



STOKES WAGNER

ATTORNEYS AT LAW

ATLANTA • ITHACA • LOS ANGELES • PITTSBURGH • SAN DIEGO

LEGAL UPDATE | San Francisco Ban-The-Box Ordinance Amendments

San Francisco implemented critical amendments to its “Ban-the-Box”, or “Fair Chance Ordinance” (“FCO”). These amendments went into effect on October 1, 2018. The following amendments bring San Francisco’s FCO closer in line to California’s statewide Ban-The-Box regulations:

- The FCO applies to employers located or doing business in San Francisco in San Francisco with **5 or more** employees located anywhere. *[Previously, the FCO applied to employers located or doing business in San Francisco with 20 or more employees.]*
- Employers may only ask about an applicant’s criminal convictions after making a conditional job offer of employment. *[Previously, employers could ask about an applicant’s criminal history either after a live interview or after a conditional offer is made.]*
- Employers may not ask, or inquire about, require disclosure of, or base employment decisions on a conviction for a crime that has been decriminalized. A “decriminalized crime” includes the non-commercial possession, use and cultivation of marijuana.
- San Francisco employers must replace its old FCO poster with [this poster](#) as soon as possible, if they haven’t done so already.

Also, the FCO amendments impose greater penalties and risk of liability for violations:

- Employers’ fines and penalties have increased to: \$500 per impacted person for the first violation, \$1,000 for a second violation and up to \$2,000 for any violations thereafter.
- Applicants and employees can now sue employers in state court for violating the FCO. [Before: Only the City Attorney could sue employers for FCO violations].

Questions? Contact Stokes Wagner.

October 12, 2018

Page 2 of 2

Berkeley Minimum Wage Increase

On October 1, 2018, Berkeley's minimum wage rate increased from \$13.75 per hour rate to \$15 per hour. Berkeley's Minimum Wage Ordinance requires employers to pay a local minimum wage to any employee who works at least two hours in one calendar week within the geographic boundaries of the city of Berkeley.

Please note that Berkeley's minimum wage rate will increase again in less than a year. Starting on **July 1, 2019, and each July 1 thereafter**, the minimum wage will increase by the prior calendar year's increase, if any, in the regional Consumer Price Index (CPI).

Questions? Contact Stokes Wagner.