

### Senate Bill 1100 – FEHA – Driver’s License Discrimination

Effective January 1, 2025, California’s Fair Employment and Housing Act (FEHA) includes provisions that prohibit employers from requiring job applicants and existing employees to possess a driver’s license when the job does not require them to drive. This includes removing driver’s license requirements in job postings, applications, and other materials where a driver’s license is not required.

Before including a statement that the position requires a driver’s license, the District must go through a process by asking the following questions for each position:

1. Does the District “reasonably” expect driving to be one of the job functions of the position?  
**AND**
2. Does the District “reasonably” believe using alternate forms of transportation would not be comparable in travel time or cost to the District? The legislation states “alternate forms of transportation may include, but are not limited to, a ride-hailing service, taxi, carpooling, bicycling, walking”.

For those positions where driving is an essential function of the job, the answer may be easy to determine. For example, positions where employees work in the field and drive District vehicles, would most likely pass both questions.

However, for positions where driving is incidental to the position, question (1) might be a yes, but (2) is not as easy to determine. This may include employees who periodically drive to pick up supplies, make a bank deposit, or drive from one District location to another. There are also those employees who attend conferences on District business or other meetings.

The key is for the District to go through the process of assessing each job position.

#### **Recommendations:**

*NOTE: The information provided in this advisory is based on our interpretation of the legislation and does not guarantee compliance. We encourage you to review the legislation thoroughly and consult with your District’s employment practices attorney for additional guidance.*

- **Job Position Evaluation** - Evaluate each job position to determine if the two conditions have been met. These are the positions that require a driver’s license. If the position does not meet the conditions, requiring driver’s licenses would be prohibited.
- **Document Revisions** - If the position does not meet the conditions, revise relevant documents such as job postings, applications, and other materials that include driver’s license requirements for the position. The term “other materials” is not specifically defined in the legislation; however, we expect they will include job descriptions, handbooks, driver polices, and other documents where driver’s licenses are addressed.
- **DMV Driver Record Requests** – If the District participates in the DMV PULL Notice Program, driver’s names whose positions do not require a driver’s license should be removed.

- **Using Alternate Transportation** – When alternate forms of transportation are selected, it's important to include an assessment of the potential exposures the option may create. For example, if the District is considering the use of bicycles, e-bikes, or scooters, it's important to develop procedures to protect the employee and District from potential injuries and liability exposure.

Questions? Give us a call at 800.537.7790 or email Henri Castro, Risk Control Manager, at [hcastro@sdrma.org](mailto:hcastro@sdrma.org) or Eric Lucero, Sr. Risk Control Specialist, at [elucero@sdrma.org](mailto:elucero@sdrma.org).