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## **Employment, Immigration and Juries Top State’s New Laws**

Many new laws taking effect in California this month are making headlines across the country, including one legalizing recreational marijuana and another declaring California an immigration “sanctuary state.” A law from last year bumping up the minimum wage, this time to \$11 for many workers, also drew attention.

But many other laws took effect Jan. 1 — in fact, a few more than usual. Gov. Jerry Brown signed 859 bills into law late last year, vetoing a relatively paltry 118. Among them are important legal changes prohibiting employers from asking job applicants about criminal convictions or salary history, adjusting rules for jury selection, limiting mandatory arbitration in some cases and tightening immigration agents’ access to business premises.

Here are brief descriptions of new laws of interest to businesses and litigants:

### **EMPLOYMENT**

**Salary History** — Employers may no longer ask job applicants about their prior salary or benefits nor use salary history to decide a new hire’s pay, according to AB 168. To the contrary, they must disclose the pay scale for a position when the applicant makes a reasonable request.

**‘Ban the Box’** — Employers also may no longer ask job applicants about previous criminal convictions. AB 1008 — which bans the “box” on job applications asking about convictions — only applies to employers with five or more workers. The ban lifts once the employer makes a conditional job offer, but the employer can only retract the offer after following specific steps.

**Parental Leave** — SB 63 says businesses with 20 or more employees now also must provide their workers up to 12 weeks of unpaid parental leave. Previously, the requirement only covered companies with 50 or more employees.

**Harassment Training** — California employers with 50 or more employees have been required to provide two hours of sexual harassment prevention training every two years. SB 396 now requires the training to include information on gender identity, gender expression and sexual orientation.

## **LITIGATION**

**Jury Selection** — SB 658 details revised standards for voir dire in civil trials — with a main goal being to stop trial judges from setting arbitrarily short time limits on attorneys’ questioning of prospective jurors. Under the new law, judges determining time limits must consider several factors, including complex legal or factual aspects of the case, expected length of the trial and the number of parties and witnesses. Judges also must allow extra time if unusual situations arise along the way.

**Discovery Conference** — AB 393 sets up a way for parties, after they meet and confer early in a case, to get court assistance to resolve discovery disputes in a new “informal discovery conference.”

**Motion to Strike** — If a litigant plans to file a motion to strike or a judgment on the pleadings, he or she now must first meet and confer with the other side. AB 644 extends the requirement already in place for demurrers.

**Intervention** — Someone who wants to intervene in an ongoing lawsuit now may file an answer-in-intervention, rather than only a complaint-in-intervention, under AB 1693.

**Bank Arbitration** — Sparked by the Wells Fargo phony accounts scandal, SB 33 says banks may no longer force consumer disputes over alleged fraud into private arbitration. The act expands the list of exclusions from compelled arbitration in California law.

## **IMMIGRATION**

**ICE Access** — Employers may no longer voluntarily allow immigration agents to search in the nonpublic areas of their businesses or to go through employee records unless the agents have a search warrant. AB 450 imposes fines on employers who allow the searches or violate other requirements.

**Status Irrelevant** — A litigant’s immigration status is irrelevant in actions to enforce the state’s consumer protection laws, according to AB 1690, which expands protections already in place for employment, civil rights and housing matters.

**Tenants** — AB 291 prohibits landlords from using tenants’ immigration status as a tool to evict them or get them to move out.

## **BUSINESS**

**Prop. 65** — Businesses sued for violating California’s tough toxic chemicals law can now demand discovery from the plaintiff as to the basis of the claim. AB 1583 also allows the defendant to ask the state attorney general to investigate the claim and issue a no-merit letter, if warranted.

**Diaper Stations** — Any newly built restaurants, arenas, theaters or other public areas — as well as government facilities — must have a least one diaper-changing station in a bathroom open for men to use, says AB 1127.

**Bartenders** — Bartenders, waitresses and other “alcohol servers” must receive training in responsible beverage service, including spotting when a customer has had too much. AB 1221’s requirements don’t take effect until July 2021, however, to give the state time to design the training.

**Pet Stores** — Two new laws aim to protect pets and their buyers. AB 485, which takes effect in 2019, aims to stamp out unscrupulous puppy mills by declaring that pet stores can only sell rescue dogs, cats and rabbits. AB 1491 says pet stores can’t sell animals on an installment or “rent-to-own” basis.

## CONSTRUCTION

**Unpaid Wages** — Developers and general contractors now are jointly liable with their subcontractors when the subs’ employees don’t get paid, according to AB 1701. The new law only applies to new construction begun this year or later.

**Indemnity by Architects** — SB 496 says architects, engineers and other “design professionals” cannot be required to indemnify clients for damages or defense costs beyond the designers’ share of fault. The law extends to private projects protections that already cover public construction.

## TRAFFIC

**Bus Seat Belts** — Come July, passengers on commercial buses, such as Greyhound, must wear seat belts or face fines, says SB 20.

**Uber & Lyft** — Also beginning in July, SB 2687 will allow drivers for these and similar companies to be cited for having a blood alcohol level of 0.04 — half the usual 0.08 — when they are carrying a “passenger for hire.” Meanwhile, under AB 1289, “transportation network companies” such as Uber must conduct national and local background checks on drivers and avoid those with certain convictions.

**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.

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