

A Business Newsletter from Bhatia & Co.
Certified Public Accountants

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[Significant changes to California labor laws, particularly ones relating employee-independent contractor definition and sexual harassment training requirements](#)

SANTA CLARA: Significant changes to California's labor law are coming that will have considerable impact of employers in many sectors.

Among the most crucial is the approval of Assembly Bill 5 (AB 5) related to worker status about employees and independent contractors.

[Assembly Bill 5 Definition independent contractors](#)

The existing law, "creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission."

It requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for those purposes. The three parts are:

(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The person performs work that is outside the usual course of the hiring entity's business.

(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

The legislation codifies the test for determining when a worker is an independent contract as outlined in a California Supreme Court decision last year. This legislation, which goes into effect on January 1, 2020, is based on the stringent "ABC" test adopted by the California Supreme Court decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* case of 2018.

[More](#)

[Senate Bill 778 Sexual harassment training](#)

Among a slew of employment bills signed into law in California is one that is of particular significance and consequence to employers with five or more employees. Senate Bill (SB) 778 relates to sexual harassment training and requirements. SB 778 has the potential to make the task of ensuring healthy work environment for small employers with five employees and more exacting.

It pushes back harassment prevention training requirements to January 1, 2021. Employers with five or more employees must provide one hour of sexual harassment prevention training to nonsupervisory employees and two hours of such training to supervisors.

According to [California Legislative Information](#), the existing California Fair Employment and Housing Act makes specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. Under the existing law, the Department of Fair Employment and Housing administers these provisions.

Existing law, by January 1, 2020, requires an employer with 5 or more employees to

[Assembly Bill 749 Restriction on an aggrieved employee](#)

This bill provides that as part of a settlement agreement, employers cannot prohibit or restrict an "aggrieved employee" (employee who has filed a claim against employer) from working for the employer.

It "would also clarify that an employer and an aggrieved person are free to agree to end a current employment relationship, or to prohibit or otherwise restrict the aggrieved person from obtaining future employment with the employer, if the employer has made a good faith determination that the person engaged in sexual harassment or sexual assault, as defined. The bill would further clarify that an employer is not required to continue to employ or rehire a person if there is a legitimate nondiscriminatory or nonretaliatory reason for terminating or refusing to rehire the person."

The bill would provide that a provision in an agreement entered into on or after January 1, 2020, that violates this prohibition is void as a matter of law and against public policy.

For other bills [here](#).

[California rent control law comes into effect as of January 1, 2020](#)

A new California rent control law aimed at addressing the burgeoning homelessness crisis has come into effect from January 1, 2020. The law signed by California Governor Gavin Newsom in October last year has taken effect and limits annual rent increases to 5 percent plus inflation. It would apply to rent increases on or after March 15, 2019, to prevent landlords from raising rents just before the caps go into place. [More](#)

For city-by-city rent control rules read [here](#).

[Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens](#)

U.S. Citizenship and Immigration Services (USCIS) is announcing the implementation of the H-1B registration process for H-1B cap-subject petitions. The initial H-1B petition registration period will begin on March 1, 2020. Starting on that date, USCIS will require H-1B cap-subject petitioners, including those eligible for the advanced degree exemption, to first register electronically with USCIS and pay the associated H-1B registration fee before being eligible to properly file an H-1B cap-subject petition for the Fiscal Year 2021 H-1B numerical allocations. [More](#)

[IRS issues standard mileage rates for 2020](#)

WASHINGTON — The Internal Revenue Service today issued the 2020 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on January 1, 2020, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be: 57.5 cents per mile driven for business use, down one half of a cent from the rate for 2019, 17 cents per mile driven for medical or moving purposes, down three cents from the rate for 2019, and 14 cents per mile driven in service of charitable organizations. [More](#)

[IRS continues enforcement efforts in conservation easement cases](#)

WASHINGTON — The Internal Revenue Service today urged taxpayers involved in designated syndicated conservation easement arrangements to consult with their tax advisors following a recent U.S.

provide at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least 1 hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees in California within 6 months of their assumption of a position. Existing law also specifies that an employer who has provided this training to an employee after January 1, 2019, is not required to provide sexual harassment training and education by the January 1, 2020, deadline.

However, SB 778 "would instead require an employer with 5 or more employees to provide the above-described training and education by January 1, 2021, and thereafter once every 2 years. The bill would require new nonsupervisory employees to be provided the training within 6 months of hire and new supervisory employees to be provided the training within 6 months of the assumption of a supervisory position. The bill would also specify that an employer who has provided this training and education in 2019 is not required to provide it again until 2 years thereafter. The bill would make other related changes to those provisions requiring sexual harassment training." "This bill would declare that it is to take effect immediately as an urgency statute," the official text said.

Assembly Bill 51 Mandatory arbitration agreements

This bill effectively bans mandatory arbitration agreements entered into by employers and employees.

"This [bill](#) would prohibit a person from requiring any applicant for employment or any employee to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act (FEHA) or other specific statutes governing employment as a condition of employment, continued employment, or the receipt of any employment-related benefit. The bill would also prohibit an employer from threatening, retaliating or discriminating against, or terminating any applicant for employment or any employee because of the refusal to consent to the waiver of any right, forum, or procedure for a violation of specific statutes governing employment. The bill would establish a specific exemption from those prohibitions. Because a violation of these prohibitions would be a crime, the bill would impose a state-mandated local program."

Tax Court decision and agency plans to continue enforcement efforts in this area.

[More](#)

[Judge halts California labor law as it relates to truckers](#)

SACRAMENTO, Calif. (AP) — A federal judge on Thursday indefinitely blocked a new California labor law from applying to more than 70,000 independent truckers, deciding that it is preempted by federal rules on interstate commerce. [More](#)

[New Labor Dept. rule clarifies 'joint employer' standard](#)

WASHINGTON (AP) — The Labor Department issued a final rule Sunday that clarifies when a worker is employed by more than one company, an issue that affects franchise businesses such as McDonald's and firms that have outsourced services such as cleaning and maintenance. [More](#)

[New Year Brings More Frustrations](#)

The holidays are over and the cracks in our economy, disguised during the December rush, are showing again. A few weeks ago, we got word that Corky's, open for over 60 years and a San Fernando Valley icon, closed. Last month, two other Valley restaurant owners told me privately that 2020 will be their last. [More](#)

[Indian Government to slash time taken to start new business to 5 days](#)

ET Bureau

You may now be able to start a new business in five days with minimal processes. The Indian government is set to slash the requirements & time taken for starting a new business from 10 process and 18 days to five processes and as many days. [More](#)

[In India, you can soon deposit cash at any ATM](#)

India's banking sector is set to take an important step in offering customer convenience by allowing cash deposit at any ATM. It is a service that does not exist even in an otherwise customer-friendly America. The National Payments Corporation of India (NPCI) is urging banks to allow cash deposit an interoperable feature. Payments are already interoperable between banks.

Cash deposit at any ATM can dramatically increase customer convenience across India. [More](#)

Bhatia & Co, Inc., Certified Public Accountants, is a diversified Full service financial and business services firm concentrating on providing services to domestic and international organizations, with special focus on international transactions and tax planning. Our Team of highly skilled and diversified range of finance and business professionals provide services in areas of business and individual tax, audit & review, international tax planning, incorporation and corporate compliance, accounting, outsourcing, business consulting, financial and retirement planning, immigration consulting and litigation support to a diverse range of clients.. We are located in the heart of Silicon Valley in Santa Clara, CA for the last 15+ years as well as in Pleasanton, CA and have offices in New Delhi for 30+ years.

Our recent engagements in the US and India include cross border tax planning and transactions, M&A, corporate structuring, and complex Tax audits and representation including recent overseas disclosure programs (OVDP/OVDI/ Streamlined disclosure programs). The clientele include startups, multinational companies, government organizations, Public Sector Banks, and Auto dealerships.

Bhatia & Co. is headed by Neeraj Bhatia, who is an accomplished accounting professional with more than 30 years' expertise in international and domestic tax planning and compliance for startups and multinational entities. Neeraj is a licensed CPA in California, New York and Colorado and a CA in India. He also has a LL.M. in International Taxation from the US, Costs and Works (Management) Accountancy, and a Bachelor (Honors) degree in Commerce from India.

During his academic years he has received several awards and scholarships for being the top ranker nationally. Recently in January, 2018 Neeraj Bhatia was awarded the prestigious Hind Rattan Award (Jewel of India award) on the occasion of Pravasi Bhartiya Diwas by the NRI Welfare Society for keeping Flag of India high abroad at their 37th International Congress of NRIs held in Bangkok, Thailand.

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