

The Right to Disconnect for California Employees

May 9, 2024

By Deborah H. Petito



California is often the first when it comes to new laws and regulations governing employers, and a new law introduced by San Francisco Assemblyman Matt Haney would be another first of its kind. If passed, this proposed legislation would make California the only state in the country to mandate that employers give their employees the ability to disconnect.

Assemblyman Haney has introduced a bill giving employees the legal right to disconnect, ignoring non-emergency calls and emails after the workday has concluded. The bill proposes a fine of at least \$100 for violations. Assemblyman Haney is basing this law off similar legislation introduced in Australia that would give employees the right to disregard unreasonable calls and messages from their employer outside of normal work hours. The Australian legislation is designed to ensure employees are not working unpaid overtime.

The proposed California legislation, [AB-2751](#), would require both public and private employers to establish workplace policies providing employees the right to disconnect from communications from the employer during nonworking hours, except as specified. The right to disconnect makes an exception for an emergency or for scheduling (scheduling is limited to changes to a schedule within 24 hours). Otherwise, an employee has the right to ignore communications from the employer during nonworking hours. AB 2751 is silent on whether it applies to both exempt and non-exempt employees.

The bill requires employers to establish clear nonworking hours via a written agreement between an employer and employee. Nonworking hours would include both before and after an employee's assigned hours of work. Employees would be able to file a complaint with the Labor Commissioner if there is a clear pattern of violation, with employers subject to civil penalties. A pattern of violation is defined as three or more violations of the right to disconnect.

Canada, France, Spain, and other countries in the EU already have similar laws on their books. But it is important to note that New York considered a very similar measure back in 2018, and that failed to pass. So, it will be interesting to see if California moves ahead with the first implementation of a right to disconnect in the US. We will be watching closely and updating as this develops, as this is something California employers will need to monitor.