




HR, Benefits, and Payroll Compliance Monthly Roundup: July 2021

	<p>Federal OSHA Issues Emergency Temporary Standard for Healthcare</p> <p>On June 10, 2021, OSHA announced its COVID-19 Emergency Temporary Standard (ETS). Once published on the Federal Register, most provisions will take effect immediately. However, there will be some exceptions that have a 14- or 30-day window for companies to achieve compliance. Here is a list of what you can expect to prepare for:</p> <ul style="list-style-type: none">• Develop and implement a COVID-19 plan that meets certain parameters;• Screen patients and limit access to settings where direct patient care is provided;• Follow CDC guidelines related to transmission-based precautions;• Provide personal protective equipment (PPE) and ensure appropriate use by employees;• Limit exposure to aerosol-generating procedures on a person with suspected or confirmed COVID-19;
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- Enforce indoor physical distancing requirements and install physical barriers at fixed work locations in non-patient-care areas;
- Comply with CDC guidelines regarding cleaning and disinfecting of surfaces;
- Monitor ventilation systems;
- Conduct regular health screening of employees and provide notice of positive cases of COVID-19;
- Provide reasonable paid leave for vaccination and vaccine side effects;
- Provide training related to COVID-19 transmission, policies, and procedures;
- Provide notice to employees regarding the prohibition on retaliation for exercising rights available under the ETS;
- Establish a COVID-19 log of all employee instances (occupational or otherwise) of COVID-19 (only required for employers with more than 10 employees); and
- Report work-related COVID-19 fatalities and hospitalizations to OSHA.

To find out if your company is affected by the ETS, check out OSHA's [roadmap](#).

OSHA Updates General Guidance on COVID-19 in the Workplace

As the nation climbs its way out of the pandemic, OSHA continues to urge companies across the US to remain vigilant of the virus. [“Guidance on Mitigating & Preventing the Spread of COVID-19 in the Workplace”](#) has been recently published as a tool to help companies and their employees remain safe. Here are some recommended action items:

- Granting paid time off for employees to get vaccinated;
- Instructing any workers who are infected, unvaccinated workers who have had close contact with someone who tested positive for SARS-Co-V-2, and all workers with COVID-19 symptoms to stay home from work;
- Implementing physical distancing for unvaccinated and otherwise at-risk workers in all communal work areas;
- Providing unvaccinated and otherwise at-risk workers with face coverings or surgical masks, unless their work task requires a respirator or other PPE;
- Educating and training workers on the employer's COVID-19 policies and procedures using accessible formats and language(s) they understand;
- Suggesting that unvaccinated customers, visitors, or guests wear face coverings;
- Maintaining ventilation systems;

- Performing routine cleaning and disinfection;
- Recording and reporting COVID-19 infections and deaths;
- Implementing protections from retaliation and setting up an anonymous process for workers to voice concerns about COVID-19-related hazards; and
- Following other applicable mandatory OSHA standards.

IRS Releases FAQs on the American Rescue Plan (ARP) Tax Credits for Paid Sick and Family Leave

The IRS has released the new [FAQ](#) site to offer additional guidance for employers who have opted to provide additional paid sick time under the Families First Coronavirus Response Act (FFCRA). Although the initial FFCRA requirement has expired, there have been additional legislations (such as the American Rescue Plan Act) that extend the initiative through September 30, 2021. These additional legislations also include additional tax credits for employers.




The FAQ site consists of 123 Q&As and are organized into “subtopics.” Here are some examples of what you can find on the site:

- Daily and aggregate wage limits do not include health plan expenses or the employer’s share of Social Security and Medicaid taxes.
- Qualified leave wages do not include federal taxes on the wages.
- Details about the last day an employer may file for advance payment of the credit.
- Even if the employer did not initially pay the employee when the employee became eligible for qualified leave wages, the credit may still apply for wages paid for leave taken between April and September 2021.
- Employers must collect and maintain specific information from employees (and may require more than that specified) to substantiate eligibility for the credits. Records must be kept for six years.

IRS Extends Deadline for COVID-19 Employee Leave Donations

Due to the ongoing pandemic, the IRS has amended [Notice 2021-42](#) to extend their favorable tax payments through January 1, 2022. This notice states that an employee may opt to donate their unused vacation, sick, or personal time to a charitable organization. When an employee uses this option, the employer’s payments to the charitable organization will not be treated as employee income if:

- The employer’s cash payments were made for the relief of victims of the pandemic in geographic areas where the president had declared a major disaster; and

	<ul style="list-style-type: none"> The payments were made to 170(c) organizations before January 1, 2021.
	<p>New Alabama Law Prohibits Businesses from Refusing Service Based on Immunization Status and Prohibits Vaccine Passports</p> <ul style="list-style-type: none"> Retro-dated to May 24, 2021, the state is prohibiting businesses from refusing service to customers who do not provide their vaccination status. Local and state agencies are prohibited from requiring individuals to be vaccinated Higher education may continue to require immunizations for their student base, so long as the following stipulations are considered: <ul style="list-style-type: none"> Acceptable immunizations are those that were required on or before January 1, 2021 There are exemption options provided to students for both medical and/or religious reasons
	<p>Glendale, Arizona, Passes Anti-discrimination Ordinance</p> <ul style="list-style-type: none"> Effective September 22, 2021 Applicable to employers who employ five or more employees <p>Discrimination based on race, color, ethnicity, national origin, age, disability, religion, sex, sexual orientation, gender, gender identity, veteran's status, marital status, or familial status is strictly prohibited.</p>
	<p>Sonoma County, California, Extends and Retroactively Expands Emergency Paid Sick Leave Ordinance</p> <p>The Emergency Paid Sick Leave (EPSL) Order was set to expire on July 31, 2021 but has since been amended. Here are highlights of the most recent changes:</p> <ul style="list-style-type: none"> The end date has been extended through September 30, 2021. The amended order requires employers to award full-time employees with an additional 80 hours of EPSL, while part-time employees are entitled to two weeks of their average hours worked. <ul style="list-style-type: none"> If an employee has accrued more than 80 paid time sick, or 160 combined hours of all eligible PTO, the employer can consider the EPSL need satisfied for that employee. No further action would be required. Employers may offset the Sonoma County EPSL bank of time by the amount awarded from similar paid leaves (e.g., California's 2021 paid sick law, or Families First Coronavirus Response Act). Employees are allowed to use EPSL to travel to/from their COVID-19 vaccination appointments.

Los Angeles Employers Must Provide Leave for COVID Vaccine

The city's new [Vaccine Paid Sick Leave Due to COVID-19](#) (CVL) mandate was issued on June 24, 2021. All employers operating within Los Angeles are subject to the mandate as follows:

- Employers with 25 or fewer employees: For full-time employees, four hours per injection and up to eight hours to recover from side effects that prevent work or telework. Part-time employees receive a prorated amount of vaccine leave.
- Employers with more than 25 employees: For full-time employees who have exhausted all existing state and city COVID-19 supplemental paid sick leave, four hours of paid leave per injection and up to eight paid hours for recovery from side effects. Part-time employees who have exhausted all existing state and city COVID-19 supplemental paid sick leave receive a prorated amount of leave.

This mandate has been implemented retroactively to January 1, 2021.

- Employees can request payment through their employer for time already taken for COVID-19 vaccine appointments, and/or COVID-19 vaccine-related illness.
- Employers must reclassify previous time taken to be moved into the employee's CVL bucket.
- Once requested, employers must make necessary payments and changes on or before the next regularly scheduled payroll.


Additionally, the city's mayor amended the [Supplemental Paid Sick Leave Due to COVID-19](#) to include time off for those traveling to their vaccine appointments, or who fall ill due to side effects from the COVID-19 vaccine.

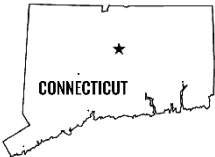
Marin County, California, Requires Small Employers to Provide Supplemental Paid Sick Leave


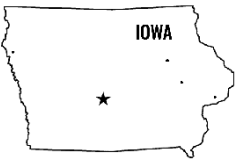
Marin County enacted an [emergency order](#) that went into effect on June 6, 2021. Employers who have under 25 employees are to provide supplemental paid sick leave (SPSL) for COVID-19-related illnesses. This mandate will be in place through September 20, 2021.



- Within three days of this ordinance being published, employers should have provided their employees notice in both English and Spanish.
- Full-time employees are eligible for an additional 80 hours of paid time under SPSL.
- Part-time employees are eligible for two weeks of paid time, based on the average number of hours they have worked over the past


	<p>six months.</p> <ul style="list-style-type: none"> • SPSL can be used by any employee for the following reasons: <ul style="list-style-type: none"> ○ Employee has been advised by a healthcare provider to isolate or self-quarantine, or is caring for an individual so advised. ○ Employee is subject to a federal, state, or local quarantine or isolation order due to COVID-19 or is caring for an individual subject to such an order. ○ Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis or is caring for an individual experiencing such symptoms. ○ Employee is caring for an individual whose school, senior, or childcare provider, is closed or unavailable due to COVID-19. ○ Employers of a healthcare provider or emergency responder can deny a leave request if they make a good-faith determination that granting leave would create a staffing shortfall such that operational needs dictate denial of some or all of the leave request. ○ Employee is obtaining a COVID-19 vaccine or experiencing symptoms related to the vaccine that prevent the employee from being able to work or telework. • SPSL is awarded in addition to paid sick leave available to employees through California's Healthy Workplace Healthy Family Act. • If an employee has accrued more than 80 paid time sick, or 160 combined hours of all eligible PTO, the employer can consider the SPSL need satisfied for that employee. No further action would be required. <p>San Jose, California, Passes Supplemental Right-to-Recall Ordinance</p> <p>Earlier this year, the California governor rolled out laws around rehiring and retention for the state, effective June 24, 2021. San Jose is expanding on those laws to include individuals who fell into a “family care hardship” due to the COVID-19 public health emergency. Here are the requirements for compliance:</p> <ul style="list-style-type: none"> • Laid-off employees are entitled to a reasonable accommodation of a job duty or job requirement if a family-care hardship impacts the laid-off employee's ability to perform a job duty or to satisfy a job requirement. • Employers must make good faith efforts to reasonably accommodate a laid-off employee with a family-care hardship. • A reasonable accommodation includes, without limitation, modifying a laid-off employee's schedule, delaying the start date
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	<p>of reemployment, modifying the number of hours to be worked, or permitting telework, to the extent operationally feasible.</p> <ul style="list-style-type: none"> Employers are prohibited from discriminating against or taking an adverse employment action against laid-off employees because of a family-care hardship. <p>Santa Clara County, California, Phases Out Vaccination Benchmarking Mandate</p> <p>Over 80% of Santa Clara County residents over the age of 12 have already received their first dose of the COVID-19 vaccine. This new development has the Santa Clara Health Officer scaling back on the efforts to obtain vaccinations for the county.</p> <ul style="list-style-type: none"> The order, effective immediately, lifts requirements for covered entities who met standards of the May order. It is important to note that covered entities who have met the standards of the May order will still be subject to fines up to \$5,000 per violation per day.
	<p>Colorado Supreme Court Finds Policies Requiring Forfeiture of Earned Vacation Unlawful</p> <p>On June 30, 2021, the Supreme court issued their ruling in the <i>Neito v. Clark's Market</i> case, stating that under Colorado law, earned vacation time cannot be forfeited. This change will go into effect immediately.</p> <p>The Colorado Wage Claim Act (CWCA) was amended to expand on its definitions of wages as it relates to earned vacation time:</p> <ul style="list-style-type: none"> Vacation pay earned in accordance with the terms of any agreement. If an employer provides paid vacation for an employee, the employer shall pay upon separation from employment all vacation pay earned and determinable in accordance with the terms of any agreement between the employer and the employee. <p>Employers are advised to review their vacation policies and make any necessary revisions.</p> <p>Important Note: Employers who have chosen a use-it-or-lose-it policy are expected to replace this policy with a cap on how much vacation time can be accrued by the employee. According to the Department of Labor (DOL), this should be at least one year's worth of accrual.</p> <p>Colorado Passes Law Allowing Hiring Preference for Veterans</p> <p>Effective September 11, 2021, preference for hiring veterans will become allowable so long as the veteran applicant is as qualified as the other applicants for the open position. A few items to consider when adopting</p>


	<p>this policy:</p> <ul style="list-style-type: none"> • The policy must apply consistently across all job postings • Proof of eligible veteran status must be provided, including documentation for a veteran's spouse, where applicable. • The hiring policy must be in writing and implemented 14 days prior to the new job listing or hiring decision. <p>Colorado Prohibits Discrimination Based on Gender Expression and Gender Identity</p> <p>Colorado state law prohibits discrimination based on disability, race, creed, color, sex, sexual orientation, religion, age, national origin, or ancestry. Effective September 14, 2021, this law will expand to include gender identity and gender expression.</p> <ul style="list-style-type: none"> • "Gender identity" is defined as an individual's intrinsic sense of their own gender, which may or may not correspond with the sex assigned at birth. • "Gender expression" means an individual's way of reflecting and expressing their gender to the outside world, typically demonstrated through appearance, dress, and behavior. <p>The amendment also clarifies the definition of sexual orientation:</p> <ul style="list-style-type: none"> • "Sexual orientation" means an individual's identity, or another individual's perception of an individual's identity, in relation to the gender or genders to which one is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.
	<p>Connecticut Passes Unpaid Voting Leave Requirement</p> <ul style="list-style-type: none"> • On June 23, 2021, the Governor Ned Lamont signed a new law mandating all Connecticut employers to provide two hours of unpaid leave to their employees so they can participate in state elections. • This mandate applies to special elections for the US Senate, US Congress, state representative, and state senator. • Employees must submit their request for this time two business days before the election is to take place. • Employers must grant unpaid time off within the employee's regular workday. <p>Connecticut Amends Lactation Accommodation Law</p> <p>Governor Lamont signed House Bill No 5158, "An Act Concerning Breastfeeding in the workplace," to replace Connecticut General Statutes section 31-40w. Like to the original statute, the Act asserts that an employee has a right to breastfeed or pump during their meal or break</p>


	<p>period. The Act encourages employers to make every effort to ensure the employee has a room in which to breastfeed or pump privately. The room should meet the following requirements:</p> <ul style="list-style-type: none"> • It must be free from intrusion and shielded from the public while the employee expresses breast milk; • It must include or be situated near a refrigerator or employer-provided portable cold storage device in which the employee can store breast milk; and • It must have access to an electrical outlet. <p>It is important to note that the Act will only apply so long as the accommodations do not create an undue hardship for the employer.</p> <p>Connecticut Amends Criminal Background Check Law Effective October 1, 2021, Connecticut's background check law will be expanded to prohibit employers from asking candidates about previous arrests and criminal charges. The law goes into further detail to define the phrase "erased criminal history record information":</p> <ul style="list-style-type: none"> • Criminal history record information that has been erased pursuant to section 54-142a of the general statutes, as amended, or section 54-76o of the general statutes, or any other provision of the general statutes or other operation of law; • Information relating to persons granted youthful offender status pursuant to section 46b-146 of the general statutes; and • Continuances of a criminal case that are more than 13 months old. <p>Effective January 1, 2023, any violation of the above will fall under illegal discriminatory practice.</p>
	<p>District of Columbia Amends Universal Paid Leave Act to Address Short-Term Disability Benefits The Universal Paid Leave Act allows employees who have met the eligibility requirements to take paid leave for a variety of qualifying reasons. The leave has since been amended to include parameters for short-term and temporary insurance policies, stating that providers are strictly prohibited to offset the benefits awarded to an employee when the employee is out on a paid leave.</p>
	<p>Iowa Passes Law Prohibiting Businesses from Requiring Proof of COVID-19 Vaccination Iowa now prohibits businesses from asking individuals for proof of vaccination before entering the building. This applies to customers, patrons, patients, and/or any other individual entering the business premises.</p> <p>Businesses should note that this does not include any COVID-19 screening</p>

	<p>protocols that are in place. However, requiring proof of vaccination in this process is considered unlawful.</p> <p>New Iowa Law Prevents Local Masking Ordinances Effective immediately, Iowa has prohibited counties, cities, and schools from creating or implementing stricter face-covering policies than what the state has put forth.</p> <p>Schools should note that exceptions can be made for extracurricular and instructional purposes if it is required by another law.</p>
	<p>Shreveport, Louisiana, Prohibits Discrimination based on Protected Cultural Hairstyle Effective July 8, 2021, discrimination was expanded to include protected cultural hairstyles in Shreveport, Louisiana. Protected cultural hairstyles include locs, cornrows, twists, braids, Bantu knots, Afros, and any hairstyle in which hair is tightly coiled or tightly curled.</p> <p>Louisiana Passes Law on Criminal Background Checks Effective August 1, 2021, Louisiana will strengthen the mandate of how employers handle information received in an employee's background check. Employers can only act against the employee if the criminal history has a direct correlation to the employee's specific job duties. When making this decision, employers should consider the following:</p> <ul style="list-style-type: none"> • The nature and severity of the offense or conduct; • The time that has elapsed since the offense, conduct, or conviction; and • The nature of the job sought. <p>If the employee requests details, employers should comply and produce any collected information. This mandate will also apply to applicants during the hiring process.</p>
	<p>New Maine Law Prohibits Fees for Direct Deposit of Wages Effective September 15, 2021, Maine employers are prohibited from charging a fee to their employees when their paycheck is directly deposited.</p> <p>Maine Amends Law on Apprenticeship Agreement Maine's Apprenticeship Program will soon be closely aligned with the Federal Equal Employment Opportunity Act of 1972. Formerly, the apprenticeship agreement required information such as gender, race, and ethnicity. Effective September 15, 2021, the collection of this information will be removed as a requirement, although it may be voluntarily provided by the apprentice.</p> <p>Furthermore, the apprenticeship agreement should include a statement</p>

	<p>of equal opportunity throughout all stages of employment. This statement should include verbiage stating the individual is moving throughout the program without discrimination due to race, color, religion, national origin, sex, sexual orientation, gender identity, genetic information, disability, or age.</p> <p>Maine Amends Volunteer Emergency Responder Leave Law Effective September 15, 2021, it will be considered unlawful to dismiss an employee from their employment if they are absent from work due to an emergency responder situation. An emergency responder situation encompasses services performed as a firefighter or an emergency medical services professional.</p>
	<p>Maryland Passes Multifaceted Essential Workers' Protection Act, Including Potential for Emergency Paid Leave Requirement</p> <p>Employers now have an obligation to further protect their essential workers. Essential workers are defined as "individuals who perform work during the emergency that must be completed at the work site and whom the employer deems essential to its operations."</p> <p>Employers must provide their essential workers with personal protective equipment (PPE), written protocols that ensure the safety of the individual, and COVID-19 testing, free of charge.</p> <p>The next piece of this protection act includes notification requirements for employers who have had COVID exposure in the workplace. Affected employers must:</p> <ul style="list-style-type: none"> • Notify the Maryland Department of Health within 24 hours after <ol style="list-style-type: none"> (1) confirmation of a positive COVID-19 case, or (2) confirmation of three or more employees testing positive for COVID-19 within a 14-day period; • Post information regarding COVID-19 symptoms, protocols for employees when they are experiencing COVID-19 symptoms, the minimum safety standards, and the process for submitting complaints with Maryland Occupational Safety and Health; and • Comply with prohibitions on retaliating against employees for exercising their rights under this law. <p>Lastly, the protection act requires employers to provide paid leave for public-health-emergency-related illnesses if funding for such leave is provided by the state or federal government. The amount of leave per individual is as follows:</p> <ul style="list-style-type: none"> • 112 hours for full-time essential workers who regularly work 40 or more hours per week; • For part-time essential workers who regularly work less than 40 hours per week, an amount of hours equivalent to the average hours

	<p>worked during a typical four-week working period;</p> <ul style="list-style-type: none"> • For essential workers whose schedules and number of hours worked vary from week to week, the average number of hours that the essential worker was scheduled per week over the six-month period ending on the date on which the emergency is declared or proclaimed; or • If the essential worker did not work during the six-month period ending on the date on which the emergency is declared or proclaimed, the reasonable expectation of the essential worker at the time of hiring or the average number of hours per week that the worker would normally be scheduled to work, whichever is greater. <p>Essential workers can use this time in the following settings:</p> <ul style="list-style-type: none"> • To recover from COVID-19; • To isolate when the employee has been diagnosed with the disease or is experiencing symptoms and awaiting a diagnosis; • To seek or obtain a medical diagnosis, preventive care, or treatment because the essential worker is diagnosed with COVID-19; • To care for a family member who is isolating, without an order to do so, because of a COVID-19 diagnosis; • Due to a determination by a public health official or healthcare professional that the essential worker's presence at the place of employment or in the community would jeopardize the health of other individuals because of the essential worker's exposure to, or exhibited symptoms associated with, COVID-19; • To care for a family member due to a determination by a public health official or healthcare professional that the family member's presence at the place of employment or in the community would jeopardize the health of others because of the family member's exposure to, or exhibited symptoms associated with, COVID-19; or • To care for a child or other family member when the care provider, school, or place of care is unavailable due to the emergency. This includes schools that are physically closed but providing instruction remotely. <p>Maryland Amends Flexible Leave Act to Allow Bereavement Leave Effective October 1, 2021, the Flexible Leave Act (FLA) will be expanded to include paid time off for employees to use for bereavement purposes. Bereavement leave may be taken for immediate family members under the FLA. Immediate family members are defined to include a child, spouse, or parent.</p> <p>Maryland Amends its mini-WARN Law The Economic Stabilization Act is referred to as the mini-WARN law.</p>
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	<p>Effective October 1, 2021, the Act mandates employers to give 60 days' notice to all effected parties should they decrease their business operations. The notice should include the following parameters:</p> <ul style="list-style-type: none"> • Whether the reduction in force is to be temporary or permanent <ul style="list-style-type: none"> ◦ The Act defines permanent as not returning to normal business operations within three months of the initial reduction in force. • Whether or not the reduced workforce will be relocating their workplace, and, if so, where the workplace is being relocated to. • Employees, bargaining representatives, the Division of Workforce Development's dislocated worker unit, and all elected officials should be included as recipients of this notice. <p>It is important to note that employers are not mandated to produce this notice if they are actively seeking alternatives to the reduction in force. Alternatives can be defined as seeking additional capital or business that would negate or postpone the reduction.</p>
	<p>Massachusetts Enacts Short-Term Legislation Providing COVID-19 Emergency Paid Sick Leave to All Employees</p> <p>Employers in Massachusetts, in accordance with Senate Bill H-3702, are now required to provide paid sick leave to employees for COVID-19-related health issues. The program will expire on September 30, 2021, or when the \$75 million dollars in government funding exhausts, whichever comes first. Employers are eligible for reimbursement of the paid leave under this new program.</p> <p>Reasons for leave for the employee or their covered family member:</p> <ul style="list-style-type: none"> • An order to self-isolate due to being diagnosed with COVID-19 • Medical diagnosis, care, or treatment for COVID-19 symptoms • Contracting or recovering from a COVID-19 Immunization • Quarantine order from local, state, or federal public health entity or official and/or medical provider • Inability to telework due to COVID-19 symptoms <p>Employers may not require employees to use other types of available paid leave prior to using COVID-19 sick leave nor may they require an employee to search for or find a replacement to cover shifts on behalf of the employer.</p> <p>Leave amounts:</p> <ul style="list-style-type: none"> • Employees who work 40 hours or more per week are eligible for 40 hours of COVID-19 emergency paid sick leave. • Employees who work less than 40 hours are eligible for leave that is equal to their average number of hours worked per week.

	<ul style="list-style-type: none"> • Employees who work varied hours and schedules are eligible for leave that is equal to the average number of hours the employee was scheduled to work per week over the last six months. <p>The maximum amount an employer is required to pay per employee, and the maximum amount for which the employer may seek reimbursement for any one employee is \$850 (Including cost of benefits).</p> <p>Employees who wish to request time off under the paid sick leave law should provide notice as soon as reasonably possible. In addition, employees are not required to find replacement coverage while on leave.</p> <p>This COVID-19 emergency paid sick leave is in addition to any current time off including paid time off, and employees are entitled to maintain all benefits during their absence. Employees cannot receive more than 100% of their regular weekly pay.</p> <p>Employers should also collect and retain the following information in anticipation of applying for reimbursement for COVID-19-related reasons:</p> <ul style="list-style-type: none"> • Employee's name • Dates leave is requested and taken • Statement providing reason for leave with support • Statement of why employee is unable to work or telework. For leave requests involving a quarantine order, the name of the healthcare provider or governmental entity must be provided. • For leave requests that include a quarantine order for a family member, that person's name and relationship to the employee must be provided. • Non-Retaliation Provisions include that employers may not interfere with an employee's ability to use COVID-19 emergency paid sick leave or retaliate against an employee for exercising rights under the program.
	<p>Ann Arbor, Michigan, Prohibits Discrimination Based on Hair Texture and Hairstyle</p> <p>Ann Arbor, Michigan, prohibits employment discrimination based on various characteristics. An amendment has been published that clarifies traits historically associated with race, including, but not limited to, the following:</p> <ul style="list-style-type: none"> • "Protective hairstyles," which include headwraps, twists, braids, and locs <p>MIOSHA Rescinds Emergency Workplace Rules</p> <p>The Michigan Occupational Safety and Health Administration (MIOSHA)</p>

rescinded all existing COVID-19 emergency workplace protocols on June 22, 2021 and adopted all federal guidelines for healthcare employers.

This change will impact non-healthcare settings in which there will be significantly more discretion on the following:

- Social distancing
- Face mask covering
- Health screenings
- Maintenance of recordkeeping
- Requirements for COVID-19 response plans

The steps for protecting unvaccinated or otherwise at-risk members of the community in their workplaces include the following:

- Cleaning and disinfecting workspaces
- Providing paid time off for vaccination
- Recording and reporting of COVID-19 deaths and infections
- Maintaining ventilation systems
- Educating and training workforce on employer's COVID-19 response policies and procedures
- Instructing employees who are ill or have close contact to stay home
- Suggesting that unvaccinated customers or visitors wear face mask coverings
- Implementing social distance standards
- Providing customers or employees with personal protective equipment (PPE) to include face mask coverings

Michigan Revises COVID-19 Emergency Rules to Address Remote Work, Masking, and Vaccination


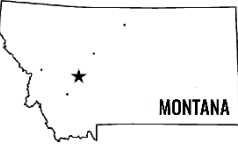
The Michigan Occupational Safety and Health Administration (MIOSHA) has revised pandemic emergency rules relating to remote work and addressing unvaccinated employee safety protocols.

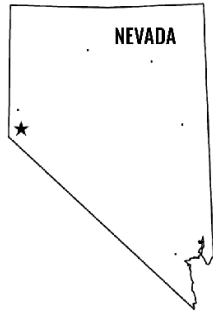
Employers are required to create and maintain a COVID-19 response plan that meets MIOSHA standards as well as current guidance from the Centers for Disease Control and Prevention (CDC).

This plan should include, but is not limited to, the following measures that the employer will need to implement:

- Training
- Personal Protective Equipment (PPE)
- Basic Infection Preventatives
- Administrative and Engineering Controls
- Health Surveillance

	<p>Training should consist of information on control measures, including infection control practices written in primary common languages within the workplace. Control practices would include the proper use of PPE, steps for reporting unsafe working conditions, and reporting of any symptoms or close contact exposure to the appropriate parties.</p> <p>Emergency rules include guidance on promoting basic infection prevention in the workplace, such as providing soap and water or hand-sanitizing supplies to all individuals entering a facility. In addition, employers must use EPA-approved disinfectants to increase work-site cleaning to mitigate COVID-19 exposure.</p> <p>The mandate requiring remote work for activities that can be done completely off-site no longer applies. Employers are now able to require that employees return to their physical work location.</p> <p>Masks and social distancing are no longer required for fully vaccinated individuals except in settings such as public transportation or healthcare.</p> <p>Employers may still require unvaccinated individuals to comply with masks and social-distancing protocols. They must implement the following:</p> <ul style="list-style-type: none"> • Maintain records of unvaccinated employees • Post reminders in work areas advising unvaccinated individuals of safety protocols • Allow or require remote work • Require masks and distancing for all workers regardless of vaccination status <p>The following records will need to be retained for six months after generation:</p> <ul style="list-style-type: none"> • Vaccine data for implementing vaccinated versus unvaccinated safety protocols • Health Screening Protocol Information • COVID-19 employee training • Health screening data for each nonvaccinated employee or contractor <p>Emergency rules regarding mandating industry-specific requirements such as personal care services, meat processing, and exercise facilities have been lifted. Employers are also no longer required to provide PPE to employees.</p>
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	<p>Missouri Passes Law on COVID-19 Passports Missouri's new law prohibits any county, city, or town from requiring documentation to verify vaccination status. This law will apply to entities who receive public funding and will impact any individual wishing to access public transportation systems or any other public accommodations.</p>
	<p>Montana Legalizes Marijuana for Recreational Use and Will Protect Lawful Off-Work Use Effective July 1, 2021, two bills became effective that allow for the sale, possession, and use of recreational marijuana. These bills pave the way for workplace protections against adverse employment action as well other related issues.</p> <ol style="list-style-type: none"> 1. House Bill 655 places a disqualification on workers' compensation benefits if an individual refuses to take a drug test, except for marijuana. 2. Initiative I-190, which becomes effective on January 1, 2022, amends Montana's definition of "lawful products" to include marijuana. Overall, this initiative would prevent adverse employment action even when marijuana is used off-duty. <p>Employees are required to follow drug-free workplace policies which could include the following:</p> <ul style="list-style-type: none"> • Use or possession of marijuana during work hours • Use or possession of marijuana while on employer premises or working with employer equipment <p>Driving under the influence is also strictly prohibited and includes any motor-operated vehicle.</p> <p>Limited off-duty use exceptions that could permit adverse employment action are:</p> <ul style="list-style-type: none"> • Affects an individual's ability to perform or is a safety risk to other employees • Conflicts with bona fide occupational qualifications related to individual's employment • Violates a contract in which unique services are provided, permitting employer control • Individuals employed at nonprofit organizations whose primary purpose is to discourage use <p>Important Note: Employers are prohibited from rejecting candidates or taking adverse action against active employees who receive a positive</p>

	<p>result for marijuana. The only exception is if an employer can provide substantial evidence indicating performance and safety issues because of use.</p>
	<p>Nevada Prohibits Certain Nondisclosure Provisions in Settlement Agreements and Other Contracts This law clarifies that settlement agreements prohibiting individuals from disclosing sexual harassment or other criminal offenses (including discrimination based on a protected class) are void and cannot be enforced. The settlement agreements are void and unenforceable only if:</p> <ul style="list-style-type: none"> • The new provisions strictly prohibit a party to the settlement agreement from testifying in court. • The court order includes another party's admission of guilt for criminal or sexual harassment offenses, as well as discrimination based on a protected class. • There is any act of retaliation by the employer against the individual responsible for reporting discrimination. <p>Nevada Creates Private Right of Action for Failure to Pay Final Wages Nevada's payment law has been amended to reflect the definition of wages, in addition to providing guidance on how to file civil actions against employers who fail to pay wages. The definition of wages has been revised to reflect any amount an employer agrees to pay an employee for time spent working in addition to any applicable commissions. (Excludes bonuses and profit sharing). The law now permits employees to file civil actions against employers who fail to pay final wages, salary, or other covered compensation within two years of the violation.</p> <p>Employees that are bound to a collective bargaining agreement that provides a resolution for the violation, will result in the Labor Commission declining the claim. In addition, the Labor Commissioner will file a claim if the resolution is inadequate or non-binding.</p> <p>Nevada Prohibits Discrimination Based on Hair Texture and Protective Hairstyles The State of Nevada has updated its employment discrimination characteristics regarding race to include the following hair texture and protective hairstyles:</p> <ul style="list-style-type: none"> • Hair Color • Hair Texture • Protective Hairstyles <ul style="list-style-type: none"> ○ Braids, locs, twists, natural hairstyles, Afros, and Bantu knots

Recalling Nevada Hospitality and Travel Employees Affected by COVID-19

On June 8, 2021, the state announced the Nevada Hospitality and Travel Workers Right to Return Act.

- Employers who have 30 or more employees and operate a hospitality or travel organization are affected.
 - This includes employers who have control over 30 or more individuals' wages, hours, and working conditions.
- The Act requires the above-defined employers to offer open positions to those individuals who were laid off due to the pandemic, prior to seeking external candidates.
 - If there is more than one qualified individual, the position will go to the individual with the greatest length of service.
- The Act defines an individual eligible for this offer if they were employed with the company for at least 12 months prior to March 12, 2020.
- Affected individuals are to respond to the offer within 24 hours and report to work within five days of the original offer.
 - Failure to do so allows the employer to seek alternative candidates to fill the open role.

The Act includes additional provisions around employee layoffs:

- Written notice must be provided to the affected individual.
 - Notice can be delivered in the form of a physical letter, electronic message, or text message.
- Layoffs that took place within 20 days of the Act being implemented are included within this mandate.

Nevada Prohibits Salary History Inquiries

Nevada amended its employment practices law to limit an employer's ability to seek wage or salary history from candidates. (Includes all historical compensation and benefits.)

Employers cannot use wage or salary history as a reason for declining to go forward with an interview, new hire, or promotion. Discrimination based on this data is strictly prohibited.

Important Note: Employers may request salary expectations to determine whether the organization can meet the individual's needs.

Employers must provide a salary range or base rate to a candidate who has completed the interview process. This is also required for a promotion or job transfer for an employee who has:

- Submitted an internal application

- Completed the interview process
- Requested the salary range or base rate

Nevada Amends Unemployment Benefits Law to Require Notice Posting

On October 1, 2021, employers will be required to post and maintain notices at conspicuous locations in the workplace regarding the state's unemployment benefits program.

The new law assigns the preparation of all notices regarding job training and employment programs to be handled by the Department of Employment, Training, and Rehabilitation.

This department will provide notices to the Labor Commissioner who will then make them available to private-sector employers.

Nevada Passes Employee Leave Laws for COVID-19 Vaccination and Kin Care

Nevada has amended their paid leave law to include private employers with 50 or more employees. These employers are now required to provide paid leave for COVID-19 vaccinations. Employers must provide two consecutive hours per dose — maxing out at four hours per vaccination. Eligibility for employees will include time for themselves (effective June 9, 2021), and their family members (effective October 1, 2021).

Employer exemptions include:

- Employers who are hosting on-site vaccination clinics during business hours
- Employers who are in their first two years of operating their business

Nevada Adopts Kin Care Law

Employers that are required to pay out sick leave must allow employees to use that sick leave to take care of a covered family member. (Family member is covered who has an illness, an injury, medical appointments, and other medical issues)

The sick time must already be accrued and include both paid and unpaid hours. The law does not:

- Restrict, negate, or void any other rights, resolutions, or procedures under the law
- Prohibit or discourage agreements that provide more generous sick leave or paid time off benefit
- Extend the maximum leave allowance under the federal Family and Medical Leave Act

Important Note: Notice issued by the Labor Commissioner must be posted in an easily viewable location.

Paid Leave Law Amended to Include Vaccination Leave

Effective June 15, 2021, and expiring on December 31, 2023, employers are required to provide paid leave for employees who receive a COVID-19 vaccination. This requirement applies to all organizations in operation for two years or more years with 50 or more employees.

Employees would be required to provide at least 12 hours' notice to their employer regarding their leave request. Businesses that employ 50 or more employees are required to provide four hours of leave to receive two doses of the vaccine and only two hours of leave for individuals receiving one dose of the vaccine.

Important Note: Exempt employers are those who provide a vaccination clinic at their work site. Employers are also required to post bulletins created by the Office of the Nevada Labor Commissioner that outline the new provisions in a visible area of the workplace.

In the amended law, such leave under the paid leave law includes, but is not limited to:

- Receiving Preventative Care or Medical Diagnosis
- Receiving treatment for a mental or physical illness or an injury or health condition
- Caregiving to a family member receiving medical diagnosis or medical care/treatment

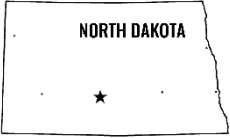
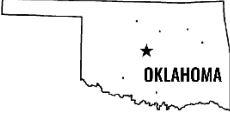

Nevada Makes Changes to Law on Noncompetition Covenants

Assembly Bill 47 was created and signed into effect modifying several provisions to the Nevada Revised Statutes (NRS) 613.195 regarding noncompetition covenants.

The first amendment prohibits employers from taking action to restrict a former employee from providing services to a former client or customer. In addition, noncompetition covenants may not apply to hourly employees exclusive of any tips or gratuities.

The law now requires the court to award attorneys' expenses to the employee in an action to challenge a noncompetition covenant if the following is found:

- Employee is paid on an hourly wage basis, or
- Employer has impermissibly taken action to restrict the employee from providing services to a former client or customer

	<p>Important Note: The bill clarifies that there is no section that should be perceived as prohibiting the court from otherwise awarding attorney's fees to a prevailing party.</p>
	<p>North Dakota Passes Law on Vaccine Documentation Effective immediately, North Dakota law prohibits private businesses from requiring customers to provide their vaccination status to enter the building. Governmental businesses have additional prohibitions as follows:</p> <ul style="list-style-type: none"> • Requiring physical or electronic documentation for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services: an individual's vaccination status; the presence of pathogens, antigens, or antibodies; or an individual's post-transmission recovery status; or • Otherwise publishing or sharing an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute. <p>It is important to note that this law does apply during a public health disaster or emergency.</p>
	<p>Oklahoma Passes New Military Leave Law, Including Notice Requirement Oklahoma has passed additional protections for the state's military personnel, known as the Oklahoma Uniformed Services Employment and Reemployment Rights Act. This Act will grant an individual leave if the following criteria have been met:</p> <ul style="list-style-type: none"> • The employer had advance written or verbal notice of the absence, unless precluded by military necessity or if the notice would be impossible or unreasonable; • The absence does not exceed five years, with exceptions; and • The worker reports back to the employer upon return. The Act sets forth various time periods during which the returning employee must notify the employer, depending on the length and nature of the employee's absence. <p>If all the above criteria is met, the employee's reinstatement to an equivalent role should be permitted, so long as the reinstatement does not cause an undue hardship to the employer.</p> <p>Per order of the Act, the employer should treat the individual returning as they would an employee returning from furlough.</p>
	<p>Oregon Amends Antidiscrimination Provision on Gender Identity Effective June 23, 2021, Oregon has amended the provision to create a stand-alone definition for "gender identity" separate from "sexual orientation."</p> <p>This amendment clarifies that gender identify is referred to when the</p>

appearance, expression, or behavior of an individual differs from that associated with the assigned gender at birth.

In addition, the amendment repeals the law prohibiting municipalities from granting special rights or treatment for those protected under "sexual orientation."

Oregon Amends Law on Reemployment Rights for Military Service Members

The current reemployment law provides employment protections for military service members and requires employers to rehire following a military leave within the five-year eligibility limit.

On September 25, 2021, the state amended its reemployment law to reflect that service members who perform certain volunteer service and have returned from military leave are exempt from the five-year eligibility limit.

In addition, the total period for which the employee is out on leave is to be excluded from the five-year limit if the duty is:

- Volunteer service overseas
- Volunteer Service within the US in response to a government-declared emergency or disaster

New Oregon Law Prohibits Employers from Requiring a Driver's License

Effective January 1, 2022, employers in Oregon cannot require proof of driver's licenses for employment purposes. The law prohibits employers from the following:

- May not require a driver's license as a condition of employment or continued employment if driving is not an essential function of the job
- May not refuse to accept an alternative identification if a driver's license is not available

Oregon Amends Predictive Scheduling Law

Oregon's [Predictive Scheduling Law](#) applies to employers that employ 500 or more employees worldwide in the retail, hospitality, and food service space. It states that employers must provide an employee's work schedule in writing.

On June 3, 2021, the law was amended to allow employees the option of identifying any changes to their availability due to childcare needs. However, the amended law does not mandate employers to approve these requests.

Oregon Prohibits Discrimination Based on Natural Hair, Hair Texture, Hair Type and Protective Hairstyles

Effective, January 1, 2022, the State of Oregon has updated its employment discrimination characteristics regarding race to include hair texture and protective hairstyles:

- Natural hair
- Hair texture
- Hair type
- Protective hairstyles
 - Hairstyle
 - Hair color
 - Braids (Including braids created with extensions or adornments), locs, twists

The amendment clarifies that employers are still permitted to enforce a valid dress code if this does not unreasonably affect members of a protected class.


Oregon Amends Law on Noncompetes


On January 1, 2022, amendments to Oregon's current noncompetition law will go into effect. Please see highlights of current law below:

- Most noncompetition agreements are considered void and unenforceable
- Organization must have a protectable interest such as trade secrets or competitively sensitive business information, or the employee has a position as an on-air talent in broadcasting
- Agreement must be provided to employee two weeks prior to start date in a written offer of employment
- Organization must provide written agreement within 30 days of termination
- Duration of noncompete not to exceed 18 months
- Terminated employee must be compensated:
 - at least 50% of yearly earnings, or
 - 50% of the median income for a family of four as determined by the Census Bureau for the duration of the agreement

The amendments to the law include the following:

- For noncompete agreements to be enforceable, employee's gross salary or compensation must exceed \$100,533 per year
- Duration of noncompete not to exceed 12 months
- Terminated employee must be compensated
 - at least 50% of yearly earnings, or
 - 50% of the \$100,533 for the duration of the agreement

	<p>Oregon Family Leave Broadened for Public Health Emergencies Effective January 1, 2022, Oregon's Family Leave Act will include additional stipulations around public health emergencies. During such emergencies, the Family Leave Act will be amended with the following:</p> <ul style="list-style-type: none"> • Time served with company for eligibility will go drop from 180 days to 30 days. • Coverage for eligible employees will be extended if they no longer have childcare due to such emergencies. <p>The amended law safeguards eligibility for those employees who experience a break in service due to such emergencies.</p> <p>Important Note: Any leave taken within the year will continue to count toward the 180-day threshold.</p> <p>In addition, the law also permits employees to take leave due to school or childcare provider closures because of a public health emergency. Employers do not need to request medical documentation for verification purposes; however, they may request the child's name, and the name of the school or childcare provider. The employee may also provide a letter stating no other family member is able to care for the child.</p>
	<p>Texas Prohibits Vaccine Passports Governmental entities are now prohibited from issuing a vaccination passport with COVID-19 immunization status. The law also states that businesses can no longer require proof of vaccination status from their customers.</p> <p>New Texas Law Provides Immunity from Certain COVID-19-Related Claims Texas grants immunity to businesses and persons who have been allegedly accused of exposing another person to the COVID-19 virus.</p> <p>It is important to note that immunity will not be granted for those who have blatantly ignored standards and guidance that have previously been put forth by the government. Individuals who have been reckless and egregious in their actions will not be granted immunity.</p> <p>Arlington, Texas, Passes Antidiscrimination Ordinance The Antidiscrimination Ordinance took effect on July 1, 2021. Employers who employ 15 or more employees are subject to this ordinance, which states that any of the following adverse actions cannot take place solely based on race, color, national origin, age, religion, sex, disability, sexual orientation, or gender identity:</p> <ul style="list-style-type: none"> • Fail or refuse to hire, or to discharge, any person; • Discriminate against any person with respect to compensation or

	<p>the terms, conditions, or privileges of employment; or</p> <ul style="list-style-type: none"> • Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee. <p>Texas Amends Data Security Breach Notification Law Effective September 1, 2021, the attorney general must be notified of any data breach that affects 250 or more people. The notification should include the following:</p> <ul style="list-style-type: none"> • A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach; • The number of residents affected by the breach at the time of notification; • The measures taken by the entity regarding the breach; • Any measures the entity intends to take regarding the breach after the notification; and • Information regarding whether law enforcement is engaged in investigating the breach.
	<p>Charleston, West Virginia, Prohibits Discrimination Based on Hair Textures and Hairstyles The definition of discrimination in Charleston, West Virginia, has been expanded to include protective hairstyles. Protective hairstyles include braids, locs, twists, and any other culturally driven hairstyle. Discrimination based on these hairstyles is strictly prohibited.</p>

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