

HRK Monthly Roundup: HR, Benefits, and Payroll News



Florida

- Florida has legalized the smoking of medical marijuana, repealing its previous law making it illegal to ingest medical marijuana via smoking. This new law bans employees from smoking in both public and enclosed indoor workplaces. Private parties may continue to limit smoking or vaping of marijuana on their own property. Employers do not have to accommodate the use of medical marijuana in a place of employment or any employee working under the influence of marijuana, unless they choose to do so. Employers may continue to establish or enforce drug-free workplace programs and policies. Click [here](#) to read more.

Maine

- Effective September 17, 2019, Maine employers are prohibited from asking prospective employees or their current or former employers about the applicant's compensation history. However, employers can inquire about or confirm the compensation history after the employment offer has already been made to the employee and all compensation terms have been negotiated. Click [here](#) to read more.
- Effective September 17, 2019, Maine employers are prohibited from requesting an applicant's Social Security number, until after they have been hired, unless it is to be used for:
 - substance abuse testing; or
 - a preemployment background check.

Click [here](#) to read more.

New Jersey

- New Jersey has passed a law that bans Non-Disclosure Agreements (NDAs) containing provisions that waive employee rights to claims or remedies of discrimination, retaliation, and harassment. This new law states that the agreement may not waive the New Jersey Law Against Discrimination. It also prohibits agreements that take away the right to a court forum and jury trial. These restrictions are not applicable to the terms of a collective bargaining agreement and apply only to new or renewed agreements with current employees. The act also makes any term in the contract not enforceable against a current or former employee if it has the “purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment.” Click [here](#) to read more.
- New Jersey has enacted a law that requires employers with 20 or more employees to provide pre-tax commuter benefits to all employees, excluding employees covered by a collective bargaining agreement. Commuter benefits are defined under the law as highway vehicle and transit benefits, consistent with the IRS code found [here](#). Benefits must be allowed as a deduction from the employee's gross income. This requirement will be effective March 1, 2020 or when final regulations are adopted by the state, whichever occurs first. Penalties for noncompliance range from \$100 to \$250 for the first violation. Employers will have 90 days to offer the benefit before penalties can be imposed. Penalties also apply for each additional 30-day period thereafter for noncompliance. Rules and regulations will be administered and enforced by the New Jersey Department of Labor and Workforce Development. More details on this law can be found [here](#).

New Mexico

- New Mexico has enacted a law called the Caregiver Leave Act, which requires employers that provide their employees with paid sick leave to permit them to use this leave to care for family members. This new law, effective June 14, 2019, pertains to employers with one or more employees. The law does not require employers to provide sick leave to their employees. More details on this leave can be found [here](#).
- New Mexico has enacted a law effective June 14, 2019, that prohibits employers from taking any adverse employment action against an applicant or employee for medical marijuana use allowed under state law. An employer may prohibit medical marijuana use on work premises or during work hours and can take action against an employee for impairment during work hours. More details on this law can be found [here](#).
- Under a new law effective June 14, 2019, New Mexico employers may not inquire about an applicant's arrest or conviction history on a written or electronic job application. Employers may, however, take conviction history into account, and employers may still ask about a job applicant's criminal record during interviews. More details on this new law can be found [here](#).

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New York

- Westchester County, New York, has enacted a new ordinance called the Earned Sick Leave Law (ESLL) which took effect on April 10, 2019. All employers are affected, unless they are covered by a collective bargaining agreement (CBA). In that case, the law will take effect on the CBA's expiration date — or not at all if the CBA provides greater benefits. The ordinance states that any private employer that has five or more employees, or one or more domestic workers, must provide paid sick time, while other employers must provide unpaid sick time. The ordinance covers any person or domestic worker employed for more than 80 hours in a calendar year but does not cover federal work-study program participants and employees paid by or through qualified federal scholarships. More details on this leave can be found [here](#).

Oklahoma

- Oklahoma amended its medical marijuana law effective March 12, 2019. Employers are prohibited from disciplining employees or refusing to hire candidates due to a positive marijuana drug test. However, if the employee holds or will hold a position with safety-sensitive job duties, then the employer can decline to employ the individual. Click [here](#) to read more.

Utah

- Utah has enacted a law effective May 14, 2019, offering job protection to emergency services volunteers including volunteer firefighters, emergency services employees, and people mobilized under an emergency response group. If an emergency responder is absent or late from work due to responding to an emergency, an employer may not terminate the employee as a result. However, an employer may reduce the employee's regular pay to reflect this absence. The employee must make a reasonable attempt to notify an employer of the absence or tardiness. An employer can request written documentation supporting the absence or tardiness from the employee's emergency services supervisor, including the date and time of the event. An employee may bring a civil action against an employer who has terminated his or her employment in violation of the law, within one year after the termination. Damages could include back wages and fringe benefits along with restored seniority rights and job reinstatement. More details on this law can be found [here](#).

Virginia

- An amended law in Virginia requires employers to provide copies of all employee records if requested by a current or former employee or the employee's attorney. These records must include dates of employment, wages, job description, period of employment, and any injuries the employee may have dealt with during employment. The employer is required to provide these records within 30 days of receipt of a written request. The employer must notify the requester in

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writing of any reason for a delay. A partial exemption is included in this amendment, stating employers are not required to provide a copy of an employee's records if his or her treating physician or psychologist provides a written statement that the record is likely to endanger the life or safety of the employee or another person. An exemption also applies if the records make a reference to a particular person and the access requested would be reasonably likely to cause harm to that person. More details on this amended law can be found [here](#).

- Effective January 1, 2020, Virginia has amended its law regarding pay stubs. Under the law, employers had to provide a statement of gross wages during a pay period, including deductions, only if an employee so requested. The amended law requires employers to provide each employee with a written statement on each regular pay date that shows:
 - the employer's name and address;
 - the number of hours worked in the pay period;
 - the employee's rate of pay;
 - the employee's gross wages earned during the pay period; and
 - the amount and purpose of any deductions from gross wages.

The information must be provided by a written pay stub or online accounting. The amended law also provides that employers engaged in agricultural employment, including agribusiness and forestry, must provide a written statement of gross wages and deductions for a pay period only upon an employee's request.

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