

New labor laws may pose pitfalls for North Bay companies

New laws provide more time, concessions to employees

By **SUSAN WOOD**
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Santa Rosa contractor John Farrow hadn't given much thought to the flurry of new California laws hitting the books this year written with COVID-19 in mind.

That was until a worker asked for three months paid paternity leave.

Among those new laws was Santa Rosa's ordinance requiring employers to grant 80 hours paid sick leave a year. There's a similar rule from Sonoma County's Board of Supervisors, which also passed with the idea of helping workers deal with the coronavirus threat.

Many of these new labor laws now apply to smaller companies with under 50 employees. These mom-and-pop businesses may experience a hardship abiding by them, especially while trying to survive a pandemic, labor stakeholders contend.

"It's a big deal. What happens when you have three to five employees and a tight budget? I have a (human resources) person, but if someone changes the law, how do we address that?" he asked rhetorically. "In California, this makes it really hard to be a businessman."

Farrow ended up calling his attorney on his personnel matter, who forwarded his inquiry to a labor law expert.

"We're getting a number of calls," said Lisa Ann Hilario, an employment law specialist with Spaulding, McCullough & Tansil in Santa Rosa. "The challenge for a lot of employers is the lower threshold to five employees (that the law applies to). Small businesses are less likely to have a human resources person with that level of sophistication."

Hilario has provided much counsel on the California Family Leave Act, which kicked in added provisions Jan. 1 as a result of Senate Bill 1383. The state law requires employers to grant up to 12 weeks of family leave.

In addition, Assembly Bill 685 requires employers to tell their workers when fellow employees are exposed to COVID-19. It also mandates an action plan from the employer. Failure to follow guidelines may result in a \$10,000 fine.



Lisa Ann Hilario is an employment law specialist with Spaulding, McCullough & Tansil in Santa Rosa.

"These are the ones we're getting the most calls on," she said.

The California Occupational Safety and Health Administration watches out for violations and was empowered with the authority to shut down a business if the agency considers a workplace an "outbreak."

"It's a big struggle," California Chamber policy analyst Ashley Hoffman told the Business Journal.

Hoffman added Cal OSHA's emergency standard was announced just two weeks before it was implemented in November, not giving companies much time to adopt it. The quick turnaround challenges companies trying to meet protocols such as paying for biweekly COVID-19 tests for their employees.

Because of how difficult it is to keep up with rules that impact the workplace, some companies may be motivated to keep their employees working remotely.

"It will be interesting to see," she said.

Plus, an employer has other pitfalls such as privacy rules when it comes to notifying employees of their coworkers testing positive, according to Smith Dollar employment and law attorney Diane AQUI.

"Privacy rights can be a sticky issue," said AQUI, whose Santa Rosa law firm has



Karen Alary is with Personnel Perspectives located in Wine Country.

received about a handful of calls every week on these issues.

Other state changes, like a progressive raise in minimum wages or an expansion of family leave laws, come as local governments like Santa Rosa are installing new ones.

The city of Santa Rosa passed its COVID-19 paid sick leave ordinance on Feb. 2 requiring employers pay for up to 80 hours to full time staffers through March 31. Employees are entitled to the paid time off if they're quarantining due to virus or they're caring for a loved one.

"The city wanted to continue the paid sick leave (when federal benefits ended)," said Santa Rosa Economic Development Manager Raisa De La Rosa.

Sonoma County did the same, adding an ordinance requiring the extension of the benefit to June 30.

That came at the urging of the North Bay Labor Council requesting the local government pass a sick leave ordinance to "reduce contagion in the workplace and community, level the playing field for workers and businesses and provide essential protections to workers who are struggling to stay safe and financially secure during the pandemic."

Former President Donald Trump signed into law the Families First Coronavirus Response Act to provide emergency paid sick leave affecting certain employers' with fewer than 500 in their workforces that are

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- February 11, 2021
California Family Rights Act
- February 5, 2021 Santa Rosa COVID-19 Paid Sick Leave Ordinance
- December 17, 2020 AB 685 - COVID-19 Employee Notification Requirements

unable to telework. The county's version from August provided emergency paid leave to companies with more than 500 employees.

Napa and Marin counties have not yet adopted their special measures relative to sick leave law at this time, but the latter is recommending to its board to allow employees with remaining federal family leave balances from 2020 to use them as needed through June 2022.

With gaps in the laws and multiple layers of government imposing rules, the regulations may seem confusing at best.

"There's so much to know, there's no way to know it all," said Karen Alary of Personnel Perspectives, a Wine Country employment specialist whose phone has been ringing with labor inquiries. "California employment law changes so rapidly, and there is so much of it, that it is increasingly more difficult to keep up with."

Alary suggested that keeping employees safe and keeping up with COVID-19 and government laws may turn out to be "more than some business can bear."

The human resources specialists also remains concerned that the pool of impacted companies has opened up to unsuspecting employers who may have ignored government rules that didn't apply to them before.

"Employers under 50 people have never had to deal with this," she said, further stressing the majority of firms in the North Bay fall into that category.

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