



September 30, 2008

LEGISLATIVE UPDATE

San Francisco Healthcare Security Ordinance

GOLDEN GATE RESTAURANT ASSOCIATION LAWSUIT

A decision upholding the Employer Spending Requirement (ESR) of the San Francisco Healthcare Security Ordinance (HCSO) was published today, September 30, 2008. The decision upholds the ESR, which was effective on January 9, 2008 for employers with 50 or more employees, and April 1, 2008 for for-profit employers with 20-49 employees.

The following background was published today by the San Francisco Office of Labor Standards Enforcement:

In November of 2006, the Golden Gate Restaurant Association (GGRA) filed a lawsuit challenging the Employer Spending Requirement (ESR) of the Health Care Security Ordinance (HCSO). The parties filed Motions for Summary Judgment in July of 2007, and a hearing on these motions was held on November 2, 2007. The District Court's written decision (PDF), which ruled that the ESR was invalid, was issued on December 26, 2007.

On December 27, 2007, the City filed an appeal and an Emergency Motion for a Stay Pending Appeal, asking the Court of Appeals to allow the ESR to go into effect on January 2, 2008. The Court of Appeals granted the City's Motion for a Stay, which allowed the Ordinance to go into effect on January 9, 2008, pending the City's appeal of the District Court's decision. To download a copy of the Court of Appeals' ruling, use this link (PDF). As a result of the Court of Appeals' ruling, the effective date of the ESR is January 9, 2008 for employers with 50 or more employees. The effective date for for-profit employers with 20-49 employees remains April 1, 2008.

On February 7, 2008, the GGRA filed an application to the U.S. Supreme Court, seeking to lift the Court of Appeals' ruling. On February 21, 2008, Justice Kennedy denied the GGRA's application, and the ESR continued to be in effect pending the City's appeal of the District Court's decision.

Oral argument in the appeal was held on April 17, 2008, and a decision was issued on September 30, 2008. The decision upholds the ESR of the HCSO, which was effective on January 9, 2008 for employers with 50 or more employees, and April 1, 2008 for for-profit employers with 20-49 employees.

2009 SALARY EXEMPTION FIGURE

Pursuant to Regulation 3.2(A)(1), an employee who is a manager, supervisor, or confidential employee AND who earns at or above an annual salary of \$76,851 is exempt from coverage under the HCSO. The Controller's Office has determined that the annual salary exemption for 2009 will be \$80,397 or \$38.65/hour

For additional information regarding this update, please visit the HCSO website at http://www.sfgov.org/site/olse_index.asp?id=45168 or contact your Woodruff-Sawyer employee benefits representative.