



114 Pacifica, Suite 250, Irvine, CA 92618-3321
(949) 341-0400 – phone (949) 341-0444 – fax

www.rodolfflaw.com
info@rodolfflaw.com

Quick Links:

Volume 3, Issue 1

About Us

Services

Newsletter archives

Contact Us

New Laws for 2012 Affect Litigants, Employees, Businesses

When the new year began, hundreds of new laws went into effect, based on 760 bills the Legislature had passed and Gov. Jerry Brown had signed. Among them are laws prohibiting restaurants from selling shark fin and minors from going to tanning salons. Big businesses must report what they're doing to prevent human trafficking in their foreign operations. Californians cannot carry guns openly or buy caffeinated beer beginning in 2012, and cities cannot pass local laws banning male circumcision.

Other new laws make changes to procedures in civil litigation. And several change the rules for how employers deal with employees. Among the more significant are these:

LITIGATION AND PROCEDURE

Damages, Voir Dire — Under AB 1403, attorneys have just 30 days to accept or reject a judge's proposal to raise or lower a jury's damages award, unless the judge has set a different deadline. The law also prevents judges from imposing blanket restrictions on how long attorneys may question potential jurors during the jury selection process.

Small Claims — Small claims courts can now hear cases worth up to \$10,000, according to SB 221. But the damages cap remains at \$7,500 for auto accident cases involving bodily injury in which the defendant driver has insurance that includes a duty to defend. That provision sunsets in 2015.

Summary Judgment — If both sides in a lawsuit agree and a judge finds it would boost judicial economy, a litigant may now move for summary adjudication of a claim or legal issue even if it "does not completely dispose of a cause of action, an affirmative defense, or an issue of duty." The provision of SB 384 does not apply to punitive damages issues, but it does sunset in 2015.

Juror Research — AB 141 instructs judges to warn jurors not to do Internet or other electronic or wireless searches to help them decide cases.

EMPLOYMENT

Credit Reports — Employers may no longer run consumer credit checks on most employees or job applicants under AB 22. There are several exceptions, including jobs in managerial positions, or ones in which the employee would have regular access to more than \$10,000 in cash, to confidential information or to the employer's bank accounts. An employer running a check on someone falling under one of the exceptions must give the person advance written notice stating the exception.

Independent Contractors — The penalties for “willfully misclassifying” an employee as an independent contractor went up with SB 459 to as much as \$10,000 to \$25,000 per violation for the worst offenders. Employers found to have violated the classification rules also must post a notice of their guilt on their web pages for a year. Advisers who recommend the misclassification also can be fined.

Pay Notices — All new, non-exempt employees hired in 2012 must be given a notice, according to AB 469, setting out the employer's name and physical address, the employees' rate of pay per relevant time period or by commission, overtime information, deductions for meals or lodging and the employer's workers' compensation carrier.

Discrimination — Two new laws prohibit employers from discriminating against employees or applicants based on two criteria: SB 559 bars discrimination based on genetic information about someone, whether gleaned from medical reports or the fact of a medical condition. AB 887 prohibits discrimination based on “gender expression,” meaning how someone looks or acts.

Pregnancy Leave — AB 592 makes it an unlawful employment practice to interfere with pregnancy leave and SB 299 requires employers to provide up to four months of health coverage to women out on pregnancy leave.

Commissions — Employees paid by commission must have a written contract spelling out the details, according to AB 1396.

BUSINESS

Discrimination — The same two laws, SB 559 and AB 887, that prohibit employers from discriminating based on genetic information or gender expression also prohibit such discrimination by businesses against customers.

Landlord-Tenant — SB 332 makes clear that landlords may prohibit smoking in their apartment buildings and common areas. But AB 818 requires owners of multi-family housing units to arrange for recycling services for their tenants.

New Corporate Forms — Businesses now may be created with an eye on both profit and good works. AB 361 allows the formation of a new type of corporate entity called a B, or benefit, corporation that is free to make decisions based on “general public benefit” without fear of shareholder litigation. Another law, SB 201, allows “flexible-purpose” corporations, which may shift from ordinary to nonprofit status or somewhere in-between.

MOTOR VEHICLE LAWS

Foreign Renters — If a foreigner rents a car, uses the rental company's insurance and then causes an accident, AB 621 requires the car rental company to accept service of any lawsuit or summons for the driver.

Restricted License — Someone convicted of alcohol-related reckless driving may apply for a restricted driver's license early, according to AB 520, if he or she agrees to extra restrictions including an ignition interlock device.

Booster Seats — SB 929 keeps children in approved safety booster seats two more years, until they are 8 years old, or until they are 4 feet 9 inches tall. For those 16 and over, the law also defines the phrase "properly restrained by a safety belt."

Barry L. Rodolff



The founder and president of The Rodolff Law Firm, APC, Barry L. Rodolff, is a highly experienced lawyer who has been assisting clients faced with civil litigation for more than two decades. Mr. Rodolff developed his skills with two well-respected defense firms, Schell & Delamer, and Haight, Brown & Bonesteel. He also worked in-house at Travelers Insurance Company, representing a variety of insured companies in many types of litigation. His clients have ranged from small businesses to multinational corporations. Mr. Rodolff brings extensive experience and knowledge in the defense of litigation involving premises liability, business, product liability, personal injury, employment, construction defect, and intentional torts.

Copyright 2011 The Rodolff Law Firm, APC

All rights reserved. This material is proprietary and may not be reproduced, transferred or distributed in any form without prior written permission.

We respect your time and privacy. If you do not wish to receive this e-mail newsletter, please [click here](#) or respond to this e-mail and type "Unsubscribe" in the subject or message box. Please accept our apologies if you have been sent this e-mail in error. Thank you.