

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2001 LEGISLATIVE SUMMARY

This is a summary of the changes and amendments to California's civil rights statutes signed into law by Governor Gray Davis this year. Most of the changes will become effective January 1, 2002. They are organized by subject matter.

EMPLOYMENT

Employment Discrimination: Nonprofit Religious Educational Institutions

Effective January 1, 2002, the definition of "employer" is expanded to include religious non-profit educational institutions that are (1) non-profit public benefit corporations; (2) formed by, or affiliated with a particular religion; and (3) operate an educational institution as its sole or primary activity. However, these institutions may restrict employment in all categories of employment to religious adherents, regardless of whether the duties of the positions are connected to a religious function.

Bill Number: SB 504 (Scott), Chapter 910

Code Section Affected: Government Code section 12926.2, subdivisions (c), (e), and (f)

Employment Harassment: Nonprofit Religious Associations and Corporations

This bill clarifies that the Fair Employment and Housing Act (FEHA) protection against unlawful harassment applies to persons employed by religious corporations or associations that provide health care to the public and whose duties are non-religious in nature. (Sponsored by the DFEH.)

Bill Number: AB 1475 (Liu), Chapter 909

Code Section Affected: Government Code section 12940, subdivision (j)(4)(B)

Employment: Workplace Language Policies

This bill codifies in statute an existing regulation enacted and codified within the Code of Regulations by the Fair Employment and Housing Commission (Cal. Code Regs, tit. 2, § 7289.5), regarding specific employment practices that impact national origin and ancestry discrimination. Specifically, this bill makes it an unlawful employment practice for an employer to adopt or enforce a policy that limits or prohibits the use of any language in any workplace unless both of the following conditions are met:

(1) the language restriction is justified by a business necessity; and

(2) the employer has notified employees of the circumstances and the time when the language restriction is required to be observed and of the consequences for violating the language restriction.

The bill also includes legislative intent language that states that the purpose of this Act is to implement provisions in Section 8 of Article I of the Constitution protecting persons from discrimination based on national or ethnic origin, while also recognizing the statement of policy in Section 6 of Article III of the Constitution that English is the official language of California.

Bill Number: AB 800 (Wesson), Chapter 295

Code Section Affected: Government Code section 12951 (new section)

HATE VIOLENCE

Ralph Civil Rights Act Complaints

This bill allows the department two years to investigate Ralph Civil Rights Act complaints. (Sponsored by DFEH.)

Bill Number: AB 276 (Migden), Chapter 813

Code Section Affected: Government Code section 12965, subdivision (a)

Bane Civil Rights Act Violations

This bill permits district attorneys, city attorneys and the Attorney General to seek a civil penalty of \$25,000 in actions brought under the Bane Civil Rights Act on behalf of the hate crime victims. (DFEH does not enforce the Bane Civil Rights Act.)

Bill Number: AB 587 (Firebaugh), Chapter 587

Code Section Affected: Civil Code section 52.1, subdivision (a)

DISCRIMINATION BY BUSINESS ESTABLISHMENTS

Gender Price Discrimination

This bill enhances existing gender price discrimination laws by requiring certain business establishments (tailors, hair salons, and dry cleaners/laundries) to display conspicuously a sign with specific writing regarding the prohibition against gender price discrimination. Businesses must also disclose and post the price of each standard service offered to customers. It also requires that the business establishment provide a customer with a price list upon request. Standard service is defined in the bill as the 15 most frequently requested services provided by the business. This bill also provides that a business establishment failing to correct a violation of these requirements within 30 days of receiving written notice of a violation is liable for a civil penalty of \$1,000.

(This may be a violation of the Fair Employment and Housing Act pursuant to section 12948 of the Government Code, which incorporates section 51 of the Civil Code.)

Bill Number: AB 1088 (Jackson), Chapter 312
Code Section Affected: Civil Code section 51.6

Damages for Unruh Civil Rights Act Violations

Effective January 1, 2002, the minimum damage amount that may be awarded for Unruh Civil Rights Act violations is increased from \$1,000 to \$4,000. (DFEH enforces the damages provisions set forth in section 12970 of the Government Code.)

Bill Number: AB 587 (Firebaugh), Chapter 587
Code Section Affected: Civil Code section 52, subdivision (a)

RELATED STATUTES

Lactation Accommodation

This bill requires employers to provide a reasonable amount of break time to employees desiring to express milk. The break time would be required to run concurrently, if possible, with any break time already provided. Employers would also be required to provide the use of a room, or other location, other than a toilet stall, in close proximity to the employees' work area. Employers who violate these provisions would be subject to specified civil penalties and the Labor Commissioner is authorized to issue citations for such citations. (DFEH does not enforce the Labor Code.)

Bill Number: AB 1025 (Frommer), Chapter 821
Code Section Affected: Labor Code section 1030

Business and Profession Code Section Repealed

Section 2088 of the Business and Professions Code regarding premedical educational requirements has been repealed.

Bill Number: SB 724 (Committee on Business and Professions), Chapter 728
Code Section Affected: Business and Professions Code section 2088

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