 1228 is its **franchise liability carve-out**. Unlike AB 257, which would have imposed joint employer liability on franchisors for franchisee labor violations, AB 1228 expressly exempts franchisors from liability for wage-and-hour violations at franchised locations. This carve-out, however, does not override the independent joint employer analysis under *Martinez v. Combs*, 49 Cal.4th 35 (2010), or the ABC test codified by AB 5. Franchisors who exercise sufficient operational control over franchisee employment practices remain potentially liable under these independent doctrines, a question that continues to generate litigation in California's superior and appellate courts.

II. SB 616: Paid Sick Leave Expansion to Five Days

Effective January 1, 2024, SB 616 amended the Healthy Workplaces, Healthy Families Act (Labor Code sections 245 through 249) to expand the minimum paid sick leave entitlement from three days (24 hours) to **five days (40 hours)** per year. The amendment applies to all employees who work in California for 30 or more days within a year of commencing employment, including part-time and temporary workers. Employers choosing the accrual method must allow employees to accrue at least one hour of paid sick leave for every 30 hours worked, with the accrual cap raised from 48 hours to 80 hours and the annual use cap raised from 24 hours to 40 hours.

Employers who prefer a frontloading approach must provide the full 40 hours at the beginning of each 12-month period. Under the frontloading method, no accrual cap applies because the employer has already satisfied the annual obligation. However, employers using a hybrid approach -- frontloading fewer than 40 hours and allowing accrual for the remainder -- must track compliance carefully, as the DLSE has taken the position that any shortfall in frontloaded hours triggers the full accrual framework, including the 80-hour cap. Labor Code section 246(b)(3) provides that existing paid time off (PTO) policies satisfy the requirement if they provide at least 40 hours of paid leave per year usable for the purposes specified in section 246.5.

SB 616 also created tension with existing local paid sick leave ordinances in cities such as San Francisco, Los Angeles, Oakland, and San Diego, each of which imposes its own accrual rates, caps, and usage rules. Under Labor Code section 248.5, local ordinances that provide greater benefits to employees remain in effect. Employers operating in multiple California jurisdictions must therefore comply with whichever scheme -- state or local -- provides the most generous entitlement on each dimension (accrual rate, annual cap, usage rights, and carryover). Failure to provide the correct amount of paid sick leave remains actionable under Labor Code section 248.5 and exposes employers to PAGA penalties under section 2699.5.

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III. SB 553: Workplace Violence Prevention Plans

SB 553, effective July 1, 2024, established California as the first state to require nearly all employers to maintain a written **Workplace Violence Prevention Plan** (WVPP). Codified in Labor Code sections 6401.7 and 6401.9, the law requires covered employers to develop and implement a plan that identifies workplace violence hazards, establishes procedures for reporting and responding to incidents, and includes employee training requirements. The WVPP must be maintained as a stand-alone document or as a distinct section of the employer's existing Injury and Illness Prevention Program (IIPP) under section 6401.7.

The statute defines "workplace violence" broadly to include any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior at the work site, encompassing violence by coworkers, customers, patients, visitors, and persons with no legitimate business relationship to the employer. Employers must maintain a **violent incident log** recording every workplace violence incident, including the date, time, location, type of violence, a detailed description of the incident, the classification of the perpetrator, and the consequences of the incident. These logs must be maintained for a minimum of five years. Employee training must occur upon initial assignment, annually thereafter, and whenever a new or previously unrecognized workplace violence hazard is identified. Cal/OSHA is authorized to enforce the WVPP requirements through its existing inspection and citation framework under Labor Code section 6317.

Certain employers are exempt, including health care facilities already subject to the workplace violence prevention requirements of Labor Code section 6401.8 (enacted by SB 1299 in 2014), facilities operated by the Department of Corrections and Rehabilitation, law enforcement agencies, and employees working remotely from locations not under the employer's control. For covered employers, failure to implement a compliant WVPP or to maintain the required incident log may result in Cal/OSHA citations carrying penalties of up to $25,000 per serious violation under Labor Code section 6429, with willful violations subject to enhanced penalties.

IV. SB 523: Reproductive Rights Protections

SB 523, which took effect January 1, 2024, expanded the Fair Employment and Housing Act (Government Code section 12926) to add **"reproductive health decision-making"** as a protected characteristic under FEHA. The statute defines the term to include a person's decisions regarding the use of contraception, fertility treatments, continuation or termination of a pregnancy, and prenatal care. Employers with five or more employees are prohibited from discriminating against, harassing, or retaliating against an applicant or employee on the basis of their reproductive health decisions, and the prohibition extends to the full range of employment actions -- hiring, promotion, compensation, terms and conditions of employment, and termination.

SB 523 also amended the Insurance Code (sections 10123.196 and 11512.205) to require health care service plans and disability insurers to cover over-the-counter contraceptives without cost-sharing, prior authorization, or a prescription, effective January 1, 2024. For employers, the practical compliance obligations are twofold. First, FEHA's anti-discrimination framework now covers reproductive health decisions with the same scope and remedies available for other protected

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categories, including compensatory damages, punitive damages in cases of oppression, fraud, or malice (Government Code section 12940), and attorney's fees. Second, employers sponsoring group health plans in California must ensure their plans comply with the expanded contraceptive coverage mandates or face regulatory action by the Department of Managed Health Care or the Department of Insurance.

The legislation arrived against the backdrop of the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), which returned abortion regulation to the states. While California had already enshrined reproductive rights in its constitution through Proposition 1 (November 2022), SB 523 addressed a gap in employment law by ensuring that reproductive health decisions receive explicit statutory protection in the workplace context -- a protection that had previously been implied but never codified under FEHA.

V. AB 2188: Cannabis Use Anti-Discrimination

AB 2188, effective January 1, 2024, added section 12954 to the Government Code, making it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment based on the person's **use of cannabis off the job and away from the workplace**. The statute also prohibits adverse action based on an employer drug test that detects "nonpsychoactive cannabis metabolites" -- the inactive metabolites (primarily THC-COOH) that conventional urine tests identify and that can remain detectable for weeks after use. By targeting metabolite-based testing rather than impairment-based testing, the law effectively rendered standard urine panels unreliable as a basis for adverse employment action related to cannabis.

The statute contains important exceptions. It does not apply to employees in the building and construction trades, does not preempt state or federal laws requiring drug testing as a condition of employment (including Department of Transportation regulations under 49 C.F.R. Part 40), and does not affect an employer's rights and obligations under Health and Safety Code section 11362.45 to maintain a drug- and alcohol-free workplace. Employers may still prohibit cannabis use, possession, and impairment during work hours and on employer premises. Critically, AB 2188 does not restrict an employer from using impairment-based testing methods -- such as oral fluid tests that detect THC (the psychoactive compound) rather than its inactive metabolites -- that more accurately identify recent use and potential on-the-job impairment.

For California employers, AB 2188 required a fundamental reassessment of drug testing programs. Employers who continued to rely on urine-based THC metabolite tests as a basis for refusing to hire or for terminating employees after January 1, 2024, face potential FEHA claims for employment discrimination. Government Code section 12954 subjects violations to the full range of FEHA remedies, including compensatory damages, injunctive relief, and attorney's fees. Employers in safety-sensitive industries not covered by the construction trades or DOT exceptions should transition to oral fluid or other impairment-focused testing protocols that identify active THC rather than residual metabolites, while updating their handbooks and offer-letter language to reflect the new legal standard.

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The legal landscape described reflects developments through mid-2026 and may not reflect subsequent legislative or judicial changes. Consult qualified counsel for advice specific to your situation.

Practice	Employment Law
Topics	Wage and Hour · Paid Sick Leave · Discrimination & Harassment
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