



2025 Cal-Peculiarities: How California Employment Law is Different

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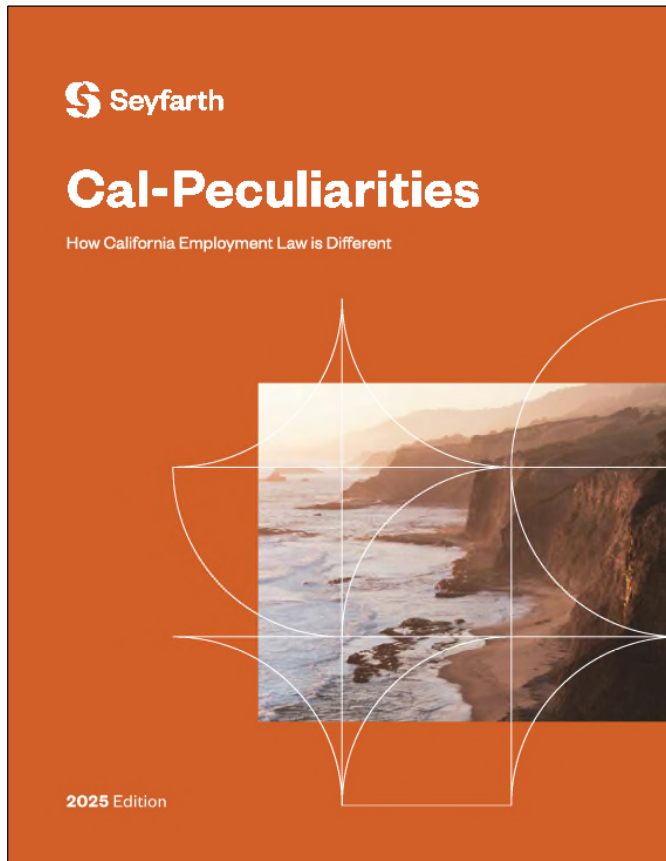


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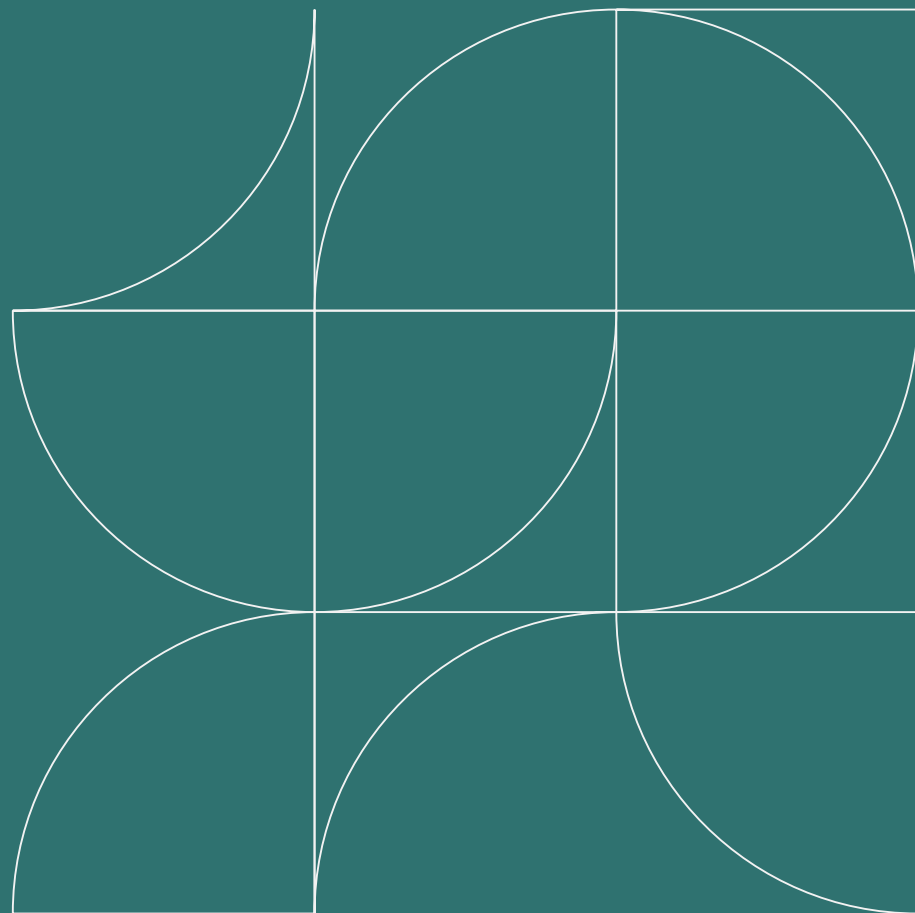
Please Click [here](#) to submit a request for the 2025 Cal-Peculiarities e-book.



Agenda

- 1 | Key Wage & Hour and PAGA Developments
- 2 | New Laws Coming out of the 2025 CA Legislative Session
- 3 | Latest on Employee Handbook Strategies

Key Wage & Hour and PAGA Developments



“Headless” PAGA Actions

Arbitrability of PAGA Claims

California Law: There is no individual component to a PAGA claim.

Federal Arbitration Act: The FAA preempts California law, and under the FAA, there is an individual component of a PAGA claim that can be arbitrated. The non-individual representative component of a PAGA claim is not subject to arbitration.

“Headless” PAGA Action Strategy: To avoid arbitration, alleging that the plaintiff is not seeking any PAGA penalties individually but only for other potentially aggrieved employees.

“Headless” PAGA Actions

Split of Authority

Cases Not Recognizing Headless PAGA Action	Cases Allowing Headless PAGA Action
<i>Leeper v. Shipt, Inc.</i> (review granted)	<i>Balderas v. Fresh Start Harvesting, Inc.</i>
<i>Williams v. Alacrity Solutions Group</i> (review granted)	<i>Rodriguez v. Packers Sanitation Svc.</i> (review granted)
	<i>CRST Expedited, Inc. v. Sup. Ct.</i> (review granted)
	<i>Galarsa v. Dolgen California</i>

PAGA Standing

Standing Under “Old” PAGA Statute

One Year SOL Applies	One Year SOL Does Not Apply
<p><i>Williams v. Alacrity Solutions Group</i> – holding that a plaintiff must bring PAGA action within one year of personally suffering a Labor Code violation</p>	<p><i>Osuna v. Spectrum Security Services (review granted)</i> – holding that a plaintiff did not need to bring PAGA action within one year of personally suffering a Labor Code violation</p>

Dichotomy Between Private and Public Employers

Krug v. Board of Trustees of California State University

California State University not subject to PAGA penalties for failure to reimburse business expenses because Labor Code § 2802 did not expressly permit claims against public entities.

Rose v. Hobby Lobby Stores, Inc.

Even though the State of California is the real party in interest in a PAGA case, the LWDA is not liable for an award of costs in a PAGA action as it is not a “party” to the PAGA action and does not control the litigation or intervene in the action.

**Exempting Public
Entities From PAGA**

“Good Faith” Defense for Liquidated Damages

Iloff v. LaPaille

- The plaintiff performed maintenance work on property managed by the defendant in exchange for free housing with no other compensation.
- Trial court found the plaintiff to be an employee and not an independent contractor because the work was within the usual course of defendant’s business.
- Trial court granted unpaid wages but denied liquidated damages, finding that the defendant acted in good faith believing that the plaintiff would be paid wages or treated as an employee.
- California Supreme Court reversed, holding that to establish a good faith defense, an employer must demonstrate that it made a reasonable attempt to determine what the law requires, and ignorance of the law is not sufficient for a “good faith” defense.

Validity of Prospective Written Meal Period Waivers

Bradsbery v. Vicar Operating

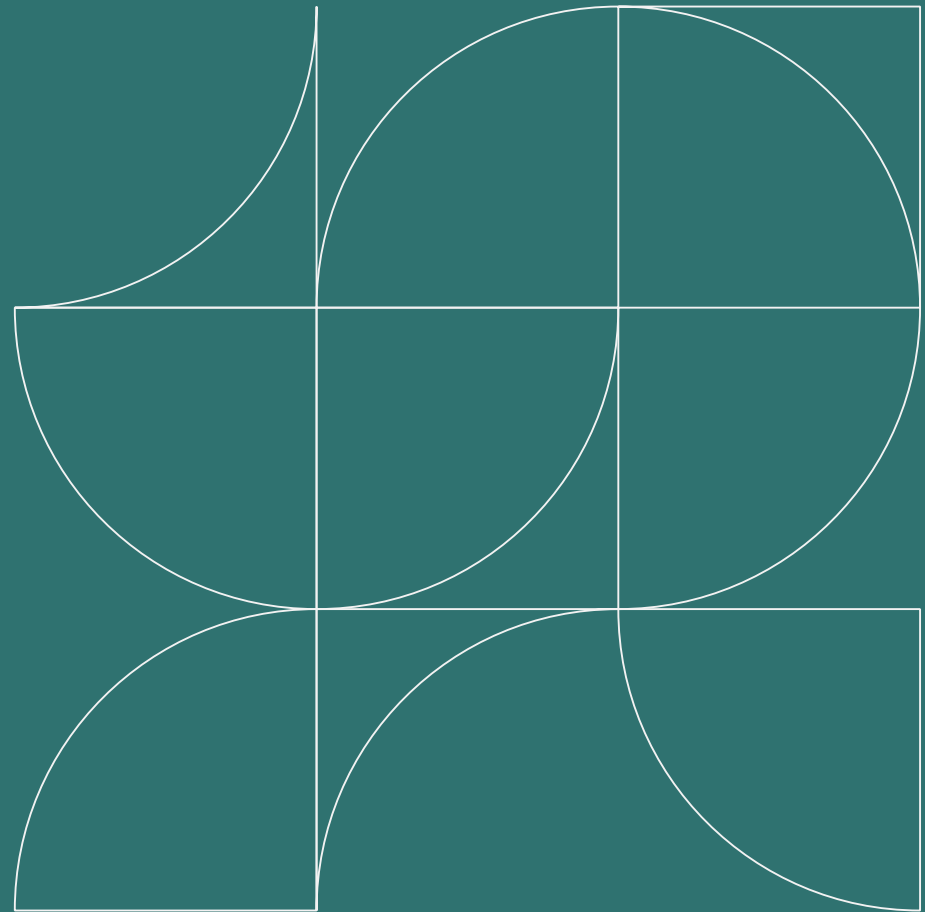
- The plaintiff argued that a meal period waiver could only be for a single shift.
- The Court of Appeal upheld the validity of prospective, blanket waivers of meal periods during shifts between five and six hours in length.
- In order to be valid, meal period waivers must be:
 - In writing and signed by the employee;
 - Be a standalone document;
 - State that the waiver is voluntary and was signed without coercion by the employer;
 - State that it is revocable at any time, and how to revoke.
- The Court of Appeal left open arguments that employees could argue waivers are unconscionable (e.g., employees unknowing signing waivers, that employer coerced employees to sign, or that employee could not freely revoke waivers).

Camp v. Home Depot

Camp v. Home Depot

- Oral argument likely to be set in earlier part of 2026.
- Issue presented is whether California law permits employers to use neutral time-rounding practices to calculate employees' work time for payroll purposes.
- Employers should cease any time-rounding practices.

New Laws Coming out of the 2025 California Legislative Session



Pay Equity

SB 642 Definition of Pay Scale

SB 464 Employer Pay Data

- **SB 642**
 - Revises the “pay scale” definition to mean a “good faith” estimate of the salary or hourly wage range that the employer reasonably expects to pay for the position upon hire.
 - Confirms the “wages” definition for equal pay claims aligns with the Federal Equal Pay Act standards and includes all forms of compensation.
 - Includes: life insurance, vacation pay, holiday pay, stock options, and bonuses.
 - No requirement for employers to include additional forms of compensation in the posted pay ranges.
 - Expands the SOL for civil actions to recover wages to 3 years after the cause of action occurs, and permits a 6-year lookback period.
 - Replaces “opposite sex” with the term “another sex”.
- **SB 464**
 - Requires employers with 100+ employees to collect and store any demographic information an employer or labor contractor gathers for purposes of submitting the required pay data report to the CRD separately from employee’s personnel records.
 - Imposes a civil penalty against an employer that fails to file the pay data report upon CRD request.
 - Beginning January 1, 2027, the number of job categories on which the employer must report increases from 10 to 23.

AB 250 Extended SOL for Sexual Assault / Harassment Claims

SB 303 FEHA - Bias Mitigation Training

- **AB 250**
 - Extends the period to revive claims for damages suffered due to an alleged sexual assault that would otherwise be barred prior to January 1, 2026, due to expired SOL.
 - Also revives derivative claims for wrongful termination and sexual harassment.
 - The plaintiff must demonstrate that one or more entities legally responsible for damages engaged in a “cover up.”
 - These claims may proceed if already pending in court on January 1, 2026, or if commenced between January 1, 2026, and December 31, 2027.
- **SB 303**
 - An employee’s assessment, testing, admission, or acknowledgement of their own personal bias made in good faith that is solicited or required as part of a bias mitigation training **does not** constitute unlawful discrimination under FEHA.

AB 406 Employment – Unlawful Discrimination: Victims of Violence

- **Expanded Reasons for Use:**
 - Beginning October 1, 2025, employees can use paid sick leave to take time off to attend judicial proceedings if the employee or a covered family member are a victim of *certain* crimes and are attending judicial proceedings related to that crime.
 - Beginning January 1, 2026, this new reason for leave will also be covered under California’s unpaid job-protected leave.
- **Reinstated DLSE Enforcement Through Dec. 31, 2024:**
 - Prior to January 1, 2025, employees could file complaints with the DLSE for discrimination or retaliation for exercise of certain rights, including the right to take time off to serve on a jury or to obtain specific crime-related relief.
 - In 2025 enforcement authority was transferred to the CRD.
 - The amended law reinstates the DLSE’s enforcement authority for alleged actions occurring up to **December 31, 2024.**

SB 590 Paid Family Leave – Designated Person

- Beginning July 1, 2028, paid family leave benefit eligibility expands to include individuals who take time off work to care for a seriously ill “designated person.”
- “Designated person” = any individual related by blood or whose association with the employee is the equivalent of a family relationship.

SB 617 **California Worker** **Adjustment and** **Retraining Act**

AB 858 **Rehiring and** **Retention of** **Displaced** **Hospitality** **Workers**

- **SB 617**
 - Amends the CA WARN Act to require employers to include in their WARN notices:
 - Whether the employer plans to coordinate services through the local workforce development board or another entity (or not at all); and
 - Information about CalFresh, a statewide food assistance program.
 - among other things
- **AB 858**
 - Extends certain hospitality employees' right to rehire after being laid off for COVID-related reasons from December 31, 2025, to January 1, 2027.
 - Applies to the following industries:
 - Hotels
 - Private Clubs
 - Event Centers
 - Airport Hospitality Operations
 - Airport Service Providers
 - Building services to office, retail, or other commercial buildings
 - Allows DLSE enforcement of violations occurring before December 31, 2026, to be enforced after the revised sunset date.

SB 648 **Enforcing Tip Theft**

SB 261 **DLSE Enforcement of Wage Judgments**

- **SB 648**
 - Authorizes the Labor Commissioner to investigate and issue a citation or file a civil action for any gratuities taken or withheld by an employer.
- **SB 261**
 - Employers who do not satisfy wage awards against them within 180 days are subject to the following measures:
 - Labor Commissioner will post the unsatisfied award against the employer on its website.
 - Employer will be subject to a civil penalty of not more than 3x the amount of the outstanding judgment.
 - The prevailing judgment creditor in an action may enforce payment of the judgment to recover reasonable attorneys' fees and costs.
 - Employers may seek to have the penalty amount reduced pursuant to a showing of good cause by clear and convincing evidence.
 - Any Court-assessed civil penalty would be distributed 50% to the employee and 50% to the DLSE for enforcement of labor laws.

AB 692 Certain “Stay or Pay” Employment Contract Prohibition

- Makes void employment contracts entered into on or after January 1, 2026, that require the worker repay to an employer a debt if the worker’s employment or work relationship terminates.
- **Exceptions:** Certain agreements, incl. tuition payments, discretionary bonuses, or relocation payments, if:
 - Repayment terms are in a separate agreement from the primary employment contract;
 - Worker is advised of the right to consult an attorney and given at least 5 business days to do so before signing;
 - Any repayment obligation for early separation must be prorated based on the remaining retention period (up to 2 years) and cannot accrue interest;
 - Worker must have the option to defer receipt of the payment until the end of the retention period without repayment obligation; and
 - Repayment may only apply if the employee leaves voluntarily or is terminated for misconduct.
- **Penalties/Private Right of Action:** Actual damages or up to \$5,000 in penalties per worker, injunctive relief, and attorneys’ fees and costs.

SB 294 The Workplace Know Your Rights Act

- **Notice of Workers' Rights:** On or before February 1, 2026, annually thereafter, and at the time of hire, employers must provide a stand-alone written notice to employees describing certain workers' rights.
 - Labor Commissioner must develop a template notice by January 1, 2026.
- **Employees' Emergency Contacts:** By March 30, 2026, employees must have the opportunity to ID an emergency contact their employer must notify if the employee is detained at work or if off-site during work hours, if the employer has actual knowledge.
 - CBA waiver of this provision is permissible, if set forth in clear and unambiguous terms.
- **Penalties:** \$500 per employee per violation.
 - Emergency contact provision penalty: up to \$500 per employee for each day the violation occurs, up to a maximum of \$10,000 per employee.

AB 774 Wage Garnishment

- An employer's return that must be provided to a levying officer must include the following information:
 - the date that the employer provided the judgment debtor with the earnings withholding order; the notice of earnings withholding order;
 - the name and title of the person who provided the order and notice; and
 - a short description of the manner in which the order and notice were provided.

SB 513 Personnel Records

SB 66 Civil Discovery

- **SB 513**
 - Requires personnel records relating to employees' performance include education and training records.
 - Employers must ensure those records contain:
 - Employee name;
 - Training provider name;
 - Duration and date of the training;
 - Core competencies of a training, including skills in equipment or software; and
 - The resulting certification or qualification.
- **SB 66**
 - Removes January 1, 2027, sunset date from initial disclosure requirements in civil actions, so the requirement is indefinite.

SB 693 Employees – Meal Periods

AB 751 Rest Periods – Petroleum Facility Safety Sensitive Positions

SB 693

- Expands categories of employees exempt from the state’s meal period requirements to include employees of a “water corporation.”
- “Water corporation” is defined as “every corporation or person owning, controlling, operating, or managing any water system for compensation within this State.”

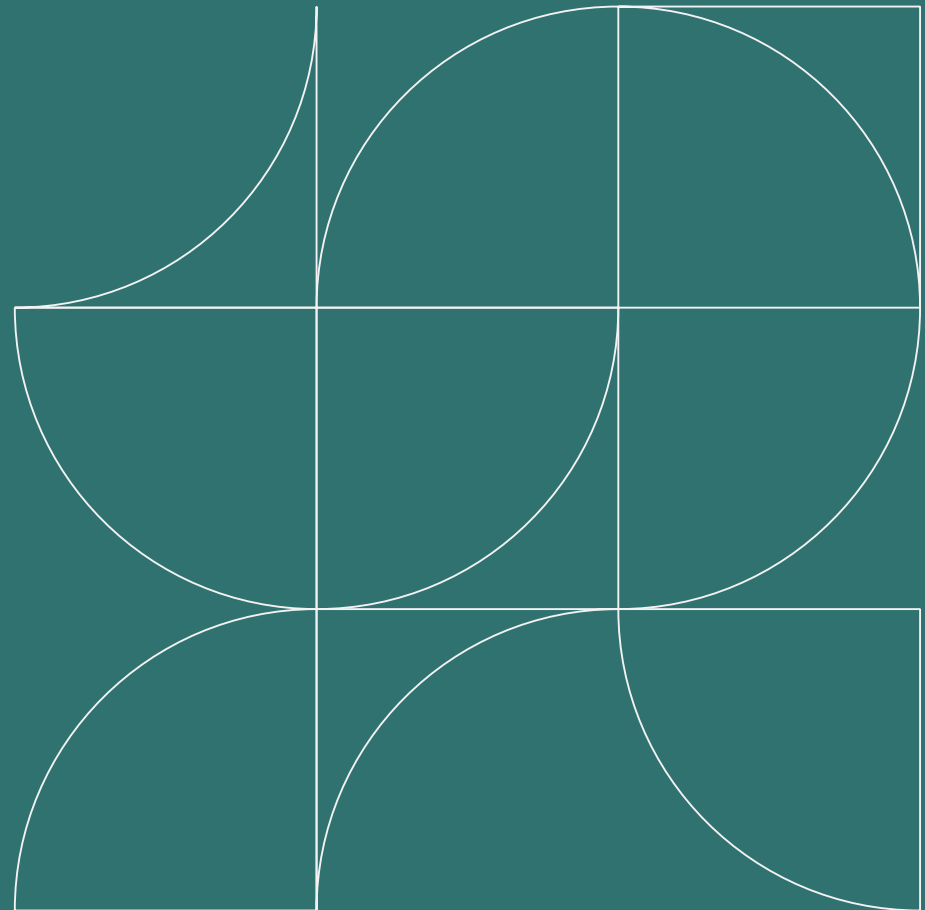
AB 751

- Extends rest period exemption to safety-sensitive positions at a petroleum facility.
- Confirms exemption applies to employees who hold a safety-sensitive position at a refinery that produces fuel through the processing of alternative feedstock.

SB 809 Independent Contractors and Employee Vehicle Business Expenses

- **Vehicle Ownership:** Confirms that a person's mere ownership of a personal or commercial vehicle used to provide labor or services for pay does not make that person an independent contractor.
- **Expense Reimbursement:** Establishes an employer's duty to indemnify its employees for necessary business expenses or losses when the employee uses their own vehicle for work.
 - Applies to: **(a)** construction trucking, and **(b)** a commercial motor vehicle driver who owns the truck, tractor, trailer, or other commercial vehicle used for work.
 - Reimbursement amount: Can be either a flat rate reimbursement or a mileage-based reimbursement.
 - To be negotiated by the driver and employer or by the applicable union and employer.
- **Construction Trucking Employer Amnesty Program:** Program established to relieve an eligible constructor contractor of liability for statutory or civil penalties associated with the misclassification of drivers as independent contractors if the contractor executes a settlement agreement with the Labor Commissioner by January 1, 2029, that contains certain driver classification provisions.

Latest on Employee Handbook Strategies



What is the Purpose of a Good Handbook?

- Establish uniform expectations
- Obtain acknowledgment of understanding of these expectations from employees
- Showcase workplace benefits
- Give employees something to rely on
- Achieve organizational consistency
- Reduce excessive supervisory discretion
- Deliver notice of legal rights and obligations such as at-will and arbitration
- Communicate required written policies (legal compliance!)
- Not to be a contract, but a reliable guidepost

Why Exactly Do We Need Written Policies?



- Required by law
- Recommended best practice
- New/different practice
- Something went wrong or consistent problem needs to be corrected

California Statutorily Required Policies



- EEO/Harassment
 - list of requirements in the regulations
- California Family Rights Act
- Pregnancy Disability Leave
- Lactation Accommodation
 - law includes specific requirements
- Some local ordinance requirements

Strongly Recommended

- Meal and rest periods
- Overtime
- Timekeeping
- Reimbursements
- Paid Sick Leave
- Vacation



What's Recently Changed

A hand holding a silver pen is writing on a document. The document has a signature line with the word "Signature" and "(Student)" written on it. The background is a blurred image of a desk with a blue pen and a document.

- Bereavement Leave
- Reproductive Loss Leave
- Expansion of Sick Leave
- Additional Covered Family Members
 - Sick time and CFRA
 - Designated person concept

Leave Laws

- **Protected Leave - Expanded Reasons for Use:**
 - Beginning January 1, 2026, employees can use paid sick leave to take time off to attend judicial proceedings if the employee or a covered family member are a victim of *certain* crimes and are attending judicial proceedings related to that crime.
 - This new reason for leave will also be covered under California’s unpaid job-protected leave.
- **Paid Family Leave – Designated Person:**
 - Effective date: July 1, 2028
 - Paid family leave benefit eligibility will expand to include individuals who take time off work to care for a seriously ill **designated person**.
 - “Designated person” = any individual related by blood or whose association with the employee is the equivalent of a family relationship.

Personnel Files

- **Personnel Records**

- Personnel records relating to employees' performance now includes **education and training records**.
- These records must contain:
 - Employee name;
 - Training provider name;
 - Duration and date of the training;
 - Core competencies of a training, including skills in equipment and software; and
 - The resulting certification or qualification.

Industry-Specific Laws

- **Meal Period Exemptions**
 - Employees of a **water corporation** are added to the categories of employees exempt from CA's meal period requirements.
- **Rest Period Exemption**
 - Employees in **safety-sensitive positions at a petroleum facility** are exempt from CA's rest period requirements.
 - Exemption applies to employees who hold a safety-sensitive position at a refinery that produces fuel through the processing of alternative feedstock.
- **Independent Contractors and Employee Vehicle Business Expenses**
 - Establishes employers' duty to indemnify employees for necessary business expenses when the employee uses their own vehicle for work.
 - Applies to: **(a)** construction trucking, and **(b)** a commercial motor vehicle driver who owns the truck, tractor, trailer, or other commercial vehicle used for work.
 - **Reimbursement amount:** Can be either a flat rate reimbursement or a mileage-based reimbursement negotiated by the driver/union and employer.

**thank
you**

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