

**PARKER'S  
2015  
CALIFORNIA  
LABOR  
CODE**



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**LABOR**  
**CODE**

**With Excerpts from the Legislative Counsel's Digest  
of New and Amended Code Sections**



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# PREFACE

LexisNexis is pleased to present the 2015 edition of **Parker's Labor Code**. This 2015 edition incorporates all legislation affecting the Labor Code required by legislative enactments up to and including Chapter 931 of the 2014 Regular Session and Resolution Chapter 1 of the Second Extraordinary Session of the 2013-2014 Legislature and all Propositions approved by the Electorate in 2014.

Included in this edition is a Summary of Changes highlighting major topics of legislative activity extracted from the Legislative Counsel's Digest. Also contained herein is a Table of Sections Affected which may be utilized to facilitate research into recently enacted legislation affecting this Code. Through the use of state-of-the-art computer software, attorney editors have updated the comprehensive descriptive word index with the enactments of the 2014 legislation.

In 1980, statutes creating and governing California Fair Employment and Housing were transferred from the Labor Code to the Government Code. Those sections from the Government Code are included herein as Appendix A because of their relevance to the Labor Code.

Also occurring in 1980, the Industrial Welfare Commission issued regulations to govern wages, hours, and working conditions in professional, technical, clerical, mechanical, and similar occupations. This order, including subsequent amendments, has been set out as Appendix B.

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December 2014



# SUMMARY OF CHANGES

## Excerpts from the Legislative Counsel's Digest

### Labor Code

#### **Child Labor**

##### § 1311.5 (added)

Existing law establishes a citation system for the imposition of civil sanctions against violators of the laws and regulations of the state relating to the employment of minors, and classifies citations according to the nature of the violation.

This bill would authorize treble damages to an individual who was discriminated against in the terms or conditions of his or her employment because he or she filed a claim or civil action alleging a violation of employment laws that arose while the individual was a minor. The bill would further subject a specified class of violations of employment laws relating to the employment of minors to a civil penalty, as provided. The bill would also require the tolling of the statute of limitations for claims arising from violations of employment laws until the person allegedly aggrieved attains majority, and would declare the latter provision declaratory of existing law. [AB 2288, ch. 96]

#### **Child Performers**

##### § 1706 (amended)

Existing law prohibits a person, except a person licensed as a talent agent and other specified persons, from representing or providing specified services to artists who are minors, under 18 years of age, unless he or she submits to the Labor Commissioner an application for a Child Performer Services Permit and receives that permit. Existing law requires the Labor Commissioner to maintain a list of all persons holding a valid Child Performer Services Permit issued under the above-described provisions and make this list publicly available on its Internet Web site. Existing law provides for penalties for persons who violate these provisions, enforceable by persons injured, and by specified public entities authorized to seek remedies that include misdemeanor criminal penalties.

This bill would require any person with a valid Child Performer Services Permit to include the permit number on advertising in print or electronic media, including, but not limited to, Internet Web sites, or on any other medium of advertising. By imposing new requirements on permit recipients, and thereby changing the definition of a crime, this bill would impose a state-mandated local program. [AB 1680, ch. 232]

#### **Contractors**

##### § 2810.3 (amended)

Existing law regulates the terms and conditions of employment and establishes specified obligations of employers to employees. Existing law prohibits a person or entity from entering into a contract for labor or services with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor, if the person or entity knows or should know that the contract or agreement does not include sufficient funds for the contractor to comply with laws or regulations governing the labor or services to be provided.

This bill would require a client employer to share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for the payment of wages and the failure to obtain valid workers' compensation coverage. The bill would prohibit a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. The bill would define a client employer as a business entity that obtains or is provided workers to perform labor within the usual course of business from a labor contractor, except as specified. The bill would define a labor contractor as an individual or entity that supplies workers, either with or without a contract, to a client employer to perform labor within the client employer's usual course of business. The bill would except from the definition of labor contractor specified nonprofit, labor, and motion picture payroll services organizations and 3rd parties engaged in an employee leasing arrangement, as specified. The bill would specify that it does not prohibit client employers and labor contractors from mutually contracting for otherwise lawful remedies for violations of its provisions by the other party. The bill would require a client employer or labor contractor to

## SUMMARY OF CHANGES

provide to a requesting enforcement agency or department, and make available for copying, information within its possession, custody, or control required to verify compliance with applicable state laws. The bill would authorize the Labor Commissioner, the Division of Occupational Safety and Health, and the Employment Development Department to adopt necessary regulations and rules to administer and enforce the bill's provisions. The bill would provide that waiver of its provisions is contrary to public policy, void, and unenforceable. The bill would prohibit its provisions from being interpreted to impose liability in specified circumstances. [AB 1897, ch. 728]

### **Emergency Rescue Personnel**

#### § 230.3 (amended)

Existing law prohibits an employer from discharging or in any manner discriminating against an employee for taking time off to perform emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel. Existing law defines emergency rescue personnel to include an officer, employee, or member of a political subdivision of the state, or of a sheriff's department, police department, or a private fire department. Existing law further requires the employer to reinstate and reimburse an employee who is discharged or in any other manner discriminated against in his or her employment in violation of these provisions. Under existing law, any employer who willfully refuses to rehire, promote, or otherwise restore an employee, as specified, is guilty of a misdemeanor. Existing law exempts a public safety agency or provider of emergency medical services from these provisions if, as determined by the employer, the employee's absence would hinder public safety or emergency medical services.

This bill would require an employee who is a health care provider, as defined, to notify his or her employer at the time the employee becomes designated as emergency rescue personnel and when the employee is notified that he or she will be deployed as a result of that designation.

This bill would expand the definition of emergency rescue personnel to include an officer, employee, or member of a disaster medical response entity sponsored or requested by the state. [AB 2536, ch. 343]

#### §5406 (amended); §5406.7 (added)

Existing law specifies the time period within which various proceedings may be commenced under provisions of law relating to workers' compensation. With certain exceptions, a proceeding to collect death benefits is required to be commenced within one year from several circumstances, including, but not limited to, from the date of death if it occurs within one year from the date of injury. However, no proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

This bill would, only until January 1, 2019, extend the time period to commence proceedings to collect death benefits, if the proceedings are brought by, or on behalf of, a person who was a dependent on the date of death, from 240 weeks from the date of injury to no later than 420 weeks from the date of injury, not to exceed one year after the date of death. This provision would apply only to a specified injury causing death, including cancer, tuberculosis, or a bloodborne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infections, and would apply only to specified deceased members, including peace officers and active firefighting members. The bill would prohibit the payment of death benefits under these provisions under specified circumstances. [AB 1035, ch. 15]

### **Farm Labor Contractors**

#### §§ 1684, 1685, 1690, 1690.1, 1694, 1695, 1695.55, 1696.2, 1696.5, 1697 (amended)

Existing law requires farm labor contractors to be licensed by the Labor Commissioner and to comply with specified employment laws applicable to farm labor contractors. Existing law requires farm labor contractors to pay license fees to the Labor Commissioner, and continuously appropriates a portion of the fee revenues for enforcement and verification purposes. Under existing law, a person who violates farm labor contractor requirements is guilty of a misdemeanor.

## SUMMARY OF CHANGES

This bill would prohibit a license to operate as a farm labor contractor from being granted to a person who, within the preceding 3 years, has been found by a court or an administrative agency to have committed sexual harassment of an employee, or who, within the preceding 3 years, employed any supervisory employee whom he or she knew or should have known has been found by a court or an administrative agency, within the preceding 3 years of his or her employment with the applicant, to have committed sexual harassment of an employee. These provisions would not apply until the Labor Commissioner makes a specified form available.

Existing law authorizes the Labor Commissioner to revoke, suspend, or refuse to renew a farm labor contractor's license under specified circumstances, including that the licensee or an agent of the licensee violated or failed to comply with certain laws.

This bill would additionally authorize the Labor Commissioner to revoke, suspend, or refuse to renew a farm labor contractor's license if the licensee has been found by a court or an administrative agency to have committed sexual harassment of an employee, or has employed a supervisory employee whom he or she knew or should have known has been found by a court or an administrative agency, within the preceding 3 years, to have committed sexual harassment of an employee. These provisions would not apply until the Labor Commissioner makes a specified form available.

This bill would increase the license fee paid by an applicant from \$500 to \$600, thereby making an appropriation. The bill would require the amount attributable to the fee increase to be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification Unit. The bill would require an applicant to provide the names and addresses of all persons who performed specified services for him or her in the previous year, in order to be issued a license to act as a farm labor contractor. The bill would require each employee of an applicant for licensure as a farm labor contractor to register as a farm labor contractor employee pursuant to federal law, if that registration is required under federal law. The bill would require an applicant for licensure as a farm labor contractor to execute a written statement attesting that the person's supervisory employees have been trained in the prevention of sexual harassment, as provided. The bill would require that the bond deposited with the Labor Commissioner in order to be issued a license to act as a farm labor contractor be conditioned upon compliance with, and payment of all damages occasioned by failure to comply with, provisions prohibiting unlawful workplace harassment, as specified. The bill would also authorize certain license fees in the Farmworker Remedial Account which are continuously appropriated, to be used to satisfy claims for damages for violations of provisions prohibiting unlawful workplace harassment, as specified.

Existing law requires an applicant for licensure as a farm labor contractor to have taken a written examination that demonstrates an essential degree of knowledge of current laws and regulations concerning farm labor contractors and authorizes the Labor Commissioner to charge a fee of not more than \$100 to cover the cost of administering the examination.

This bill would require that examination to cover laws and regulations concerning sexual harassment in the workplace. The bill would authorize the Labor Commissioner to consult with the Department of Fair Employment and Housing in preparing the examination. The bill would also increase the maximum amount the Labor Commissioner may charge for developing and administering the examination to \$200.

Existing law authorizes the Labor Commissioner to renew a license without requiring the applicant to take the examination if during the previous year the applicant has not been found to be in violation of specified laws and regulations, and meets other criteria.

This bill would include among those laws that the applicant must not have violated laws and regulations related to workplace harassment.

Existing law requires an applicant for a license to act as a farm labor contractor to participate in at least 8 hours of educational classes each year.

This bill would increase the requirement to 9 hours of classes and require that those classes include at least one hour of sexual harassment prevention training.

Existing law provides that it is a crime for an employer who has made withholdings from an employee's wages willfully or with intent to defraud fail to remit the withholdings to the proper agency or to fail to make any required payments required.

## SUMMARY OF CHANGES

This bill would authorize the Labor Commissioner to refuse to issue or renew the license until the amount of any delinquency under these provisions is fully paid.

Existing law requires every licensee to have a written statement ready for inspection stating the rate of compensation he or she receives from the grower and that he or she is paying to employees, as specified.

This bill would require that this statement be provided to a current or former employee or the grower within 21 calendar days of a written request. The bill would make a licensee who fails to comply with this requirement subject to a civil penalty of \$750 recoverable by the employee or grower.

Existing law provides that any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended or revoked is punishable by a fine of not less than \$1,000 but not exceeding \$5,000, or by imprisonment for not less than 6 months and not more than one year, or both.

This bill would instead provide that any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended, revoked, or denied reissuance is punishable by a fine of not less than \$10,000, or by imprisonment for not less than 6 months and not more than one year, or both. [SB 1087, ch. 750]

### **Firefighters**

#### § 147.4 (added)

The California Occupational Safety and Health Act of 1973 provides the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision overall employment and places of employment necessary to enforce and administer all occupational health and safety laws and to protect employees. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state.

This bill would require the Department of Industrial Relations by January 1, 2016, to convene an advisory committee, composed as specified, to evaluate whether changes are needed to align certain safety orders relating to personal protective clothing and equipment for firefighters with standards promulgated by the National Fire Protection Association (NFPA). The bill would require the committee to present its findings and recommendations to the Occupational Safety and Health Standards Board by July 1, 2016, and require the board no later than July 1, 2017, to render a decision regarding the adoption of changes to the safety orders, or other applicable standards and regulations, in order to maintain alignment with the NFPA standards. The bill would require the board, by July 1, 2018, and every 5 years thereafter, to complete a comprehensive review of all revisions to NFPA standards pertaining to personal protective equipment, as specified, and if the review finds that the revisions to applicable standards provide a greater degree of personal protection than the safety orders, the bill would require the board to consider modifying existing safety orders and to render a decision in that regard, as specified. [AB 2146, ch. 811]

### **Hazardous Materials**

#### § 147.2 (amended)

Existing law requires the Department of Industrial Relations, with the State Department of Public Health (DPH), to establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state. That repository is known as the Hazard Evaluation System and Information Service (HESIS). Existing law requires HESIS, among other things, to provide information and collect and evaluate data relating to possible hazards to employees resulting from exposure to toxic materials or harmful physical agents. Existing law expressly does not require employers to report any information not otherwise required by law.

This bill, except as specified, when there is new scientific or medical information and the Chief of HESIS, in consultation with the Director of Industrial Relations and the Chief of the Division of Environmental and Occupational Disease Control in DPH, makes a specified determination, would require chemical manufacturers, formulators, suppliers, distributors, importers, and their agents to provide to HESIS the names and addresses of their customers who have purchased specified chemicals or commercial products containing those chemicals, and certain other information related to those



## SUMMARY OF CHANGES

shipments, upon written request of HESIS, for every product the final destination of which may be a place of employment in California. The bill would deem the names and addresses of customers, the quantities and dates of shipments, and the proportion of a specified chemical within a mixture to be confidential. The bill would also provide that DPH would be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce this requirement. [SB 193, ch. 830]

### Hospitals

#### § 6401.8 (added)

Existing law regulates the operation of health facilities, including hospitals.

The California Occupational Safety and Health Act of 1973 imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime.

This bill would require the Occupational Safety and Health Standards Board, no later than July 1, 2016, to adopt standards developed by the Division of Occupational Safety and Health that require specified types of hospitals, including a general acute care hospital or an acute psychiatric hospital, to adopt a workplace violence prevention plan as a part of the hospital's injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior. The bill would require the standards to include prescribed requirements for a plan. The bill would require the division, by January 1, 2017, and annually thereafter, to post a report on its Internet Web site containing specified information regarding violent incidents at hospitals. The bill would exempt certain state-operated hospitals from these provisions. [SB 1299, ch. 842]

### Occupational Safety & Health

#### §§ 6319, 6320, 6625 (amended)

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue a citation for a violation of those laws, including violations that regulations adopted by the division classify as serious, repeat, or willful violations. Existing law authorizes the division to propose appropriate modifications concerning the characterization of violations and corresponding modifications to civil penalties for violations. Existing law requires the division, if a serious violation is not abated at the time of the initial or subsequent inspection, to require the employer to submit a signed statement under penalty of perjury that he or she has complied with the abatement terms within the period fixed for abatement of the violation. Existing law establishes the Occupational Safety and Health Appeals Board in the department, and prescribes procedures for the appeals board to hear and decide appeals of a citation. Regulations adopted by the appeals board generally stay the abatement period of a citation until the conclusion of the appeal.

This bill would prohibit the division from granting, for serious violations, a proposed modification to civil penalties for abatement or credit for abatement unless the employer has abated the violation, as specified, or has submitted a statement to the division in accordance with existing law, and would additionally require supporting evidence with the statement where necessary. The bill would authorize the division to grant such a modification only if the violation has been abated, as specified, or the signed statement and supporting evidence is received within 10 working days after the end of the period fixed for abatement. The bill would generally prohibit the stay or suspension of a requirement to abate the hazards affirmed by the decision or order during the pendency before the appeals board of a petition for reconsideration of a citation for a violation that is classified as a serious violation, repeat serious violation, or willful serious violation. The bill would authorize the appeals board to stay or suspend an abatement, upon petition by the employer, only if the employer demonstrates that a stay or suspension will not adversely affect the health and safety of employees. [AB 1634, ch. 497]

## SUMMARY OF CHANGES

### § 6409.1 (amended)

Under existing law, there is the Division of Occupational Safety and Health within the Department of Industrial Relations. Existing law requires every employer to file a complete report of every occupational injury or occupational illness of each employee, as specified, with the department. Existing law requires an employer to make an immediate report by telephone or telegraph of every case involving an employee's serious injury or illness or death to the division.

This bill would require every employer to make an immediate report by telephone or email of every case involving an employee's serious injury or illness or death to the division. [AB 326, ch. 91]

### Public Works

#### §§ 135, 1771.5, 1771.7, 1776( amended); §§ 1725.5, 1771.1, 1771.4, 1771.3, 1773.3 (added)

Existing law, with exceptions, requires all workers employed on a public works project, as specified, to be paid the general prevailing wage rate, as determined by the Director of Department of the Industrial Relations. The department is required to monitor and enforce compliance with all applicable prevailing wage requirements for any public works project paid for in whole or in part out of public funds, as specified. The reasonable and directly related costs of monitoring and enforcing compliance with the applicable prevailing wage requirements on a public works project incurred by the department are payable by the awarding body of the public works project, except as specified, as a cost of construction. The moneys are deposited into the State Public Works Enforcement Fund, a continuously appropriated fund, to be used in the department's monitoring and enforcement duties.

This bill would revise and recast these provisions to, among other things, delete the requirement that the awarding body pay the department's costs for monitoring and enforcing compliance with prevailing wage requirements as a cost of construction, and would instead require a contractor to be registered and qualified by the department in order to bid on, be listed in a bid proposal for, or engage in the performance of any contract for a public work. Beginning July 1, 2014, a contractor or subcontractor would be required to register with the department, pay an initial nonrefundable registration fee of \$300, pay an annual renewal fee each July 1 thereafter, and as part of the registration process, provide specified information to establish the contractor's eligibility to be registered. The bill would except from the application of these provisions contracts determined to be for public work only after the contract has been awarded or the bid has been awarded, except as specified. The bill would require the department to maintain a list of registered contractors on its Internet Web site.

The fees would be deposited into the State Public Works Enforcement Fund, which would no longer be continuously appropriated, and would be used only for the reasonable costs of administering the registration and qualification of contractors, the costs and obligations associated with administration and enforcement requirements with regard to the prevailing wage provisions, and public works projects monitoring and enforcement duties of the Labor Commissioner. The bill would provide for an adjustment of renewal fees based on the balance of the fund, as specified. These provisions would apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. The bill also would provide for notice, record keeping, and reporting requirements, as specified.

This bill would authorize the Director of Finance, with the concurrence of the Secretary of the Labor Workforce and Development Agency, to approve a short-term loan each fiscal year from the Labor and Workforce Development Fund to the State Public Works Enforcement Fund, as provided.

This bill would also make conforming changes and delete obsolete provisions with regard to specified awarding body compliance programs and specified awarding body collective bargaining agreements. [SB 854, ch. 28]

### § 1720 (amended)

Existing law defines the term "public works" for purposes of requirements regarding the payment of prevailing wages. Existing law generally defines "public works" to include construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds. Existing law defines "construction" for these purposes to include work performed during the design

## SUMMARY OF CHANGES

and preconstruction phases of construction. Existing law makes a willful violation of laws relating to payment of prevailing wages on public works a misdemeanor.

This bill would revise the definition of “construction” to also include work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. [AB 26, ch. 864]

Existing law defines the term “public works” for purposes of requirements regarding the payment of prevailing wages. Existing law generally defines “public works” to include construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Existing law makes a willful violation of laws relating to the payment of prevailing wages on public works a misdemeanor.

Existing law establishes the California Advanced Services Fund (CASF) and requires the Public Utilities Commission to administer a program using moneys in the fund to encourage deployment of high-quality advanced communication services to all Californians by providing funding for infrastructure projects to provide broadband access to households that are unserved or underserved, as specified.

This bill would revise the definition of “public works” to also include infrastructure project grants from the California Advanced Services Fund. The bill would specify that for purposes of this provision, the Public Utilities Commission is not the awarding body or body awarding the contract. [AB 2272, ch. 900]

### § 1741.1 (amended)

Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if, after an investigation, the commissioner determines there has been a violation of the law regulating public works projects, including the payment of prevailing wages. Existing law tolls the period for service of assessments for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, as specified. Existing law, with respect to the determination of whether a project is a public work, requires a person filing a notice of completion of the project to also provide notice to the Labor Commissioner, as specified, and requires the awarding body or political subdivision accepting a public work to provide to the Labor Commissioner notice of that acceptance, as specified.

This bill instead would require the body awarding the contract for a public work to furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work or a document evidencing the awarding body’s acceptance of the public work on a particular date, whichever occurs later, in accordance with specified provisions. The bill would require the awarding body to notify the appropriate office of the Labor Commissioner if, at the time of receipt of the Labor Commissioner’s written request, there has been no valid notice of completion filed by the awarding body in the office of the county recorder, and no document evidencing the awarding body’s acceptance of the public work on a particular date. If the awarding body fails to timely furnish the Labor Commissioner with the applicable document, the bill would require that the period for service of assessments be tolled until the Labor Commissioner’s actual receipt of the applicable document. The bill would also include legislative findings and declarations. [SB 266, ch. 916]

### § 1777.1 (amended)

Existing law provides that when a contractor or subcontractor performing a public works project is found by the Labor Commissioner to be in violation of the requirements relating to public works contracts, except with regard to the employment of apprentices, with intent to defraud, or within a 3-year period of having committed 2 or more separate willful violations of these provisions, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible to bid on, be awarded, or perform work as a subcontractor on a public works contract for specified periods of time.

This bill would make these provisions applicable to violations of provisions related to the employment of apprentices. [AB 2744, ch. 297]

## SUMMARY OF CHANGES

### § 1777.5 (amended)

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Under existing law, an apprentice employed upon public works is required to be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and to be employed only at the work of the craft or trade to which he or she is registered, as specified.

Under existing law a contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade is required to contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. Existing law requires the California Apprenticeship Council to distribute the training contributions by making a grant to an approved multiemployer apprenticeship program serving the same craft or trade and geographical area for which the training contributions were made to the council, for the purpose of training apprentices. Under existing law, if there are 2 or more approved multiemployer apprenticeship programs serving the same craft or trade and geographical area for which the training contributions were made to the council, the grant is required to be divided among all those programs based on the number of apprentices registered in each program.

This bill would, if there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, require the grant to be divided among those programs based on the number of apprentices from that county registered in each program. [AB 1870, ch. 890]

### § 1777.7 (added)

Existing law, among other things, imposes a civil penalty on contractors or subcontractors who are determined to have knowingly violated specified provisions regulating the employment of apprentices on public works projects, provides that a contractor or subcontractor who is determined to have knowingly committed a serious violation of the apprentice employment provisions may additionally be denied the right to bid on or be awarded or perform work as a subcontractor on any public works contract for a specified period of time, provides for a review of the civil penalty or debarment by the Labor Commissioner, and provides for a process to collect the civil penalty.

This bill would revise and recast these provisions by, among other things, making the civil penalty applicable to the contractor and any subcontractor responsible for the violation, requiring the Labor Commissioner or his or her designee to issue a civil wage and penalty assessment in accordance with a specified provision, and providing for notice by the Division of Labor Standards Enforcement to the contractor within 15 days of receipt of a complaint that their subcontractor knowingly violated the apprentice employment provisions. [AB 2744, ch. 297]

### § 1784 (added)

Existing law generally requires the payment of not less than the prevailing rate of per diem wages for work of a similar character in the locality in which the public work, as defined, is performed, and not less than the prevailing rate for holiday and overtime work, to workers employed on public works projects of greater than \$1,000. Existing law requires an awarding body, as defined, to obtain the general prevailing rate of per diem wages, as determined by the Department of Industrial Relations.

Existing law authorizes a contractor to bring an action in a court of competent jurisdiction to recover from an awarding body specified labor costs, penalties, and legal fees if either the awarding body previously affirmatively represented to the contractor that the work to be covered by the bid or contract was not a "public work" or the awarding body received actual written notice from the Department of Industrial Relations that the work to be covered by the bid or contract is a "public work" and failed to disclose that information to the contractor. Existing law also authorizes a contractor to bring an action to recover from the body awarding a contract for a public work, or otherwise undertaking any public work, any increased costs incurred by the contractor as a result of a decision of the awarding body, the Department of Industrial Relations, or a court that classifies the work as a "public work," if

## SUMMARY OF CHANGES

that body, before the bid opening or awarding of the contract, failed to identify as a “public work” in the bid specification or in the contract documents that portion of the work that the decision classifies as a “public work.”

This bill would authorize a contractor, as defined, to bring an action in a court of competent jurisdiction to recover from the hiring party, as defined, that the contractor directly contracts with, any increased costs, including labor costs, penalties, and legal fees incurred as a result of any decision by the Department of Industrial Relations, the Labor and Workforce Development Agency, or a court that classifies, after the time at which the hiring party accepts the contractor’s bid, awards the contractor a contract when no bid is solicited, or otherwise allows construction to proceed, the work covered by the project, or any portion thereof, as a public work, except under the circumstances specified. [AB 1939, ch. 161]

### **Recovery Of Wages**

#### § 1194.2 (amended)

Existing law authorizes an employee to bring a civil lawsuit against his or her employer for the unpaid balance of wages or compensation owed to that employee.

Existing law permits an employee to recover liquidated damages equal to the unpaid wages plus interest in a court action alleging payment of less than the state minimum wage.

This bill would provide that a suit for liquidated damages may be filed at any time before the expiration of the statute of limitations for bringing the underlying action alleging payment of less than the state minimum wage. Existing law authorizes an employee to bring a civil lawsuit against his or her employer for the unpaid balance of wages or compensation owed to that employee.

Existing law permits an employee to recover liquidated damages equal to the unpaid wages plus interest in a court action alleging payment of less than the state minimum wage.

This bill would provide that a suit for liquidated damages may be filed at any time before the expiration of the statute of limitations for bringing the underlying action alleging payment of less than the state minimum wage. [AB 2074, ch. 211]

### **Rest Periods**

#### § 226.7 (amended)

Existing law prohibits an employer from requiring an employee to work during a meal or rest or recovery period mandated by an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (IWC), the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health and establishes penalties for an employer’s failure to provide a mandated meal or rest or recovery period. Existing wage orders of the IWC require that a rest period be counted as hours worked, for which there shall be no deduction from wages.

This bill would provide that a rest or recovery period mandated pursuant to a state law, including, but not limited to, an applicable statute, or applicable regulation, standard, or order of the IWC, the board, or the division, shall be counted as hours worked, for which there shall be no deduction from wages. The bill would declare that provision to be declaratory of existing law. [SB 1360, ch. 72]

### **Refineries**

#### §§ 7872, 7873 (added)

Existing law, the California Refinery and Chemical Plant Worker Safety Act of 1990, states that its purpose is to prevent or minimize the consequences of catastrophic releases of toxic, flammable, or explosive chemicals. The act provides for the adoption by the Occupational Safety and Health Standards Board of specified process safety management standards for, among others, refineries that handle acutely hazardous material. The act declares the intent of the Legislature for the standards board and the Division of Occupational Safety and Health to promote worker safety through implementation of training and process safety management, as defined, in refineries and other facilities as deemed appropriate. A violation of the act is a crime.

## SUMMARY OF CHANGES

This bill would require every petroleum refinery employer to, every September 15, submit to the division a full schedule for the following calendar year of planned turnarounds, meaning a planned, periodic shutdown of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment, as specified. The bill would also require a petroleum refinery employer, upon the request of the division, to provide access onsite and provide the division with specified documentation relating to a planned turnaround within a certain period of time, as provided. The bill would, except as specified, prohibit the division from releasing to the public any information submitted to the division pursuant to these provisions that is designated as a trade secret, as defined. The bill would require the division to notify a petroleum refinery employer in writing of a request for the release of information to the public that includes information that the petroleum refinery employer has notified the division is a trade secret, as provided. The bill would authorize an employer to seek a court order prohibiting public disclosure. The bill establishes misdemeanor penalties for knowingly and willfully disclosing trade secrets. [SB 1300, ch. 519]

### **Retaliatory Discharge of Employee**

#### § 98.6 (amended)

Existing law prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against any employee or applicant for employment because the employee or applicant has engaged in protected conduct, as specified. Existing law provides that an employee who made a bona fide complaint, and was consequently discharged or otherwise suffered an adverse action, is entitled to reinstatement and reimbursement for lost wages. Existing law makes it a misdemeanor for an employer to willfully refuse to reinstate or otherwise restore an employee who is determined by a specified procedure to be eligible for reinstatement. Existing law subjects a person who violates these provisions to a civil penalty of up to \$10,000 per violation.

This bill would require the \$10,000 penalty to be awarded to the employee or employees who suffered the violation. [AB 2751, ch. 79]

#### § 1024.6 (amended)

Existing law prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against an employee because the employee updates or attempts to update his or her personal information, unless the changes are directly related to the skill set, qualifications, or knowledge required for the job.

This bill would prohibit an employer from discharging or in any manner discriminating, retaliating, or taking any adverse action against an employee because the employee updates or attempts to update personal information based on a lawful change of name, social security number, or federal employment authorization document. The bill would prohibit an employer's compliance with these provisions from serving as the basis for a claim of discrimination, including any disparate treatment claim. [AB 2751, ch. 79]

### **Sick Days**

#### § 245, *et seq.* (added); § 2810.5 (amended)

Existing law authorizes employers to provide their employees paid sick leave.

This bill would enact the Healthy Workplaces, Healthy Families Act of 2014 to provide that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th day of employment. The bill would authorize an employer to limit an employee's use of paid sick days to 24 hours or 3 days in each year of employment. The bill would prohibit an employer from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified posting and notice and recordkeeping requirements. The bill would define terms for those purposes.

## SUMMARY OF CHANGES

The bill would require the Labor Commissioner to enforce these requirements, including the investigation, mitigation, and relief of violations of these requirements. The bill would authorize the Labor Commissioner to impose specified administrative fines for violations and would authorize the commissioner or the Attorney General to recover specified civil penalties against an offender who violated these provisions on behalf of the aggrieved, as well as attorney's fees, costs, and interest.

The bill would not apply to certain categories of employees that meet specified requirements. [AB 1522, ch. 317]

### **Smoking**

§ 6404.5 (amended)

Existing law, the California Child Day Care Facilities Act, governs the licensing and operation of family day care homes and requires the State Department of Social Services to administer these provisions. Among other things, the act prohibits the smoking of tobacco in a private residence that is licensed as a family day care home during the hours of operation as a family day care home. A person who willfully or repeatedly violates a provision of the act is guilty of a misdemeanor.

This bill would prohibit the smoking of tobacco in a private residence that is licensed as a family day care home without regard to whether the act occurs during the hours of operation of the home. [AB 1819, ch. 459]

### **Unfair Immigration-Related Practices**

§ 1019 (amended)

Existing law prohibits an employer or any other person from engaging in, or directing another person to engage in, an unfair immigration-related practice against a person for the purpose of, or with the intent of, retaliating against any person for exercising a right protected under state labor and employment laws or under a local ordinance applicable to employees, as specified. Existing law defines unfair immigration-related practice to include, among other things, threatening to file or filing a false police report. Existing law creates a rebuttable presumption that an adverse action taken within 90 days of the exercising of a protected right is committed for the purpose of, or with the intent of, retaliation. Existing law authorizes a civil action for equitable relief and damages or penalties, as specified, by an employee or other person who is the subject of an unfair immigration-related practice. Existing law also authorizes a court to order the appropriate government agencies to suspend certain business licenses held by the violating party for prescribed periods based on the number of violations, and requires the court to consider specified circumstances in determining whether a suspension of all licenses is appropriate.

This bill would include in the definition of unfair immigration-related practice the threatening to file or the filing of a false report or complaint with any state or federal agency. The bill would authorize a civil action for equitable relief and any applicable damages or penalties by an employee or other person who is the subject of an unfair immigration-related practice. The bill would further authorize a court to order, upon application by a party or on its own motion, the appropriate government agencies to suspend certain business licenses held by the violating party for prescribed periods based on the number of violations. [AB 2751, ch. 79]

### **Wages**

§ 203 (amended)

Existing law authorizes specified employees working in the entertainment industry and their employers to enter into a collective bargaining agreement to establish a time limit for payment of wages after an employee is discharged or laid off.

Existing law imposes civil penalties on an employer who willfully fails to pay wages, in accordance with specified provisions, for an employee who is discharged or who quits. Existing law authorizes civil action for those penalties.

This bill would apply the civil penalty and suit provision to the violation of a time limit for payment of wages established pursuant to that collective bargaining agreement provision. [AB 2743, ch. 210]

## SUMMARY OF CHANGES

### § 1197.1 (amended)

--Existing law authorizes the Labor Commissioner to investigate and enforce statutes and orders of the Industrial Welfare Commission that, among other things, specify the requirements for the payment of wages by employers. Existing law provides for criminal and civil penalties for violations of statutes and orders of the commission regarding payment of wages. Existing law authorizes the Labor Commissioner to recover liquidated damages for an employee who brings a complaint alleging payment of less than the minimum wage fixed by an order of the commission or by statute.

Existing law subjects any employer, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission to a citation that includes a civil penalty, the payment of restitution of wages, and payment of liquidated damages to the employee. Existing law also provides for a penalty imposed upon an employer for the willful failure to timely pay wages of an employee who resigns or is discharged.

This bill would expand that penalty, restitution, and liquidated damages provision for a citation to also subject the employer to payment of any applicable penalties for the willful failure to timely pay wages of a resigned or discharged employee. [AB 1723, ch. 886]

### **Workers' Compensation**

#### § 4610.5 (amended)

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law generally provides for the reimbursement of medical providers for services rendered in connection with the treatment of a worker's injury, and requires an employer to establish a medical treatment utilization review process, in compliance with specified requirements. Existing law provides for an independent medical review process to resolve disputes over a utilization review decision for injuries occurring on or after January 1, 2013, and for any decision that is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury. Under existing law, as part of its notification to the employee regarding an initial utilization review decision that denies, modifies, or delays a treatment recommendation, an employer is required to provide the employee with a one-page form prescribed by the administrative director, and an addressed envelope, which the employee may return to the administrative director or the administrative director's designee to initiate an independent medical review. Under existing law, an employer is required to include on this form any information required by the administrative director to facilitate the completion of the independent medical review. Existing law specifies the required contents of the form.

This bill would revise the requirements applicable to utilization review procedures by changing the maximum length of the above-described form to 2 pages. [AB 2732, ch. 217]

#### § 4903 (amended)

Existing law authorizes the Workers' Compensation Appeals Board to determine and allow as liens against any sum to be paid as compensation, certain amounts, including, but not limited to, reasonable medical treatment expenses, except those disputes subject to independent medical review or independent bill review.

This bill would include in those amounts that the board is authorized to allow as liens certain medical-legal expenses to which the employee is entitled under a specified provision for the purpose of proving or disproving a disputed claim. [AB 2732, ch. 217]

#### § 4903.07 (amended)

Existing law requires that a lien claimant in a workers' compensation matter is entitled to an order or award for reimbursement of a lien filing fee or lien activation fee, together with interest at the rate allowed on civil judgments, if certain conditions are satisfied.

This bill would specify that these fees are to be paid by the employer of the injured worker. [AB 2732, ch. 217]



## SUMMARY OF CHANGES

### § 4903.08 (amended)

Existing law requires an order or award for payment of a lien for medical or hospital treatment in a workers' compensation matter to be made for payment only to the person who was entitled to payment for the expenses for medical or hospital treatment at the time the expenses were incurred, and not to an assignee unless the person has ceased doing business in the capacity held at the time the expenses were incurred and has assigned all right, title, and interest in the remaining accounts receivable to the assignee.

This bill would authorize an assignment of that payment if the assignment was completed prior to January 1, 2013, or if it was required by a contract that became enforceable and irrevocable prior to January 1, 2013. The bill would state that this provision is declarative of existing law. [AB 2732, ch. 217]

### § 5410 (amended)

Existing law authorizes an injured worker to institute proceedings for the collection of compensation, including vocational rehabilitation services, within 5 years after the date of the injury upon the ground that the original injury has caused new and further disability or that providing vocational rehabilitation services has become feasible because the employee's medical condition has improved or because of other factors not capable of determination at the time the employer's liability for vocational rehabilitation services otherwise terminated.

This bill would delete the provisions relating to vocational rehabilitation, but retain the authority of an injured worker to institute proceedings for the collection of compensation within 5 years after the date of the injury upon the ground that the original injury has caused new and further disability. [AB 2732, ch. 217]

### § 5502 (amended)

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment. Under this system, the Workers' Compensation Appeals Board has jurisdiction to adjudicate claims relating to workers' compensation. Existing law creates the Administrative Director of the Division of Workers' Compensation, who has specified powers and duties relating to the workers' compensation trial process. Existing law requires the administrative director to establish a priority conference calendar for cases in which the employee is represented by an attorney and the disputed issues are employment or injury, as specified.

This bill would additionally require that cases in which the employee is or was employed by an illegally uninsured employer and the disputed issues are employment or injury, as specified, be placed on the priority conference calendar established under existing law. [AB 1746, ch. 156]