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### Indoor Heat Illness Rule

Cal/OSHA has announced that it will begin rulemaking to adopt a standard to protect indoor workers from heat-related illnesses and injuries. The proposed rule must be submitted to the Cal/OSHA Standards Board by January 1, 2019.

The new rule has already drawn opposition from various employer groups, including the National Federation of Independent Businesses which argues that the law is unnecessary because indoor heat-related issues are already covered under regulations addressing workplace hazards.

# WatchDog

Guarding the Business of Print **November 2016**

## Reminder: Overtime Rules

The U.S. Department of Labor has finalized its new overtime rule to ensure, in the Department's words, that extra work means extra pay. The rule is expected to make an additional 4.2 million salaried employees eligible for overtime pay.

The rule raises the salary threshold at which white-collar workers are exempt from overtime pay from \$23,660 to \$47,476 (approximately \$921 per week).

Currently the California minimum compensation is \$41,760 annually. It will rise to \$45,936 on January 1, 2017 and \$50,112 on January 1, 2018. Thus the Department of Labor rate will apply to California companies between December 1, 2016 and January 1, 2018, at which time the higher California rate (\$50,112) will kick in.

Both the DOL and California regulations have provisions defining the duties of employees who can be exempt from the payment of overtime. For example, performing

- "executive" duties means supervising the work of two or more employees;
- "administrative" duties requires the performance of non-manual work directly related to the
- management of the business and exercise of discretion and independent judgment, among other criteria;
- "professional" duties involve the performance of work that requires advanced knowledge that is predominantly in nature and which requires exercise of discretion and judgment;
- "outside sales" means the primary duty is making sales, and the employee must be regularly engage in activity away from the employers pace of business.

## Background Checks

Employment background checks, also known as Consumer Reports, can include information from a variety of sources (e.g., credit reports and criminal records). Recently, there has been an increase in class action lawsuits against employers for violating such laws, specifically the Fair Credit Reporting Act. It is, therefore, important that the employers are aware of the federal and state laws when conducting employment background checks.

The Act itself runs some 108 pages, and creates a number of items for which employers can be cited and sued by plaintiff attorneys. The Employer's Choice Screening report cuts through the regulation and discusses different ways employers can fall victim to such lawsuits.

You can get the report at the following link: [http://bit.ly/ECO\\_Top5](http://bit.ly/ECO_Top5).

## Proposed Workers' Comp Premium Cuts

California Insurance Commissioner Dave Jones is urging insurance carriers in the state to cut the workers compensation premiums they charge employers by 14 percent.

Thursday, Jones lowered his suggestion for the average premium rate to \$2.19 per \$100 of employer payroll, which represents a 14 percent drop on average from premium rates insurance companies have filed with his office, and a 5.5 percent drop from Jones' mid-year rate recommendation.

Jones said that carriers have not been passing on to employers savings in the workers' compensation system brought about by legislative reforms in 2012 and 2013.

Earlier this year, Jones recommended that for policies beginning on or about July 1, carriers lower their premiums 10 percent from the rates they filed with his office. But, Jones said, many insurers chose not to lower their premiums.

California's workers' compensation system was partially deregulated in the 1990s, allowing insurers to set their own premium rates. Insurers still must file their rates with the insurance commissioner's office, but the insurance commissioner does not have veto power over premium rates; he can only recommend rate levels.

Up until recently, insurers tended to follow the insurance commissioner's recommendations.

However, insurers' assessments of overall market conditions and concerns about rising health care costs generally have resulted in some choosing to disregard the commissioner's calls to reduce premium rates.

Source: *Los Angeles Business Journal*  
October 28, 2016

## SCAQMD to Consider Scrapping RECLAIM

Facing a lawsuit from environmental groups and pressure from state and federal regulators, the South Coast Air Quality Management District (SCAQMD) is contemplating phasing out the 22-year old program that allowed industry the option of buying pollution reduction credits as an alternative to installing pollution control equipment. This shift in thinking looms large as the air district prepares a 15-year plan to cut pollution to meet federal health standards for smog that must be approved by state regulators.

Air district leadership reportedly believe that the district's existing Regional Clean Air Incentives Market or RECLAIM Program may have outlived their effectiveness because meeting health standards in the coming years may require nearly all the oil refineries, power plants, and factories in the program to install state-of-the-art pollution controls.

## Postal Increases Coming

The U.S. Postal Service filed notice with the Postal Regulatory Commission (PRC) of price changes for products to take effect in 2017. The new prices include a two cent increase in the price of a First-Class Mail Forever stamp, returning the price to 49 cents, the price of a Forever stamp before the Postal Service was forced to reduce the prices as part of a surcharge removal.

The price change filing does not include any price change for postcards, letters being mailed to international destinations or for additional ounces for letters.

Prices for Standard Mail, Periodicals, Package Services and Extra Services will also be adjusted next year and can be found at [www.prc.gov](http://www.prc.gov). The PRC will review the prices before they are scheduled to become effective on January 22, 2017.

## Worker Documentation

Federal law requires employers to verify through specific documents that individuals are authorized to work in the United States. If the documents appear authentic, an employer need not ask a prospective employee for other documentation. Moreover, federal law prohibits employers from refusing to honor documents that appear genuine.

Up until now, California law has prohibited similar retaliatory "document abuse" against immigrants workers, but it did not offer the same protection at the application and hiring stage.

SB 1001 (Mitchell, D-Los Angeles) fills that gap in California law. The legislation states that it is an illegal employment practice to:

- Require different or more documentation than are required under federal law to work in the United States;
- Refusal to accept documents that appear to be genuine documents;
- Attempts to reinvestigate or re-verify an incumbent employee's authorization to work using an unfair immigration-related practice.

