



summer roundup: new california employment laws

MSK Client Alert

October 4, 2018

September 30, 2018, was the cut-off for Governor Brown to sign or veto bills passed by the California legislature this year. So it's not surprising that the summer months saw a flurry of employment legislation across Governor Brown's desk.

Most significantly, the Governor vetoed AB 3080, which, as we alerted you last month, would have effectively banned non-disclosure agreements and arbitration agreements with respect to certain harassment and discrimination claims.

Nevertheless, the Governor signed into law this summer a record number of bills, many of which further regulate the workplace. Rounded up below are the most notable new employment bills signed into law, which will take effect on January 1, 2019, unless otherwise specified below:

California Legislature Amends FEHA and Expressly Affirms and Rejects Harassment Case Law

SB 1300, signed into law September 30, 2018, amends the California Fair Employment and Housing Act ("FEHA") to:

- Expand employer liability for acts of unlawful harassment by nonemployees (not just "sexual" harassment);
- Prohibit employers, in exchange for a raise or bonus or as a condition of employment or continued employment, from requiring: (1) a release of FEHA claims or rights; (2) execution of a non-disparagement agreement or other document that prohibits disclosure of unlawful workplace conduct. Any such agreement or document will be considered void and unenforceable. This provision does not apply to negotiated settlements of claims filed in court, before an administrative agency or alternative dispute resolution forum, or submitted through an employer's internal complaint process.

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- Prohibit a prevailing defendant from being awarded fees and costs unless the court finds the action was frivolous when brought or that the plaintiff continued to litigate after it clearly became so.

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