

CALIFORNIA LAW NOW PROTECTS INDEPENDENT CONTRACTORS FROM

12.1999

Employment Law Reporter, Ervin Cohen & Jessup LLP

California Governor Davis recently signed Assembly Bill 1670 which expands existing protections against harassment to cover independent contractors. AB 1670 becomes effective on January 1, 2000 and will apply to all California employers. The Bill will permit independent contractors to sue employers for harassment, including harassment based on age, religion, national origin, sex, marital status or disability. The Bill defines an independent contractor as someone who provides services based on a contract and who has the discretion and right to control how those services are performed, including the time and place the work is done and supplying the tools and instruments necessary for the job. A contractor should also be performing work which is not ordinarily a part of the employer's business and should have an independently established business.

For prudent employers (like the ones who routinely read these articles), the new law should have little impact on business. These employers will continue to disseminate policies which prohibit harassment and discrimination, although these policies should now be rewritten to specifically include non-employees such as temporary workers and independent contractors. Employers should also provide periodic training on how to recognize and prevent harassment and discrimination. Further, any claims of harassment, whether made by an independent contractor or employee, should be treated seriously and investigated promptly. With respect to transactions with independent contractors, employers would be wise to make sure that agreements are in writing and reference the employer's policy against harassment and discrimination, advising the independent contractor to promptly report any such incidents. Employers should also consider including a binding arbitration provision in any agreements with independent contractors.

PROFESSIONALS

Kelly O. Scott

PRACTICE AREAS

Employment