

# DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

## 2009 LEGISLATIVE SUMMARY

The following bills, affecting or related to California's civil rights statutes, were signed and chaptered into law by Governor Schwarzenegger in 2009. Unless otherwise noted, the measures became effective January 1, 2010. They are organized by subject matter.

### PUBLIC ACCOMMODATIONS

#### Construction-related accessibility civil actions

With respect to construction-related accessibility lawsuits, if the defendant has satisfied certain requirements relating to inspection of the site at issue, Civil Code section 55.54 requires the court to issue an order that grants a 90-day stay of the proceedings, schedules an early evaluation conference, and directs the defendant to file with the court under seal and serve on the plaintiff a copy of any relevant Certified Access Specialist inspection report, subject to a protective order, as specified. SB 209 instead requires the Certified Access Specialist inspection report to remain confidential and allows disclosure only to the parties to the action, the parties' attorneys, and others involved in the evaluation and settlement of the case, as specified. The bill also requires the report to remain confidential until the conclusion of the claim, unless there any party makes a showing of good cause.

**Bill Number:** SB 209 (Corbett), Stats. 2009, ch. 569.

**Code Section Amended:** Civil Code section 55.54.

**Code Section Added:** None.

#### Price discounts for unemployed consumers

The Unruh Civil Rights Act prohibits businesses from discriminating against consumers because of protected characteristics such as race, sex, color, etc., which includes a prohibition against price discounts, and authorizes civil penalties for noncompliance. SB 367 amended the Unruh Civil Rights Act to permit businesses to offer price discounts to consumers who have suffered the loss or reduction of employment or a reduction of wages. The bill was enacted as an urgency measure and took effect immediately on November 2, 2009.

**Bill Number:** SB 367 (Negrete McLeod), Stats. 2009, ch. 641.

**Code Section Amended:** None.

**Code Section Added:** Civil Code section 51.13.

### RELATED STATE STATUTES

Workers' compensation coverage for injuries inflicted by third-parties because of an employee's protected characteristic

California workers' compensation provisions preclude coverage for injuries occurring in the workplace if an employee is injured or killed by a third-party aggressor with whom the employee has had a "personal relationship" or "personal connection." AB 1093 ensures that injuries inflicted by third parties at the worksite because of an employee's protected characteristic (e.g., sex, race, religion, etc.) are not automatically disqualified from coverage under the "personal relationship" or "personal connection" exception.

**Bill Number:** AB 1093 (Yamada) (Stats. 2009, ch. 272.)

**Code Section Amended:** Labor Code section 3600.

**Code Section Added:** None.

### **Criminal history information: law enforcement employees**

Section 11105 of the Penal Code requires the California Department of Justice (DOJ) to maintain certain data and information pertaining to criminal histories and to disclose that information to specified recipients such as the courts, district attorneys, peace officers, public defenders, and various state and local agencies under certain circumstances. Existing law also authorizes criminal background checks for applicants for peace officer and criminal justice employment and specifies the information that must be disclosed such as convictions, any arrest for which an applicant is awaiting trial, any arrest or detention for which there is no disposition, and every successful diversion. AB 297 amended Penal Code section 11105 to require the DOJ to also disclose the date of any prior criminal history search, and the agency that requested the search, whenever the background of an applicant is being evaluated for employment or certification as a peace officer or criminal justice employee.

**Bill Number:** AB 297 (Solorio) (Stats. 2009, ch. 97.)

**Code Section Amended:** Penal Code section 11105.

**Code Section Added:** Penal Code section 11105.06.

### **Nooses prohibited in the workplace**

Penal Code section 11411 criminalizes the act of displaying certain symbols or burning a cross on private or school property with the intent to terrorize persons. AB 412 provides that any person who hangs a noose, knowing it to be a symbol representing a threat to life, on the property of another, including a place of employment, without authorization, for the purpose of terrorizing the owner or occupant of the property, shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed \$5,000, or by both the fine and imprisonment. The bill does not specifically target workplaces, but adds additional incentive for employers and employees to ensure that nooses are not displayed in the workplace for purposes of harassment.

**Bill Number:** AB 412 (Carter) (Stats. 2009, ch. 106.)

**Code Section Amended:** Penal Code section 11411.

**Code Section Added:** None.