

THE ARMSTRONG REPORT

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Construction Safety

Know Your Fall Protection Triggers and Correct Equipment

WORKING ON heights is one of the more dangerous activities for construction workers, and fall protection is recommended at most heights above 6 feet by Fed-OSHA. Employers in states that operate their own OSHA-approved plans must abide by their state's requirements.

Cal/OSHA's trigger for personal protective equipment is 7 1/2 feet, but that's the main trigger. The agency has a number of different height triggers for fall protection.

Failure to provide fall protection equipment to workers when they are working at or above a height trigger is not only dangerous to your employee, but can also get your firm cited.

See 'Train' on page 2

Systems and Devices

Passive systems

Use guardrails at 7'6" high on open:

- Edges of floors and roofs
- Scaffolds
- Runways, ramps
- Elevated platforms

Install safety nets in high entryways and cathedral ceilings of residential homes.

Wall openings that are greater than 30" high and 18" wide need to be protected with guardrails when the bottom of the opening is less than 36" above the working surface and the fall is more than 4 feet.

Openings need to be protected with off-set guardrails, or a swinging gate.

Active systems

Components of an active personal fall protection system (free-fall distance must never exceed 6 feet):

- Anchorage point must support adequate loads.
- Harness (or body belt for fall restraint or positioning) must be worn as per manufacturer instructions.
- Connector (lanyard) must be adjusted so the worker will not reach the ground.

1. Personal fall restraint system

- The fall restraint equipment should be set and adjusted so there is no free fall over the edge.
- A harness or body belt may be used.
- The anchorage point must support four times the intended load.

2. Personal fall arrest system

- Use harnesses, not body belts.
- Use shock-absorbing lanyard with two locking snap hooks.
- Anchorage point must support 5,000 pounds.



CONTACT US

If you have a question about any of the articles featured in this newsletter or any other issue, please contact your agent at one of our offices:

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Business Environment

Top 10 Laws, Regulations You Need to Know

AS WITH every New Year, businesses are faced with a slew of new laws and regulations. We've condensed them into a list of the top 10 most likely to affect your operations.

1. New teeth to gender equal pay laws

A new state law adds teeth to the laws on gender pay equality.

Before SB 358, employees seeking to prove pay discrimination had to demonstrate that they are not paid at the same rate as someone of the opposite sex at the same establishment for "equal work."

Under the new law, the requirement of "same establishment" has been deleted, and the employee need only show he or she is not being paid at the same rate for "substantially similar work."

Substantially similar work means a composite of skill, effort and responsibility, performed under similar working conditions.

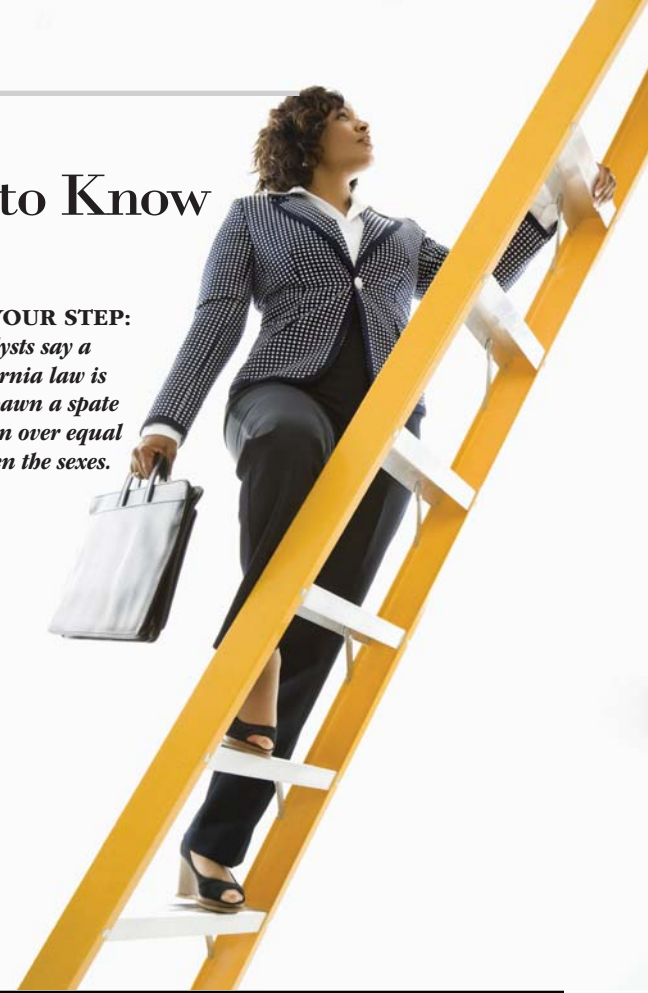
Employment law attorneys say the employer has the burden to affirmatively demonstrate the pay difference being complained about is based on any or all of these specific factors:

- A seniority system,
- A merit system,
- A system that measures earnings by quality or quantity of production, or
- Another factor, such as education, training or experience.

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WATCH YOUR STEP:

Legal analysts say a new California law is likely to spawn a spate of litigation over equal pay between the sexes.



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Train Your Workers on When to Use Safety Devices

Fall Protection Triggers

Cal/OSHA has many fall protection trigger heights, depending on the activity:

Two stories or 30 feet, whichever is less: Connecting structural steel (iron workers).

20 feet: Most roofing work.

15 feet: Panelized roof systems, residential framing and roofing activities, work on 4" nominal or wider structural members and other than connecting steel (iron workers). This height also includes thrust-outs, trusses, beams and purlins.

Structural wood framing workers working near a leading edge must be protected from falls of 15 feet or more by one or more of these:

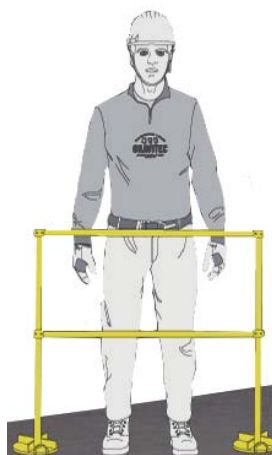
- Guardrails;
- Safety nets;
- Personal fall protection system

7 1/2 feet: Work on unprotected platform, or perimeters, edges, sides, slopes, etc. of structures.

6 feet: Crossing over trenches/excavations on bridges/walkways.

4 feet: Unenclosed elevated work locations outside buildings.

30 inches: Unenclosed elevated work locations inside buildings. ♦



PASSIVE FALL PROTECTION

Physical barriers, like guardrails around unprotected edges and covers over holes.



FALL RESTRAINT SYSTEMS

Use personal protective equipment to restrict the worker's range of movement so they cannot fall.



FALL ARREST SYSTEMS

Designed for situations where exposure to a fall is not preventable. A fall is arrested within acceptable force and clearance margins.

Continued from page 2

Affordable Care Act Reporting Mandate Starts This Year

2. Minimum wage increase

On Jan. 1, the state minimum wage increased to \$10 an hour, the last of two incremental increases since legislation was passed in 2013. The first came on July 1, 2014, which moved the rate up to \$9 an hour, where it has been until now.



3. Employer mandate part II

At the end of 2015, the Affordable Care Act reprieve for business with 50 to 99 full-time or full-time equivalent employees ends.

Employers of this size are required to provide health insurance to at least 95% of their full-time employees and dependents up to age 26 starting this year.

For employers who don't provide coverage, the fee is \$2,000 per full-time employee (minus the first 30 full-time employees).

Companies with 100 or more full-time employees were required to cover their workers, starting in 2015.

4. Health coverage reporting

Starting in 2016, employers with 50 or more full-time or full-time equivalent employees are required to make additional filings with the IRS, as well as supply their staff with forms.

Applicable large employers (with 50 or more full-time and full-time equivalent employees in the preceding calendar year) will use Form 1094-C and Form 1095-C to satisfy reporting requirements.

If filed on paper, these forms must be put in the mail no later than Feb. 28. If filing is done electronically, the due date is March 31.

You must provide 1095-C to your employees before the end of January, along with their W-2 forms

5. Leeway to avoid frivolous lawsuits

AB 1506 gives employers 33 days to fix technical violations on an itemized wage statement before an employee can pursue civil litigation under the Private Attorneys General Act.

The California Chamber of Commerce championed the bill, which took effect on Oct. 2, 2015, saying it will greatly reduce frivolous litigation over an issue for which "injury" is hard to prove.

6. Family leave expanded a little

A school activities law has expanded the right of employees to take protected time off from work when searching for a school or childcare provider.

The law, which applies to employers with 25 or more employees, requires employers to allow an employee to use eight hours in a calendar month, with a total of 40 hours in a calendar year, to find a school or a licensed childcare provider and to enroll or re-enroll a child, as well as time off to address childcare provider or school emergencies.

7. Inappropriate use of E-Verify

Effective Jan. 1, employers are barred from using the E-Verify system to check the work eligibility status of an existing employee or an applicant who has not received an offer of employment, as required by federal law, or as a condition of receiving federal funds.

8. Stiffer workplace safety penalties

Federal OSHA fines will increase for the first time in 25 years, with fines almost doubling from current levels.

The Federal Civil Penalties Inflation Adjustment Act of 1990 exempted OSHA from increasing its penalties to account for inflation. The new budget, signed into law on Nov. 2 by President Barack Obama, contains an amendment that strikes the exemption.

Now, OSHA is required to issue an interim final rule increasing its penalties to account for current inflation levels, which would raise proposed fines by about 80%.

This would mean the maximum penalty for a willful violation would rise to about \$127,000 from the current \$70,000. The adjustment must occur before Aug. 1, 2016. In subsequent years, OSHA also will be allowed to adjust its penalty levels based on inflation.

9. OSHA's new filing requirements

OSHA is expected to roll out a new rule that requires employers with 250 or more employees to electronically submit injury and illness records to OSHA on a quarterly basis. Also, some smaller employers will be required to electronically submit their OSHA Form 300A, which summarizes their annual injury and illness data, on an annual basis.

10. Paid sick leave

This law actually took effect on July 1, 2015 and new amendments took effect on July 13. Under the law, California employees are entitled to one hour of sick leave for every 30 hours worked.

The changes included clarifying who is a covered worker; alternative methods of accruing paid sick leave, other than one hour for every 30 hours worked; clarifying protections for employers that already provided paid sick leave or paid time off before Jan. 1, 2015; and providing alternative methods for paying employees who use paid sick leave. ♦



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New Year**

2016

Affordable Care Act

'Cadillac Tax' Delay Gives Employers Relief

EMPLOYERS AND their staff will get temporary relief from the impending "Cadillac" health insurance tax after Congress approved a delay as part of the recently passed budget deal.

President Obama has said he will not veto the budget, which means that the excise tax will not take effect until 2020, instead of 2018. While some analysts predict that the delay is a precursor to an outright repeal of the tax, benefits experts say it is unlikely to dampen ongoing efforts by employers to rein in their health insurance costs.

Under the Affordable Care Act, the excise tax will be applied at a rate of 40% on any premium in excess of set thresholds: currently \$10,200 for an individual policy and \$27,500 for family policies. Those thresholds will change annually based on the rate of inflation.

Under the law, health insurers are required to pay the tax, but they are expected to pass on the tax to group health plans, which will result in both employers and employees paying it in the end.

Employer groups lauded the delay. The Washington-based American Benefits Council, which counts mostly large employers as members, said it considers the delay a "down payment on a full repeal."

Other employer groups said they would use the extra time to further explore ways to keep their policies under the Cadillac threshold.

The tax is designed to dissuade the use of more expensive and generous plans, which many health care pundits blame for overutilization of health services. The tax is also expected to help pay for subsidizing health insurance costs for low-income individuals purchasing plans through public exchanges.

Despite the delay, employers are likely to continue to seek out ways to reduce their overall health insurance spend.

Group health plan costs rose 3.8% in 2015 from the year prior to an average \$11,635 per employee, according to Mercer Benefits.

Cadillac tax is serious business

According to an August 2015 survey by the National Business Group on Health, 72% of employers expected at least one of their benefit plans to hit the excise tax in 2020 if they didn't control costs.

According to the bipartisan nonprofit Committee for a Responsible Federal Budget, delaying the Cadillac tax until 2020 would cost the government \$16 billion.

Repealing it would cost \$91.1 billion over the next 10 years, the committee said recently.

There was another caveat in the budget bill. It requires the U.S. comptroller general and the National Association of Insurance Commissioners to conduct a study of whether the ACA uses "suitable" benchmarks to determine if the tax should be adjusted to reflect age and gender factors in setting the thresholds for levy.

What you can do

According to the International Foundation of Employee Benefit Plans' "2015 Employer-Sponsored Health Care: ACA's Impact Survey," 34% of employers had started taking action to avoid triggering the 2018 Cadillac tax.

Actions include moving to a consumer-directed health plan (53%), reducing benefits (37%) and adopting wellness and preventive initiatives (28%).

You should run a financial projection to determine if your organization is expected to be affected by the Cadillac tax. If you expect to be impacted, talk to us about cost mitigation strategies and keep an eye out for upcoming proposed regulations.

As long as the tax hasn't been repealed, the smart money is to stay on top of it. ♦



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