



HR, Benefits and Payroll Compliance Monthly Roundup: August 2021



DOL Proposes Rule to Increase Wages for Federal Contractors

The U.S. Department of Labor (DOL) proposed a rule that responds to President Biden's [executive order](#) from April 2021. The rule will increase the minimum wage for federally contracted employees to \$15 per hour starting January 30, 2022. Additionally, tipped federally contracted employees will have their wages increased to \$10.50 per hour.

The rule further explains that there will be adjustments starting January 1, 2023, that will address inflation concerns. Details were published in the July 22 version of the Federal Register. The public was invited to submit commentary on this rule through August 21, 2021.

President Biden Issues Executive Order

On July 9, 2021, President Biden issued the [Executive Order on Promoting Competition in the American Economy](#). It is important to note that under this executive order, noncompete agreements are currently *not* illegal.

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Biden is challenging the Federal Trade Commission (FTC) to explore their options to either heavily limit the use of or ban the use of noncompete agreements.

President Biden's order established the White House Competition Council to coordinate the White House response to anticompetitive behavior. Unlike other challenges the FTC has faced on this topic in prior years, the birth of the White House Competition Council gives them a new level of accountability to live up to. The Council will be promoting a set of initiatives that will align with Biden's campaign promises. Details on these initiatives are still to come.

The following are additional issues that will be addressed by the order:

- Prescription drug prices
- Internet billing and termination practices
- Airline refunds and cost comparison practices
- Facilitating the mobility of banking transaction data
- Increasing opportunities for small businesses by directing all federal agencies to promote greater competition through their procurement and spending decisions

There are two large issues that come with this order. One is a substantial constitutional issue. Some are stating that the order is an overstatement of executive authority and believe that it breaches the basis of the legislature. The second is the amount of federalism and state rights that will need to be revised if the FTC comes back with the resolution to heavily limit or ban the use of noncompete agreements. President Biden is adamant that he will continue to work with the FTC and other applicable agencies to find a common ground resolution that will make a positive impact on our economy.

EEOC Extends Deadline for Filing 2019 & 2020 EEO-1 Data Collection

On August 19, 2021, the U.S. Equal Employment Opportunity Commission (EEOC) announced employers will now have extra time to submit their 2019 and 2020 EEO-1 workforce data.

Under Title VII of the Civil Rights Act, the EEO-1 is usually due by March 31 of each year. Because of the coronavirus pandemic, however, EEO-1 reporting was delayed numerous times, with the EEOC portal officially

	<p>opening on April 26, 2021. Recognizing the continued impact the pandemic has had on business operations, the EEOC has extended the submission deadline a third time. The new filing deadline is now Monday, October 23, 2021.</p> <p>If you are interested in outsourcing the preparation and submission of your company's EEO-1 data, please email us.</p> <p>DOL Updates Model Employer CHIP Notice</p> <p>Children's Health Insurance Program (CHIP) offers health coverage to families who do not qualify for Medicaid. The Department of Labor has released a notice that provides all relevant information around CHIP. Affected employers are those who operate in a state that offers the CHIP benefit. These employers are mandated to provide this notice to their employees annually.</p>
	<p>Arizona Amends Anti-Discrimination Law to Prohibit Pregnancy Discrimination</p> <p>Effective August 27, 2021, Arizona's discrimination law will be amended to include pregnancy as a protected class. This includes women who are pregnant, have given birth, or are suffering from a pregnancy-related medical condition.</p>
	<p>California Issues Vaccine Mandate</p> <p>California has mandated that state and healthcare workers must be vaccinated against the COVID-19 virus. Individuals must prove they are vaccinated, or they will be required to undergo COVID-19 testing on a regular basis. The mandate covers both paid employees as well as volunteer workers. All employers must comply by September 30, 2021.</p> <p>Individuals seeking a medical or religious exemption must provide a formal refusal in writing with supporting evidence to their claim. Those looking for a medical exemption must have their formal refusal signed by a licensed physician.</p>



Connecticut Law Prohibits Employers from Inquiring About Applicants' Age or Graduation Date

Connecticut has expanded its fair employment law to encompass additional segments of discrimination. This new law, which applies to employers with three or more employees, takes effect on October 1, 2021. To read our full summary, see our [e-Alert: New Connecticut Law Bands Inquiries about Applicants' Age or Graduation Date](#).

Connecticut Legalizes Recreational Marijuana, Including Employment-Related Protections

The [Responsible and Equitable Regulation of Adult-Use Cannabis Act](#) will take effect on October 1, 2021. The Act legalizes recreational marijuana and outlines the impact on employers. To read our full summary, see our [e-Alert: Connecticut Legalizes Recreational Marijuana, Including Employment-Related Protections](#).

Connecticut Amends Lactation Accommodation Law

Effective October 1, 2021, employers will have additional responsibilities to support lactating and nursing mothers in their workforce. To read our full summary, see our [e-Alert: Connecticut Amends Lactation Accommodation Law](#).

Connecticut Places New Recall and Retention Obligations on Certain Businesses in the Hospitality Industry

Connecticut signed a new law that went into effect immediately, called [An Act Requiring Employers to Recall Certain Laid-Off Workers in Order of Seniority](#). The Act provides specific mandates for businesses in the hospitality industry to recall their laid-off employees by seniority so long as the employee is qualified for the available position.

Hotels, lodging houses, food service contractors, and building services enterprises are covered under the Act. A laid-off employee must meet both of the following criteria:

1. Employed for six out of 12 months prior to March 10, 2020.
2. Layoff was activated between March 10, 2020, and May 1, 2022, and the reason for their layoff was due to lack of business, reduction

in force, or furlough because of the COVID-19 pandemic.

Businesses must provide written notice to qualified employees within five days of posting the open position. Written notice is deemed sufficient when sent via mail, email, or text message. If the laid-off employee is not qualified for the open position, the employer must provide written documentation to the employee with their reasoning.

The Act comes with robust employee protections. Employers are prohibited from retaliating against employees who exercise their rights under this act.

Connecticut Creates New Cybersecurity Framework Affirmative Defense to Data Security Breach Claims

Effective October 1, 2021, businesses that maintain, access, or communicate data will no longer be held liable for data breaches if they comply with a combination of one or more of the following safeguards:

- The [Framework for Improving Critical Infrastructure Substitute House Bill No. 6607 Public Act No. 21-119 4 of 6 Cybersecurity](#), published by the National Institute of Standards and Technology;
- The [National Institute of Standards and Technology's special publication 800-171](#);
- The [National Institute of Standards and Technology's special publications 800-53 and 800-53a](#);
- The Federal Risk and Management Program's "[FedRAMP Security Assessment Framework](#)";
- The Center for Internet Security's "[Center for Internet Security Critical Security Controls for Effective Cyber Defense](#)"; or
- The "[ISO/IEC 27000-series](#)" information security standards published by the International Organization for Standardization and the International Electrotechnical Commission.

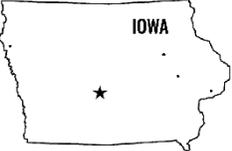
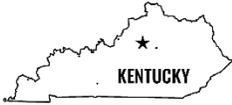
If any of the above safeguards are amended, businesses have six months to adjust their practices to comply with the updates.

Connecticut Creates Exception for Harassment Training Requirement

Effective October 1, 2021, Connecticut's sexual harassment training requirements will be amended. Employers must provide mandatory sexual harassment to their employees within six months of their hire date. The

	<p>amendment states that if an employee received compliance training from another employer within the past two years, they are not required to go through the training again.</p> <p>The amendment also extends that statute of limitations from 180 to 300 days to file a complaint of sexual harassment against the offender. This only takes effect for alleged offenses that occur on or after the effective date of October 1, 2021.</p>
	<p>Delaware Increases Minimum Wage Rate to \$15 Per Hour</p> <p>Delaware will be enacting a tiered approach to increase their minimum wage up to \$15.00 per hour by January 1, 2025:</p> <ul style="list-style-type: none"> • \$9.25 per hour until January 1, 2022 • \$10.50 per hour on January 1, 2022 • \$11.75 per hour on January 1, 2023 • \$13.25 per hour on January 1, 2024 • \$15.00 per hour on January 1, 2025 <p>There is no mention of increases for tipped workers. The wage rate for tipped workers will remain at \$2.23 per hour.</p>
	<p>District of Columbia Extends Emergency COVID-19 Measure</p> <p>Washington, D.C. extends all provisions of the Coronavirus Support Congressional Review Emergency Amendment Act of 2020. The Act was originally implemented to help both employees and businesses through the economic impact of COVID-19. The Act is being extended 90 days past the original expiration date of June 15, 2021.</p> <p>District of Columbia Mandates Vaccines for Employees, Interns, Contractors, and Grantees</p> <p>All state employees, interns, contractors, and grantees must be vaccinated against the COVID-19 virus by September 19, 2021. This comes after Mayor Muriel Bowser issued Order 2021-099. The order explains that if a contractor or grantee works off-site for the District of Columbia, they are exempt from the vaccine mandate. An employee may be exempt from the mandate if they agree to wear a face covering while at work, and meet one of the following declarations:</p> <ol style="list-style-type: none"> 1. The employee has a good-faith objection that the vaccination would violate their sincerely held religious beliefs. 2. The employee has obtained and submitted a certification from a

	<p>licensed health professional that the vaccination is medically inadvisable due to their medical condition.</p> <p>3. The employee agrees to be tested weekly for COVID-19.</p>
	<p>Cook County, Illinois, Passes Ordinance Requiring Paid Leave for COVID-19 Vaccination</p> <p>Effective July 1, 2021, employers are prohibited from discouraging employees to get their COVID-19 vaccine during their regularly scheduled workday. Employers must allow their employees the option to use their accrued vacation and/or sick time to receive payment for their time away from work during these scenarios. Employees are not responsible for finding coverage for their shift when taking time off to receive their vaccination.</p> <p>Employers who are requiring vaccinations for their employees must provide at least four hours of paid leave per injection. In this scenario, the employer cannot mandate that the employee use their own accrued vacation and/or sick time.</p> <p>Chicago Amends Paid Sick Leave Ordinance</p> <p>Effective August 1, 2021, Chicago has made amendments to its paid sick leave ordinance, expanding the covered reasons for taking paid sick leave and creating new wage theft protections. To read our full summary, see our e-Alert: Chicago Paid Sick Leave Expanded.</p> <p>Illinois Amends Artificial Intelligence Video Interview Act to Require Reporting of Demographic Information</p> <p>Effective, January 1, 2022, employers who conduct initial interviews using an artificial intelligence video platform, are now required to include demographics reporting. Employers must report on race and ethnicity for those who move forward, as well as for those who do not move forward, in the interview process. The information is to be reported to the Department of Commerce and Economic Opportunity annually.</p> <p>Illinois Law Requires Equal Pay Registration Certificate</p> <p>The Equal Pay Act of 2003 requires all employers with over 100 employees to implement pay equity practices for their workforce. The new law requires these employers to file for an Equal Pay Registration Certificate from the Illinois Department of Labor (DOL). For businesses in operation before March 23, 2021, certificates are to be obtained between March 24, 2022, and March 23, 2024. For businesses that began operating after</p>

	<p>March 23, 2021, certificates must be obtained between January 1, 2024, and the third anniversary of the business's commencement. All businesses must apply for recertification every two years. The following information must accompany the application:</p> <ul style="list-style-type: none"> • A copy of the EEO-1 filed with the EEOC • A list of all employees working over the past calendar year, separated by gender, race, and ethnicity • The county in which the employee works • The date the employee started with the business • Any additional information deemed necessary to determine if pay equity exists • An equal pay compliance statement signed by an authorized agent of the business <p>The Illinois DOL has 45 days from the date of submission to respond to the employer. Employers who violate the Act, or are found to have provided false information, will be subject to a fine of up to \$10,000 per employee in question.</p>
	<p>Iowa Supreme Court Clarifies Requirements for Employee Drug Testing</p> <p>Employers now have more clarity on Iowa's drug testing requirements after the Supreme Court rulings of Dix v. Casey's General Stores, Inc and Woods v. Charles Gabus Ford, Inc cases were published on June 25, 2021. Employers will want to ensure that they are testing their workforce based on the refined definition of "safety-sensitive positions."</p> <ul style="list-style-type: none"> • "Safety-sensitive positions" are defined as those where an accident could cause loss of life, critical bodily injury, substantial property damage, or substantial environmental damage. Supervisory roles for such positions are also included within the definition of "safety-sensitive positions." <p>Employers who have an employee test positive during a testing event are required to provide the employee notice of the positive test. This notice must include the cost of the confirmatory test, for which the employee is responsible.</p> <p>Iowa's Supreme Court ruled that although employers have certain graces for human error, employees are still permitted to submit a claim if they feel as though their rights within Section 730.5 have been violated.</p>
	<p>Louisville, Kentucky, Amends Antidiscrimination Ordinance</p> <p>The antidiscrimination ordinance in Louisville, Kentucky, has been amended to clarify the following:</p> <ul style="list-style-type: none"> • Unwanted touching, including the touching of someone's hair, is

	<p>considered discrimination.</p> <ul style="list-style-type: none"> • The term “National Origin” is defined as the individual's birth country, or where the individual's ancestors are from. • The term “protective hairstyles” includes natural texture; color of hair; and hairstyles including, but not limited to, braids, locs, twists, and coverings.
	<p>Louisiana Amends Law on Pregnancy Leave and Adopts New Pregnancy Accommodation Requirement</p> <p>Prior to December 1, 2021, employers must provide a written notice informing their workforce of the revised pregnancy leave law. The following provisions have been added to the law:</p> <ul style="list-style-type: none"> • Pregnancy-related medical conditions do not need further explanation to qualify as a disability. • Reasonable amount of time off due to pregnancy is set at a minimum of six weeks unless otherwise stated by a doctor. This time can be supplemented by any accrued leave but cannot surpass four months. • Employers are prohibited from refusing to make reasonable accommodations for pregnant employees. The only exception to this is when the accommodation presents undue hardship on the employer. The law references and aligns with the Americans with Disabilities Act for a list of reasonable accommodations and exceptions of undue hardship. • Employers are prohibited from denying employment opportunities to employees or applicants who are pregnant or have a pregnancy-related medical condition. • Employers cannot force an employee or applicant to accept an accommodation if it does not pertain to the employee or applicant's essential job functions and/or the employee or applicant does not request the accommodation. • Employers cannot mandate leave for an employee in place of a reasonable accommodation. • Employers are prohibited from taking adverse action against employees who are pregnant or have a pregnancy-related medical condition. • The law has removed the provision that prohibited employers from moving pregnant employees into a less strenuous or less hazardous position should the employee request such an accommodation.

	<p>Louisiana Law Addresses Income Taxation of Mobile Workers</p> <p>Louisiana revised its income tax laws to account for the growing number of remote workers in the state. The law allows a nonresident individual to do business within the State of Louisiana for 25 days before they are subject to state income tax.</p> <p>Employers do not need to withhold income tax until the individual has surpassed this time frame. If the individual works past 25 days, the employer is required to withhold state income tax in retro to the first day the individual performed work within the state.</p> <p>Employers will not be held accountable for failure to withhold income tax if one of the following scenarios applies:</p> <ul style="list-style-type: none"> ○ When the employer relies on data retained from a time and attendance system designed to allocate employee wages for income tax purposes across all taxing jurisdictions. ○ When the employer does not maintain a time and attendance system but relies on either regularly maintained records of the employee's location or the employee's control of the time they are expected to spend performing duties in the state. This provision is operating under the assumption that the employer did not conspire with the employee to commit income tax fraud. <p>Positions that are exempt from this law include professional athletes, staff members of professional athletic teams, professional entertainers, public figures, or qualified production employees.</p>
	<p>Maine Expands Family and Medical Leave to Allow Leave to Care for Grandchildren</p> <p>The Family and Medical Leave law in Maine has been amended to allow employees to take a leave to care for grandchildren with serious health conditions, effective September 15, 2021. To read our full summary, see our e-Alert: Maine Expands Family and Medical Leave to Care for Grandchildren.</p> <p>Maine Amends Human Rights Act to Prohibit Discrimination Based on Familial Status and Gender Identity</p> <p>Effective September 15, 2021, Maine's Human Rights Act will be amended to prohibit discrimination based on gender identity or familial status.</p>

Employers are prohibited from:

- Asking or attempting to ask for information directly or indirectly pertaining to gender identity or familial status,
- Making or keeping record of gender identity or familial status,
- Using any form of application with questions directly or indirectly pertaining to gender identity or familial status,
- Printing or publishing any notice or advertisement relating to employment indicating employer preference based on gender identity or familial status, or
- Establishing a policy that prevents employment opportunities of any group because of gender identity or familial status.

The amended law also prohibits employers from refusing to hire an individual based on a mental or physical disability. This is further clarified by stating that the disability may not hinder one's ability to perform the essential duties within the position.

Lastly, the amended law encompasses gender identity and age as additional segments of discrimination in reference to places of public accommodation.

Maine Amends Law on Wage Deductions to Recover Overcompensation

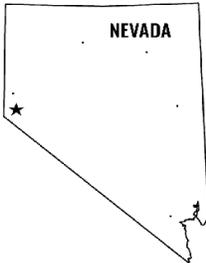
Effective October 18, 2021, employers who find they overpaid an employee may only recoup 5% of the employee's next scheduled earnings to offset the overpayment. If the employee resigns from their position, the employer may recoup 100% of the overpayment from the employee's final earnings. If an employer finds an overpayment that is more than three years old, the employer may only recoup the exact amount of the overpayment.

The law was amended to include paid leave as one of the types of compensation that should not be considered when auditing potential overpayments.

Maine Amends Direct Deposit and Service Employee Laws

Effective October 18, 2021, employers in the State of Maine will be prohibited from charging their employees a fee when opting to receive their paycheck via direct deposit.

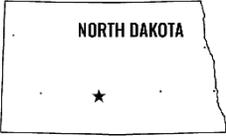
	<p>Maine also amended their service worker minimum wage to be 50% of the state's minimum wage. Maine's minimum wage is currently \$12.15 per hour, making the minimum wage for service workers \$6.08 per hour. A service worker is one who is regularly receiving at least \$30 in tips per month. This monthly minimum will move to \$100 per month effective January 1, 2022, and then to \$175 per month effective January 1, 2023.</p>
	<p>Minnesota Amends Employment Discrimination Law</p> <p>The employment discrimination law prohibits discrimination based on protected characteristics including race, color, creed, national origin, marital status, disability, sexual orientation, age, and public assistance status. The amended law adds familial status to the list of protected classes.</p> <p>In addition, employers with more than 15 employees must engage in an interactive process with qualified individuals who seek an accommodation due to a disability. This process must identify any barriers and reasonable accommodations to assist with limitations if it does not result in an undue hardship on the business.</p> <p>Duluth, Minnesota, Amends Paid Sick and Safe Leave Law</p> <p>Effective August 19, 2021, the paid sick and safe leave law has been amended to expand on eligibility requirements. Employees will be eligible to:</p> <ul style="list-style-type: none"> • Use leave due to lost work hours when workplace closes due to public health reasons. • Use leave for preexisting medical condition or health conditions as well as preventative care and reasons related to domestic abuse, sexual assault, or stalking. <p>If an employee handbook is maintained, a copy of the paid sick and safe leave law, or equivalent paid leave benefit policy, must be included. Employers must either display or distribute the city-created poster notice , advising employees of their rights under the ordinance.</p> <p>Minnesota Requires Pay for Lactation Breaks and Amends Laws on Pregnancy Accommodation</p> <p>Employers are now required to provide employees with paid lactation breaks in addition to allowing reasonable break times each day for one</p>

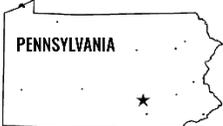
	<p>year following the birth of a child.</p> <p>On January 1, 2022, the current pregnancy accommodation requirement will be included in the law on lactation. The new amendment includes all prior requirements with the two following exceptions:</p> <ul style="list-style-type: none"> • Law applies to employers with 15 or more employees • Eligibility requirements such as tenure and hours worked within one year no longer apply
	<p>Domestic Violence Leave for Missouri Workers Enacted</p> <p>On August 28, 2021, employers with between 20 – 49 employees must provide one week of unpaid leave, and employers with 50 or more employees must provide two weeks of unpaid leave for workers or family members who are domestic violence victims. Leave can be intermittent or on a reduced-schedule basis.</p> <p>Eligible reasons for taking a leave due to domestic violence are as follows:</p> <ul style="list-style-type: none"> • Seeking legal assistance • Safety planning • Mental health services including counseling • Obtaining service from victim services organization • Seeking medical and/or psychological attention <p>Employers must post a notice of the Domestic Violence Leave by October 27, 2021. Employees, when reasonable, must provide 48 hours' notice and employers may require documentation certification such as a police report or supporting evidence if retained in the strictest confidence. This leave is job protected and benefits must be continued during the leave.</p>
	<p>Nevada Amends Provisions on Child Support Withholding from Lump Sum Payments</p> <p>The state has amended its provisions on withholding income for child support payments. If an employer receives a notice from an obligor-employee with a request for withholding of a lump sum payment over \$150, the enforcing authority must be notified via a form supplied by the Division of Welfare and Supportive Services. Lump sum payments cover the following:</p> <ul style="list-style-type: none"> • One-time or irregular payments • Certain types of bonuses, profit sharing, termination pay, severance pay, awards, and relocation payments

	<p>The enforcing authority will then provide the employer with written notice from the division office with the exact amount to be withheld and delivered to the enforcing authority by mail or electronically.</p> <p>The employer cannot release the lump sum payment prior to the date listed on the form. Courts are permitted to impose penalties on employers that fail to withhold payments.</p>
	<p>New Jersey Temporarily Expands Summer Work Hours for Minors</p> <p>New Jersey minors between 16 and 18 years of age may now, until September 6, 2021, work up to 50 hours per week if they have written permission from a parent or legal guardian and possess an employment certificate. This temporary amendment expires on September 6, 2021.</p> <p>Generally, minors may not work more than 40 hours per week, 8 hours per day, more than 6 days in a row, or before 6 am or after 11 pm. The rate of pay is at the employer's discretion, except in food service where the minimum wage applies. Some work, such as operating machinery, is prohibited.</p> <p>New Jersey Passes Package of Bills Aimed at Employee Misclassification</p> <p>Governor Phil Murphy signed a package of bills that expands the power of the Department of Labor and Workforce Development (DOLWD) to enforce state wage, benefit, and tax laws, and enhances penalties for employers that misclassify their workers as independent contractors.</p> <p>Bill A-5890/S3920 – effective immediately:</p> <ul style="list-style-type: none"> • This law empowers the labor commissioners to seek a superior court injunction to prevent ongoing violations of state wage, benefit, and tax laws. • If the court injunction is successful, the commissioner would be entitled to collect attorneys' fees and litigation costs as a prevailing party. • This new law gives all the power to the commissioner, giving that individual the discretion to choose to bypass the Office of Administrative Law (AOL) by going straight to court. • From an employer standpoint, an injunction in court provides limited time to prepare. The hearing could result in immediate or temporary suspension of Company operations until the Company

	<p>has transitioned its business operations from an independent contractor to an employment-based model.</p> <ul style="list-style-type: none"> • The commissioner is also allowed to issue a stop-work order for one or more worksites, or across all employers' worksites, when an employer commits a violation of a state wage, benefit, or tax law. • The stop-work orders can remain in effect until the commissioner finds the employer has come into compliance and paid any penalties that may have arisen. • Employees that are impacted by a stop-work order are entitled to be paid for the first 10 days of work lost because of the stop-work order. If an employer does not pay the worker the requested wages, the commissioner can take the legal action necessary to collect the wages. <p>Bill A-5891/S3921</p> <ul style="list-style-type: none"> • This bill creates the "Office of Strategic Enforcement and Compliance" within the DOLWD. This group will oversee and coordinate across the divisions of the department and enforce state wage, benefit, and tax laws. <p>Bill A-5892/S3922</p> <ul style="list-style-type: none"> • This bill makes misclassifying employees a violation against the New Jersey Insurance Fraud Prevention Act (NJIFPA) if the employer is trying to avoid paying insurance premiums. • Under the NJIFPA, the commissioner of the Department of Banking and Insurance may either: <ul style="list-style-type: none"> ○ Bring a civil action or ○ Levy a civil administrative penalty and order restitution if the commissioner determines that a person has committed insurance fraud. • The bill allows the Bureau of Fraud Deterrence and the insurance fraud prosecutor to consult with the DOLWD to assist with their investigation for failure to properly classify employees. • Penalties for fraud involving misclassification are: <ul style="list-style-type: none"> ○ \$5,000 for the first violation ○ \$10,000 for the second violation ○ \$15,000 for each subsequent violation
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	<p>NY DOL Publishes its Airborne Infectious Disease Exposure Prevention Plan in Accordance with the NY HERO Act</p> <p>The State of New York has created amendments to the recently passed Health and Essential Rights Act (HERO) requiring employers to publish a model airborne infectious disease exposure plan in the workplace. To read our full summary, see our e-Alert: New York Amends Hero Act – Adds Timeline for Infectious Disease Prevention Plans.</p>
	<p>New Hampshire Adopts Voluntary Granite State Paid Family Leave Plan</p> <p>New Hampshire announced the Granite State Paid Family Leave Plan, the state's new paid family medical leave program, anticipated to take effect on January 1, 2023. To read our full summary, see our e-Alert: New Hampshire Passes Paid Family and Medical Leave.</p> <p>New Hampshire Passes Law on Government Vaccine Mandates</p> <p>The law prohibits state and local government entities from mandating immunizations. However, this law does not supersede vaccination requirements for admission to places such as schools, hospitals, and nursing homes or wherever a direct threat of transmission exists.</p> <p>New Hampshire Adopts New Tipped Employee Wage Rate</p> <p>The base rate for tipped employees has been increased to \$3.27 per hour. State law allows employers to pay less than the minimum wage, as it is assumed that tipped employees will make up for the remaining wages in tips. If the combination of the two wage types are not equal to the minimum wage, employers must subsidize the gap. Any regular duties performed defined as nontipped work must be paid out at minimum wage.</p> <p>Tipped employees are individuals working in hospitality or restaurant settings who traditionally receive more than \$30 in tips per month directly from patrons.</p>
	<p>North Carolina Amends Wage Payment Requirements</p> <p>The wage payment provisions have been updated to include employee final separation pay and wage notification requirements.</p> <p>Terminated employees must receive final pay on the date of separation or prior to the next payday. The amendment clarifies that employers may</p>

	<p>give terminated employees the option to deliver final pay through traditional pay channels or by mail if a written request is received.</p> <p>Employers must notify new hires of promised wages in addition to the day and place of payment at the time of hire. Employers are prohibited from providing verbal notice and need to notify employees of any promised wage changes at least one pay period in advance of the change.</p> <p>Raleigh, North Carolina, Passes Ordinance Prohibiting Discrimination Based on Certain Hair Texture or Hairstyles</p> <p>Employment discrimination in Raleigh, North Carolina, has been amended to expand their protected classes to include age, disability, sex, religion, race, color, sexual origination, gender identity or expression, familial or marital status, economic status, veteran status, or national origin. Discrimination against any of these protected classes is strictly prohibited.</p> <p>The amendment clarifies that discrimination based on race or origin includes hair texture or hairstyle associated with a protected class, including, but not limited to, braids, twists, locs, cornrows, tight coils or curls, Bantu knots, and afros.</p>
	<p>North Dakota Preempts Local Paid Family Leave Laws</p> <p>Political subdivisions are now prohibited under state law from enacting or enforcing employer mandates if they exceed federal and state law requirements. This law does not include public employers, only an employee that does business in the state. Paid family leave refers to benefits that allow employees to take time off due to pregnancy or caring for a family member.</p>
	<p>Oregon Amends Predictive Scheduling Law</p> <p>Employees are now able to identify any limitations or changes in scheduling availability and can request not to be scheduled for certain work shifts or work locations. The amendment allows employees to identify childcare as a reason for scheduling adjustments.</p> <p>This applies to employers in the retail, hospitality, and food services industries with over 500 employees.</p> <p>Oregon Amends “Addressing COVID-19 Workplace Risks” Final Rule</p> <p>The Oregon Occupational Safety and Health Administration (OR-OSHA)</p>

	<p>has amended a final rule regarding safety mandates such as physical distancing and mask wearing in the workplace. Employers no longer need to require employees to physically distance or wear masks except in a public transit or healthcare environment. In addition, employers no longer need to supply masks, but must allow employees to wear a mask if they choose to do so.</p> <p>The “It’s the Law” poster must be posted in a central area visible to employees and signs must be posted in areas where employers may require masks or facial coverings.</p> <p>Veterinary clinics, transit agencies, and emergency medical service providers must abide by industry-specific requirements, all others are exempt.</p> <p>Oregon Delays Implementation of Paid Family and Medical Leave</p> <p>The Paid Family and Medical Leave (PFML) program launch date has been delayed due to the impact of the pandemic on the agency administering unemployment benefits. Employer and employee contributions will start on January 1, 2023; benefit payments on September 3, 2023; and employer grants on June 30, 2023.</p> <p>Employees who take a family, medical, or safety-related leave will be provided cash benefits through the PFML. Employers with over 25 employees will contribute 40% while employees contribute 60%.</p>
	<p>Pennsylvania Amends Leave and Discrimination Protections for National Guard Members</p> <p>Currently, members of the armed services and National Guard are entitled to a leave of absence due to being called out to special or active duty. Health insurance and other benefits remain active for a certain time frame, and when a member returns, they must be restored to a former or similar position.</p> <p>The amendment extends these rights to an individual who is a member of a National Guard or reserve component from out of state. Discrimination or retaliation based on a service member taking a leave is strictly prohibited.</p> <p>Pittsburgh, Pennsylvania, Enacts Another Emergency Paid Sick Leave Ordinance</p>

Employers with over 50 employees are now required to provide [temporary COVID-19 emergency paid sick leave](#) to full-time and part-time employees. Full-time employees will receive 80 hours and part-time employees will receive a proportional amount. This new law, titled 626B, will replace 626A that is effective through July 27, 2022, and will contain the following changes:

- It does not contain one-week grace period to use leave once the emergency ends
- It includes employee and/or family member's need to obtain vaccine or vaccine booster
- The designation "COVID-19" references the virus and any of its variants

Employers will need to provide a new bank of leave since this is a separate ordinance and cannot offset leave taken under the original 626A law. Businesses with over 499 employees should review federal tax credits if any are available through September 30, 2021, to offset leave costs.

Pittsburgh Passes New COVID-19 Paid Employee Leave Requirement

This new ordinance expands on the requirements of [employee paid leave for COVID-19-related](#) reasons and will expire on June 29, 2022.

Employers with 50 or more employees must provide 80 hours of paid sick time. Employees may use this sick time if they or a family member requires care due to illness, exposure, or vaccination related to COVID-19.

This extends to both on-site and remote workers and the ordinance will cover employees who:

- Have been employed more than 90 days
- Worked in Pittsburgh after July 29, 2021
- Normally work in Pittsburgh, but now work remotely due to the pandemic
- Work in multiple locations if 51% or more of the employee's time is spent in Pittsburgh

This leave is in addition to other laves and can be used immediately upon hire. Discrimination or retaliation for using leave is prohibited.

Pennsylvania Repeals Salary Threshold Increase for Overtime Exemptions

The General Assembly repealed an overtime rule that increased the

minimum salary threshold for exempt executive, administrative, and professional (EAP) employees to \$780 per week in 2021 and \$875 per week in 2022. For employers to qualify for exemptions to paying out overtime, EAP employees must also meet minimum job duty requirements as well as any other term or condition stated in the exemption.

Employers are no longer required to review or adjust salary levels of qualified EAP employees who meet the exception thresholds. The minimum salary requirement of \$684 per week will remain in place.

Pennsylvania Repeals Rule Increasing Salary Threshold for White Collar Exemption and Restores State Law Exemptions to 1968 FLSA Standards

During recent budget negotiations, the state repealed the minimum salary threshold rule for executive, administrative, and professional (EAP) employees to qualify as exempt under the minimum wage act.

Threshold increases were originally approved and started at \$684 on October 3, 2020, were set to increase to \$875 by 2022, and would increase 10% every three years thereafter.

The repeal restores regulations for qualifying an EAP employee to pre-2020 iterations in alignment with FLSA statutes. Exemptions are again subject to the following standards:

- Executive salaried employees earning more than \$150 weekly whose primary duty consists of enterprise management and who oversee the work of at least two employees
- Administrative salaried employees earning more than \$150 weekly if their primary duties consist of nonmanual work related to business policies or operations and they supervise at least two employees
- Professional salaried employees earning more than \$150 weekly if their primary duties require specific advanced knowledge in a field of science or learning — and their duties also require consistent exercise in judgment, invention, imagination, or recognized artistic endeavor

	<p>Rhode Island Expands Temporary Caregiver Benefits</p> <p>Effective January 1, 2022, Rhode Island will extend its Temporary Caregiver Insurance from four weeks to five weeks. The benefit will be further extended to cover six weeks the following year, January 1, 2023. To read our full summary, see our e-Alert: Rhode Island Expands Temporary Caregiver Benefits.</p> <p>Rhode Island Passes Gender Inclusive Restroom Act</p> <p>This Act requires places of public accommodation to designate single-toilet restrooms for use by any gender by January 1, 2023. The restroom must be available for use by no more than one occupant unless it is a family or assisted use facility.</p> <p>Rhode Island Expands Protections Under Whistleblowers Protection Act</p> <p>The amended law prohibits employers from reporting or threatening to report an employee's or prospective employee's immigration status because they engaged in whistleblowing or any protected conduct.</p> <p>Covered individuals include, but not limited to, job applicants and at-will, contract, and independent contractor employees.</p> <p>Employers are required to post a notice of rights that all employees can easily access in all languages known throughout the workplace.</p>
	<p>Washington Issues Vaccine Mandate</p> <p>Washington issued Proclamation 21-14, which mandates COVID-19 vaccines for state workers and healthcare employees. Employers have until October 18, 2021, to have all applicable employees vaccinated. If individuals do not get vaccinated by this date, they will be dismissed from their position.</p> <p>Individuals seeking a medical exemption must provide written request for an accommodation with supporting documentation from their healthcare practitioner. Individuals seeking a religious accommodation must provide a written statement on how the requirement conflicts with their religious practices and beliefs.</p>

Washington Adopts Emergency Rule on COVID-19 and Compliance with Conditions for Operations

This new rule expiring November 3, 2021, prohibits employees from performing duties when business activity is suspended due to an emergency proclamation. Employers must comply with the proclamation amendments and conditions including reopening and industry-specific requirements to legally operate.

New Seattle Ordinance Establishes Labor Standards Requirements for Independent Contractors

This ordinance establishes guidelines for Hiring Entities that contract with Independent Contractors including workers who use online-enabled applications to connect with customers.

Covered independent contractors include:

- Individuals who work solely or partially in the city where the hiring entity knows the work is performed
- Individuals who perform services for the hiring entity's business or commercial activity
- Total compensation for these services is over \$600 per calendar year.

Employers are required to post a notice or provide independent contractors access to [a](#) notice that includes pre-contract, timing and, payment, notice of rights, recordkeeping, and retaliation and enforcement disclosures.



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