

New California Laws for 2017

Every year, hundreds of new laws are enacted that impact automotive repair shops in the state. Below is a short summary/highlights of some key measures that will take effect in 2017, unless otherwise noted.

- **Minimum Wage Increase.** Effective January 1, 2017, the minimum wage for employers with 26 or more employees will increase to \$10.50 per hour. The minimum wage for employers with 25 or fewer employees will increase to \$10.50 next year on January 2018. (SB 3)
- **Lead Acid Battery Fee.** Beginning April 1, 2017, a \$1.00 California battery fee is imposed on a person who purchases a replacement lead-acid battery from a retail dealer (includes auto repair dealer). The dealer will be required to separately state (line item) the California Battery Fee on all invoices and collect the \$1.00 fee. The Battery fee will be submitted to the Board of Equalization on a quarterly basis, similar to the current California tire fee. The dealer will also be required to accept used lead acid batteries without charging a fee. The retail dealer of batteries is also required to provide written notice regarding the California Battery Fee and refundable deposits; however, the notice requirements do not apply to an auto repair shop that does not sell lead-acid batteries directly to consumers (over the counter) but instead removes nonfunctional/damaged batteries as part of an auto repair dealer service. (AB 2153)
- **Tow Truck Requirements.** This new law makes several changes to provide relief to last year's bandit tow truck law (AB 1222). Current law requires a business taking possession of a vehicle from a tow truck to document the name, address and telephone number of the towing company, the name and driver's license number of the tow truck operator, the make, model and license plate or vehicle ID number and the date and time that possession was taken of the vehicle. This new law allows the business to accept the operator driver's license number or driver's identification number issued by a motor club or other government authorized unique identifier of the tow operator. If the business is taking possession of the vehicle from tow truck when business is closed, the business must document reasonable efforts made to obtain the required information. (AB 2167)
- **Automotive Windshield Replacement.** This new law requires that automotive repair dealers (includes sublets) to use windshields that meet or exceed Federal Motor Vehicle Safety Standards and vehicle manufacturer specifications when replacing windshields and to use adhesives that meet or exceed manufacturer specifications. Auto repair dealers shall provide an estimate notifying the customer that the installation of the windshield will prevent the operation of the vehicle for a period of time (due to cure time) and whether the windshield is an OEM or non-OEM manufacturer part. The invoice shall notify the customer of the cure time, the date and the time upon which the installation was completed and whether the windshield is an OEM or non-OEM manufacturer part. (16CCR 3365.1)
- **Workers Compensation Exclusion.** This new law requires that an officer or member of the board of directors to own at least 15% of the stock of the corporation in order to opt out of workers' compensation coverage. The officer or members of the directors must sign a waiver stating that the individual is a qualifying officer or member. The general

partner of a partnership or managing member of an LLC must execute a waiver to opt out of workers comp coverage. (AB 2883).

- **Prop 65 Signage.** Current law, Proposition 65 protects consumers from toxic substances that may cause cancer and birth defects by requiring warnings in advance of exposures to dangerous chemicals. The Office of Environmental Health Hazard Assessment (OEHHA) passed a new law, which provides specific language warnings for environmental exposures signage that maybe used by vehicle repair facilities. This law will take effect August 30, 2018. (27 CCR 25607.25).
- **Counterfeit and Nonfunctional Airbags.** This new law increases penalties for any person who knowingly manufactures, imports, installs, reinstalls, distributes, sells or offers to sell any device intended to replace a supplemental restraint system with a counterfeit supplemental restraint system component or a nonfunctional airbag, as defined. (AB 2387)
- **Brake Friction Material Packaging.** Current law prohibits the sale of friction material (i.e. brake pads) that contains a certain amounts of copper, heavy metals and asbestos. The new law requires that all brake friction material and packaging sold or offered for sale to be clearly marked indicating that the friction material meets the requirements and is California compliant. (22 CCR 66387.7).
- **Draining of Used Oil Filters.** Although not a new law, the Dept of Toxic Substances Control (DTSC) issued an advisory this year regarding draining of used oil filters. Improperly drained used oil filters must be managed as hazardous waste under California Hazardous Waste Control Law. See link to advisory.
https://www.dtsc.ca.gov/HazardousWaste/Documents/upload/Advisory-used-oil-filters_Final-v9-14-16.pdf (22 CCR 66266.130)
- **State-Run Retirement Savings Program.** This new law creates the framework to the Secure Choice Retirement Savings Investment Program; a state-run retirement savings plan mandated for private employees that includes automatic enrollment with an opt-out provision for California workers whose employers do not currently offer an eligible retirement savings program. The program will not begin enrolling participants until regulations have been developed, a process that is not expected to be completed for about two years. Private employers with five or more employees will be required to automatically enroll their employees in and make payroll deductions for the Secure Choice account, unless the employee opts out. It is intended that employers' responsibility is a pass through; to deduct and submit contributions from employee wages. (SB 1234)
- **Wage Discrimination and Application to Race.** Current law prohibits an employer from paying an employee at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions. This new law amends current law to provide an employee's prior salary cannot, by itself, justify any disparity in compensation under the bona fide factors above. (AB 1676). The law also expands the requirements to include employees' race or ethnicity, and not just gender. (AB 1063).

- **Criminal History in Applications for Employment.** This law prohibits employers (in addition to existing laws) from asking applicants to disclose, or from utilizing as a factor in determining any condition of employment, information concerning or related to “an arrest, detention, process, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law”. (AB 1843)
- **Single-User Restrooms.** Commencing on March 1, 2017, this new law requires all single-user toilet facilities in any business establishment, place of public accommodations or government agency to be identified as all-gender toilet facilities. (AB 1732).
- **Smoking in the Workplace.** A new set of laws were passed during the middle of the year (June 9, 2016) which increased smoking age from 18 to 21; included electronic cigarettes and expanded the prohibition of smoking of tobacco products inside an enclosed place of employment. The law now applies to all employers regardless of size, including where the owner-operator is the only employee (i.e. owner-operated business). (ABX2-7)
- **Employment Protections for Victims of Domestic Violence.** This new law requires by July 1, 2017, employers with 25 or more employees provide specific information in writing to new employees upon hire and to other employees upon request of their rights to take leave under labor code 230.1 (relating to victims of Domestic violence, sexual assault or stalking. (AB 2337).
- **Heat Regulations for Indoor Workers.** Cal-OSHA investigates complaints that a workplace is not safe and may issue orders necessary to ensure safety. These new laws require that by January 1, 2019, Cal-OSHA review and adopt a heat illness and injury prevention standard applicable to workers in indoor places of employment. The standard shall be based on environmental temperatures, work activity levels and other factors. (SB 1167)
- **Choice of Law and Forum Employment Contracts.** This new law prohibits employers from requiring California based employees to enter into agreements (including arbitration agreements) requiring them to: adjudicate claims arising in California in a non-California forum or litigate their claims under the law of another jurisdiction, unless the employee was represented by counsel. (SB 1241)
- **Paid Family Leave.** Paid Family Leave provides short-term benefits to eligible employees who lose wages when they need to take time off for work to care for seriously ill child, parent, parent in law, grandparent, grandchild, sibling, spouse, or registered domestic partner or to bond with a new child entering the family by birth, adoption, or foster care placement. This new law (operative Jan 1, 2018) revises the formula for determining benefits available to those eligible employees. And removes the existing seven-day waiting period for paid family leave benefits. (AB 908)