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New Laws to Expand Ban on Smoking in Workplace in June

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What is the law in California about smoking in the workplace?

California employers may not knowingly or intentionally permit the smoking of tobacco products at a place of employment or in an enclosed space. This prohibition includes permitting nonemployees to smoke in an enclosed workplace.

When the smoking in the workplace ban was first enacted, there were exemptions in place for certain employers and specified working environments.

Legislation signed by the Governor this month will change some of the workplace rules relating to smoking in the workplace and eliminate most of these specific exemptions. The amendments take effect beginning June 9, 2016.

The bills making the changes are ABX2 7 (M. Stone; D-Scotts Valley), SBX2 5 (Leno; D-San Francisco) and SBX2 7 (E. Hernandez; D-West Covina).



Few Exceptions to Smoking Ban

The new law expands smoke-free workplace protections by getting rid of most of the existing exemptions that allow smoking in certain work environments.

For example, the newly signed legislation expands the workplace smoking ban to include owner-operated businesses. Before this new law, the smoking ban did not apply if you owned your own business and were the only person working there. That exception no longer exists; the law will now cover all employers, including owner-operated businesses.

The new law also eliminates the exception for small businesses with a total of five or fewer employees. These small businesses currently can allow smoking in enclosed areas if certain conditions are met, such as not allowing minors in the space and having proper ventilation; this practice is no longer allowed beginning June 9.

Ban Expanded

The recent amendments further expand the workplace smoking ban by:

- Eliminating the ability of employers to have designated smoking break rooms. Currently, such smoking break rooms are allowed if sufficient conditions are met. Beginning June 9, employer-designated smoking break rooms are prohibited outright.
- Removing many of the exemptions for specific work environments, such as bars and taverns, hotel lobbies, banquet rooms and warehouse facilities. A few limited exceptions to the ban on workplace smoking will still remain.

The legislation also raises the legal minimum smoking age from 18 to 21, except for active military personnel.

Vaping Prohibited

The new legislation also treats the use of e-cigarettes and vaping devices that contain nicotine as "smoking"—thus extending existing workplace smoking bans to cover such products.

Compliance

Violation of the law subjects employers to fines of \$100 to \$500.

With the new legislation going into effect on June 9, employers will want to examine their policies and practices to ensure compliance.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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