


## HR, Benefits, and Payroll Compliance Monthly Roundup: October 2020



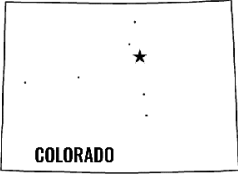


- Due to COVID-19, wearing face coverings has become essential; however, wearing face coverings in hot and humid environments whether indoors or outdoors, can lead to respiratory hazards. OSHA offers best practices on wearing face coverings [indoors](#) and [outdoors](#) to remain safe.
- OSHA updates [COVID-19 frequently asked questions](#) clarifying two instances when employers must report COVID-19:
  - Reporting Hospitalizations: occurs within 24 hours of exposure in the workplace (inpatient treatment or work-related case of COVID-19). Must be reported within 24 hours of knowledge.
  - Reporting Fatalities: occurs within 30 days of exposure to SARS-CoV-2 in workplace. Must be reported within eight hours of knowledge.
- On July 20, 2020, the Department of Labor (DOL) issued their latest COVID-19 guidance regarding the Families First Coronavirus Response Act (FFCRA), Family and Medical Leave Act (FMLA), and Fair Labor Standards Act (FLSA). The new and updated guidance is an important resource for employers trying to navigate the challenging employment issues surrounding the current pandemic. To read more, see our [summary](#) of the DOL's guidance, broken down by category.
- On August 27, 2020, the DOL added three new FAQs (98 – 100) to its ongoing list. These questions are designed to address issues that may arise as schools across the country begin to reopen with a variety of different schedules and restrictions in place. All three FAQs touch on the question of who is eligible to take leave under the FFCRA to care

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	<p>for a child and under what circumstances. To read more, see our <a href="#">summary</a> of the DOL's guidance, broken down by category.</p> <ul style="list-style-type: none"> <li>• Effective September 22, 2020, the DOL changed classification for employees or independent contractors.</li> <li>• This rule was enacted to put an emphasis on evaluating workers based on their true job responsibilities vs. the original job description for which they were hired.             <ul style="list-style-type: none"> <li>○ The classification determines rights and benefits for employees under law.</li> <li>○ <a href="#">Five factors</a> will be taken into consideration to determine a worker's status.</li> </ul> </li> <li>• Effective October 23, 2020, the Department of Health and Human Services <a href="#">renews COVID-19 pandemic as a public health emergency</a>. This renewal extends:             <ul style="list-style-type: none"> <li>○ Families First Coronavirus Response Act (FFCRA)</li> <li>○ Coronavirus Aid</li> <li>○ Relief and Economic Security (CARES) Act</li> <li>○ Certain COVID-19 diagnostic and preventative health services that group health plans are required to cover</li> </ul> </li> <li>• <a href="#">2021 Federal Minimum Wage updates</a>, effective January 1, 2021             <ul style="list-style-type: none"> <li>○ Increase to \$10.95 per hour (previously \$10.80)</li> <li>○ Tipped Employees: increase to \$7.65 cash wage increase (previously \$7.55)</li> <li>○ Subject to annual adjustments; read the notice <a href="#">here</a>.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>• Effective immediately, California employers with 500+ employees nationally, and employers of health care-provider and emergency responder employees previously exempted from FFCRA requirements, will need to make California supplemental paid sick leave available to all employees, if they have not done so already. <a href="#">See full HRK e-Alert</a>.</li> <li>• Effective August 18, 2020, Sonoma County, California, issued emergency paid sick leave. This law applies to employers with 500 or more employees in the United States.             <ul style="list-style-type: none"> <li>○ Full-time employees who work 40 or more hours are entitled to up to 80 hours of paid sick leave.</li> <li>○ Part-time employees who work fewer than 40 hours are entitled to no greater than the average number of work hours in a two-week period (calculated over the last six months).</li> </ul> </li> <li>• California <a href="#">updated Sexual Harassment requirements</a>, effective September 28, 2020.             <ul style="list-style-type: none"> <li>○ Employers with five or more employees must provide sexual harassment training to all new employees (within six months).</li> <li>○ If an employee already completed the training from a current, prior, alternate, or joint employer, the training is not required within the first six months.</li> <li>○ Once initial training is completed, employees are on a two-year renewal schedule.</li> </ul> </li> </ul>


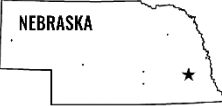

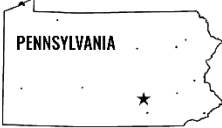
- California [updated its list](#) of occupations exempt from the ABC test (state's employee classification test) on September 4, 2020. Employers should review this list to determine whether a worker is an employee or independent contractor, Per the new guidelines.
- California enacted a [new law](#) requiring sick leave for employees with COVID-19-related reasons, effective September 19, 2020.
  - Eligibility: employer has 500+ employees OR health care provider or emergency responder excluded from FFCRA's emergency paid sick leave
  - Classifications for sick leave:
    - Federal, state, or local quarantine/isolation required
    - Advised by health care provider to quarantine/isolate
    - Advised by employer due to health concerns/potential transmission
- California has made additional changes to the California Child Abuse and Neglect Reporting Law that was originated in 1980. This law was enacted to make formal reports to law enforcement authorities of suspected child abuse. New changes, effective January 1, 2021, will now require Human Resource Professionals, alongside front-line Supervisors, to be considered mandated reporters. This will be required for any employer with at least five employees that also employs minors. Next steps: employers will provide mandatory training to identify and report child abuse and neglect.
- California issued a [new law to allow stop-work](#) for facilities or operations that may expose workers to COVID-19 — effective January 1, 2021.
  - The new law requires that, upon notice of potential COVID-19 exposure, employers are to notify potentially exposed employees within one business day.
  - Upon exposure, employers are to notify public health agencies within 48 hours.
- Effective January 1, 2021, California makes [amendments](#) to Employee Leave Protections for Victims. The amendment defines victim as one from crime or abuse causing physical, mental, or threat of injury. This impacts employers of more than 25 employees, ensuring they allow employees to take time off to seek specified services for relief.
- Effective January 1, 2021, California makes [amendments to the Family Leave Law](#). See our [HRK e-Alert: California Expands Family and Medical Leave Under CRFA](#)
  - Smaller employers (any person who directly employs five or more employees) are now covered.
  - Added grandparents, grandchildren, and siblings to list of family members who may take leave.
  - Eliminates that a child must be either under 18 or an adult dependent.
  - Adds leave uses for covered active duty or call to covered active duty for employee's spouse, domestic partner, child, or

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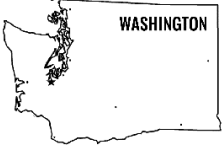
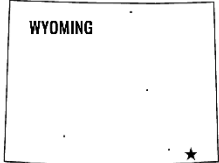
	<p>parent.</p> <ul style="list-style-type: none"> <li>• <a href="#">COVID-19 Workers' Compensation</a> claims extended in California until January 1, 2023 <ul style="list-style-type: none"> <li>○ If an employee returns to work and within 14 days of return, tests positive for COVID-19, the illness may be deemed to fall under Workers' Compensation.</li> <li>○ Employers can dispute a claim within 30 to 45 days providing evidence the employee did not contract COVID-19 on the job.</li> </ul> </li> </ul>
	<p>Colorado rolled out a <a href="#">new law</a> effective July 11, 2020, prohibiting any employer retaliation, due to the public health emergency, against employees for any of the following reasons:</p> <ul style="list-style-type: none"> <li>○ Employee brings forward concerns about workplace safety/violations in relation to the public health emergency</li> <li>○ Employee chooses to wear their own protective equipment (if providing higher level of protection than what was provided)</li> <li>○ Employee disagrees with a practice in the workplace that the employer could see as unlawful</li> <li>○ Employee is involved with a proceeding or hearing related to a public health emergency</li> </ul>
	<p>Currently in effect, the District of Columbia has passed the <a href="#">Leave to Vote Amendment Act of 2020</a>. This law requires employers to allow at least two hours of paid leave to eligible employees to vote in any election. The employer is not allowed to deduct these two hours from salary, wages, or accrued leave. Employers can require employees to request the time in advance and encourage employees to vote early, and/or at the beginning or end of their shift.</p>
	<p>Florida enacts <a href="#">new mandatory E-Verify law</a> which requires employers to verify employment eligibility for all new employees. It also prohibits the hiring of anyone who is not authorized to work in the United States. Public contractors and private employers are now subject to this law and required to utilize the federal E-Verify system. All private employers must e-Verify eligibility of new hire employees or renewals hired on January 1, 2021 and going forward.</p>



	<ul style="list-style-type: none"> <li>• Effective immediately, Georgia enacted a law requiring <a href="#">lactation accommodation breaks</a>. The amendment requires that these breaks be paid at the employee's regular rate and/or salary without requiring the employee to use paid leave. Lactation accommodation also requires the employer to provide a private room for the employee to use to express milk privately.</li> <li>• Georgia updated a law allowing individuals to petition the court to restrict and seal certain criminal records. This petition will be granted if the individual's potential harm is far greater than that of the public's interest in the records being available and will be effective January 1, 2021.</li> </ul>
	<p>Idaho enacted the <a href="#">Coronavirus Limited Immunity Act</a>, effective August 27, 2020. This law protects a person or business from any individual's exposure to COVID-19 and the associated damages/injuries. Excluded from this law are state and federal government entities.</p>
	<p>Iowa implemented a <a href="#">new rule</a> for unemployment insurance due to COVID-19. Employers are now required upon separation from employment (due to COVID-19) to provide notice of potential unemployment insurance.</p>
	<p><a href="#">Maine finalizes Paid Leave law</a></p> <ul style="list-style-type: none"> <li>○ Employee will start accruing sick time from their first day of work.</li> <li>○ Employee must be employed for 120 days prior to being able to use the leave.</li> <li>○ Employee accrues one hour of paid leave for every 40 hours worked.</li> <li>○ Employee gets a maximum up to 40 hours per year.</li> <li>○ Employee can carry over 40 hours to following calendar year.</li> <li>○ Employers can require up to four weeks' notice of use outside of sudden emergencies and/or illnesses.</li> </ul>
	<p>On June 19, 2020, Governor Charlie Baker declared Juneteenth a Massachusetts state holiday in an official proclamation. In his proclamation, the governor states that "Juneteenth is an opportunity to recommit ourselves to the goal of creating a more equal and just society, an effort that continues today." Read full <a href="#">summary</a>.</p>

	<p>Minnesota 2021 minimum wage rates, effective January 1, 2021</p> <ul style="list-style-type: none"> <li>o Large employers: \$10.08 per hour <ul style="list-style-type: none"> <li>- Annual gross revenue of \$500,000 or higher</li> </ul> </li> <li>o Other state minimum wages: \$8.21 per hour <ul style="list-style-type: none"> <li>- Employers under \$500,000 annual gross revenue</li> <li>- Employees under 20 for first 90 days of employment</li> <li>- Employees under 18</li> <li>- Additional minimum wage rates per Minnesota municipal and city laws can be found on <a href="#">here</a>.</li> </ul> </li> </ul>
	<p>Nebraska has made updates to the <a href="#">Wage Payment and Collection Act</a>, which takes effect immediately. This update was created to prevent any employer retaliation or discrimination toward employees that are either filing, testifying, assisting, or participating in any wage payment violations. Next steps: if an employer is not subject to the Nebraska Fair Employment Practice Act, the employer must provide the employee with a wage statement or the employee may file a suit against the employer.</p>
	<ul style="list-style-type: none"> <li>• Shortly after the DOL issued its final rule on the FFCRA's paid leave provisions, the State of New York filed suit challenging some of the DOL's regulations. On August 3, 2020, a New York federal district court issued a ruling striking down four key regulations. The impact of this decision on employers, especially those located outside of New York State, remains to be seen. See a <a href="#">summary</a> of the regulations that were overturned by the New York district court. See full <a href="#">HRK e-Alert</a>.</li> <li>• On January 1, 2021, all employers in New York must provide their employees with sick leave, based on new legislation. However, employees begin accruing sick time on September 30, 2020. Read full <a href="#">article</a>.</li> <li>• New York <a href="#">Paid Family Leave rates for 2021</a>, effective January 1, 2021 <ul style="list-style-type: none"> <li>o Weekly deductions of .511%, capped at \$385.34</li> <li>o Employees that are eligible will receive up to 12 weeks of leave <ul style="list-style-type: none"> <li>- 67% of average weekly pay</li> <li>- Capped at \$971.61 (state weekly pay average)</li> </ul> </li> </ul> </li> </ul>
	<p>Effective October 21, 2020, <a href="#">Pennsylvania has finalized a rule</a> to increase minimum salary levels regarding overtime exemptions for qualifying exempt executive, administrative, and professional employees. See <a href="#">HRK's e-Alert: Pennsylvania Increases Salary Threshold for Overtime Exemptions</a></p> <ul style="list-style-type: none"> <li>o Executive: manages a department, directly manages two or more employees and their work, ability to hire and terminate employees</li> <li>o Administrative: performs non-manual work for management and/or business operations</li> <li>o Professional: performs work that requires advanced knowledge in field</li> <li>o The additional effective salary thresholds: <ul style="list-style-type: none"> <li>- October 3, 2020 - \$684 weekly</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>- October 3, 2021 - \$780 weekly</li> <li>- October 3, 2022 - \$875 weekly</li> </ul>
	<ul style="list-style-type: none"> <li>• Effective August 18, 2020, Washington issued <a href="#">Supplemental Paid Sick Leave for Food Production Workers</a>. The law prohibited previous food production employers from operating between August 18, 2020, through November 13, 2020, unless they provided their employees paid sick leave for any COVID-19-related event. For which employers and workers are <a href="#">covered</a>.</li> <li>• Effective September 13, 2020, Seattle has <a href="#">updated an ordinance</a> for clarification. In July, Seattle issued an ordinance to provide paid sick and safe time for companies that rely on “gig economy” workers. September’s update now clarifies that gig workers are covered under Seattle paid sick and safe leave and not covered under gig worker-specific paid sick leave.</li> </ul>
	<p><a href="#">Wyoming has issued regulations</a> for monitoring new unemployment benefits due to COVID-19. Employers are now required upon separation from employment to provide notice of potential unemployment compensation. The employer can send the notice in multiple ways — in person, by email, or by mail; however, the employer must maintain a record of the notice to remain in compliance with the Wyoming Unemployment Security Act.</p>



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