

News You Can Use



Because You're Different

Human Resources

State Family Rights Act Expanded to Small Firms

A NEW LAW that takes effect in January 2021 will expand the California Family Rights Act to cover even small employers – those with five or more staff.

The law, which requires covered employers to provide up to 12 weeks of unpaid leave a year for family and medical leave purposes, xamore workers.

The new law also expands the scope of “family members” for whom employees can take leave to help care for them.

The new law takes effect Jan. 1, 2021, so it's important that employers who are currently not held to account under the law prepare to offer unpaid family or medical leave if they have an employee who asks for it.

The CFRA, largely modeled on the federal Family and Medical Leave Act (FMLA), also only applies to employees that live within 75 miles of their worksite. The new law eliminates that requirement as well.

The main changes

The main thrust of the new law, SB 1383, is to expand the CFRA to cover smaller employers, as mentioned above.

The CFRA currently allows employees to take unpaid leave for a number of purposes, including to care for a family member with a serious health condition. The law defines a family member as a minor child, a spouse or a parent.

Starting 2021, the CFRA will expand that definition to include:

- Siblings,
- Grandparents,
- Grandchildren, and
- Domestic partners.

Also, the law expands the definition of “child” to include all adult children (regardless of if they are dependents) and the children of a domestic partner.

These new definitions apply to all employers covered by the law.

Other changes

SB 1383 also makes the following changes:

- It deletes a provision that if both parents work for the same employer, the employer is not required to provide more than a total of 12 weeks for leave in connection with the birth, adoption or foster care placement of a child. So starting Jan. 1, an employer in that position would be required to provide 12 weeks to both employees.
- It deletes language from the CFRA that allows employers to refuse reinstatement to salaried employees who are among the highest-paid 10% of the firm's employees and where the refusal is necessary to prevent substantial and grievous economic injury.

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Workers' Compensation

Rate Filing Expands COVID-19 Surcharge Tiers

THE WORKERS' Compensation Insurance Rating Bureau has amended its 2021 rate filing to make its earlier recommended COVID-19 surcharge more equitable.

The Rating Bureau is leaving unchanged its overall recommendation that benchmark rates be increased an average of 2.6% for policies inepting on or after Jan. 1, 2021.

But it modified a previous recommendation that a COVID-19 surcharge of \$.06 per \$100 of payroll be applied to all policies, in favor of a six-tiered surcharge (see right).

The tiers range from 1 cent per \$100 of payroll for the least-risky sectors to a high of 24 cents for the riskiest.

All sectors will be placed in one of the six tiers depending on their relative share of COVID-19 claims that had been filed through the end of August.

The Insurance Department wrapped up hearings on the rate filing in early October and will announce in November whether it approves the filing or is making changes.

The benchmark rates (or pure premium rates) are published as guideposts for insurers to price their policies. Insurers are not required to follow them, although most do to some degree.

While the Bureau earlier said it would not apply COVID-19 claims towards employers' experience modifiers (X-Mods), the surcharge will apply to all employers – even those who have not seen any coronavirus-related illness claims. ❖



THE SURCHARGE CATEGORIES*

1 cent

- Management of Companies and Enterprises (55)
- Information Technology (51)
- Professional, Scientific and Technical Services (54)

3 cents

- Outside Sales (8742)
- Finance and Insurance (52)
- Clerical (8810)
- Mining, Quarrying, and Oil and Gas Extraction (21)
- Arts, Entertainment and Recreation (71)
- Real Estate and Rental and Leasing (53)

6 cents

- Administrative Support and Waste Management and Remediation Services (56)
- Wholesale Trade (42)
- Construction (23)
- Educational Services (61)
- Manufacturing (31)
- Other Services (except Public Administration) (81)

12 cents

- Public Administration (92)
- Retail Trade (44)
- Transportation and Warehousing (48)

18 cents

- Accommodation and Food Services (72)
- Agriculture, Forestry, Fishing and Hunting (11)

24 cents

- Health Care and Social Assistance (62)

* The two digits are the first two numbers of four-digit NAIC class codes, and all class codes that start with those two digits will see the surcharge applied, unless otherwise noted with a four-digit code.

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New Law Creates Potential Mismatch with FMLA

- It creates a mismatch with the FMLA that could theoretically allow an employee to take 12 weeks of unpaid CFRA leave to care for one of the new categories of family members as discussed above, and then take another 12 weeks of FMLA leave to care for themselves, child or spouse. This creates a mismatch as the FMLA does not cover siblings, grandparents, grandchildren and domestic partners and their children.

The takeaway

If you have more than five employees, you will need to prepare for this new law.

It's best if you can have your HR manager work with an employment law attorney to develop policies and procedures so your firm can administer these new leave requirements should a staff member ask for CFRA leave.. ❖

Workplace Injuries & Illnesses

COVID-19 Claims Grow as Overall Claims Plummet

WHILE THE number of COVID-19 workers' compensation cases filed in California continues to grow, total workplace injury and illness claims in the state have fallen nearly 20% so far in 2020 compared to last year.

Through September, the state had recorded 47,412 COVID-19 workers' compensation claims, accounting for 11.1% of all claims reported since the start of the year. During that same period, California workers filed 425,280 workers' compensation claims, down 19% from the first nine months of 2019.

The first COVID-19 cases among California workers were filed in March. They peaked in July and started to decline in August, just when parts of the state started opening up on a partial basis.

While it's too early to tell if it's a harbinger of things to come, the numbers are high enough that employers cannot let their guard down when it comes to preventing the spread of the coronavirus in their workplaces.

Who is filing claims?

The top five sectors reporting COVID-19 workers' compensation claims during the first seven months of the year were:

- **Health care:** 16,889 claims (37%)
- **Public safety/government:** 6,902 claims (15%)
- **Manufacturing:** 3,759 claims (8.3%)
- **Retail:** 3,593 claims (7.9%)
- **Transportation:** 2,255 claims (5%)

Overall claims falling

Due to the severe economic slowdown brought on by the coronavirus pandemic that forced thousands of businesses to shut their doors or have their employees work from home, the number of overall workplace injuries has tumbled.

There were a total of 425,280 workers' compensation claims

filed in California in the first nine months of the year, compared to 526,469 claims in the same period of 2019. The case load in September dropped 30% compared to September 2019.

"That decline reflects both the sharp drop in employment, the high number of workers now working from home, and the pandemic-driven slowdown in economic activity in the state," the California Workers' Compensation Institute wrote in a report about the numbers.

Handling workers' comp claims

A new law that took effect in September extends workers' compensation benefits to California employees who contract COVID-19 while working outside of their homes.

To qualify for the presumption, all of the following conditions must be met:

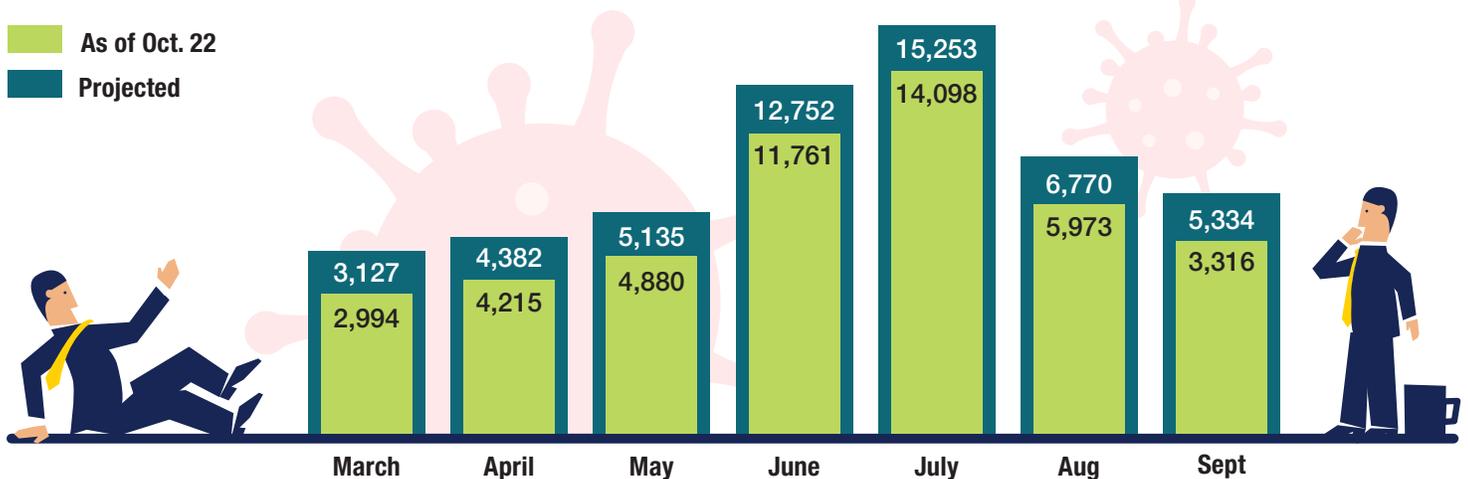
- The worker must test positive for or be diagnosed with COVID-19 within 14 days after a day they worked at your jobsite at your direction.
- The day they worked at your jobsite was on or after June 6.
- The jobsite is not their home or residence.
- If your worker is diagnosed with COVID-19, the diagnosis was done by a medical doctor and confirmed by a positive test for COVID-19 within 30 days of the date of the diagnosis.

The takeaway

If you have an employee who is working on-site and who tests positive for COVID-19, you should let them know about their rights to file for workers' compensation if they miss work and/or need treatment.

The state's insurance commissioner has approved new rules that bar insurers from using any COVID-19 claims against your experience modifier (X-Mod), so it won't hurt your workers' compensation experience if an employee files a claim. ❖

CALIFORNIA CORONAVIRUS WORKERS' COMPENSATION CLAIMS



Source: California Workers' Compensation Institute

Driver Safety

New Tech Can Reduce Truck Rear-End Crashes

A NEW STUDY from the Insurance Institute for Highway Safety (IIHS) reports that driver assistance technologies, such as automatic emergency braking and forward collision warning systems, have been shown to reduce accident rates among large trucks.

Increased use of these systems in these vehicles should prevent countless deaths and injuries and save millions of dollars.

The U.S. relies on large trucks for shipping goods, but they have always presented a serious threat to other vehicles. Often, the consequences have been fatal for drivers of passenger vehicles and costly for the trucks' owners.

For example, the singer Harry Chapin died in 1981 when his Volkswagen was hit from behind by a tractor-trailer on the Long Island Expressway. In 1986, a jury awarded his widow \$10 million (worth \$23.5 million today), which she donated to charity.

Forward collision warning (FCW) and automatic emergency braking (AEB) systems rely on either or both radar and video sensors to monitor the road in front of the vehicle. The FCW system sounds an audible alert when it detects that a collision is imminent.

The AEB system applies the vehicle's foundation brakes to avoid or reduce the impact of a collision if the driver does not act. AEB systems typically include the FCW system.

Manufacturers have generally designed these systems to avoid collisions with moving vehicles. Some systems can also detect pedestrians, motorcycles, bicycles and vehicles that have stopped moving.

These systems are widely installed in passenger vehicles; by the fall of 2022, almost all new passenger cars will include them.

Strong evidence

Studies have provided strong evidence that they help avoid rear-end crashes in passenger vehicles. Until now, their effects on large commercial trucks were less well known. The new IIHS research shows that they have a positive effect on these trucks.

The study looked at crash, miles-driven and hours-driven data between 2017 and 2019 for tractor-semi-trailers weighing 33,000 pounds or more. The vehicles were driven on limited-access highways and included those with and without the avoidance systems.

The results showed a clear improvement for trucks equipped with these systems:

- Trucks equipped with FCW struck other vehicles from behind at a rate that was 44% less than that of unequipped trucks. The rate for trucks with AEB was 41% less. These results were the same on both a miles-driven and hours-driven basis.
- FCW sounded warnings in 31% of rear-end crashes, and AEB activated in 43%.
- The average speed reduction between the moment of the systems' interventions and impact was more than half.

The takeaway

These results indicate that safety should improve as more of these systems are installed in large trucks. It is easier and less expensive to retrofit trucks with FCW systems, so these systems may be implemented sooner.

Technologies such as these will save lives, prevent serious injuries, and save truck owners and their insurers from having to pay out \$23-million damage awards. ❖

