



HR, Benefits and Payroll Compliance Monthly Roundup: September 2021



OSHA to Mandate Vaccine and Testing for COVID-19

President Biden's [Path Out of the Pandemic](#) is an emergency temporary standard (ETS) that focuses on COVID-19 vaccine mandates for certain employers. Private employers who hold a federal contract or have 100 or more employees will be required to mandate COVID-19 vaccinations for their employees. Employees who are not vaccinated will be subject to weekly testing for the virus.

It is important to note that although the President is expected to sign the ETS, it has not yet been implemented.

COBRA Subsidy Expiration Notice

The American Rescue Plan Act (ARPA) requires plans to notify members who are enrolled in COBRA that their subsidy is expiring. [This notice](#) is set to come 15 – 45 days before the subsidy is due to expire. Should a

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).

member find health care coverage elsewhere prior to expiration, the plan does not need to meet this notification requirement.

DOL Extends Rescission Date for Joint Employer Rule to October 5, 2021

Earlier in July, the U.S. Department of Labor (DOL) had announced they would be rescinding the 2020 Joint Employer Determination Rule effective September 27, 2021. However, the Department of Labor (DOL) has pushed back the rescission date to October 5, 2021. Joint employers will be collectively and individually responsible for compliance with labor and employment laws as they relate to the Fair Labor Standards Act (FLSA).

Proposed Rule Would Expand Electronic Filing Requirement

The IRS has proposed a [new rule](#) that would require companies who file multiple compliance reports, to do so in an electronic format. Electronic filing will be required for the companies who file 10 or more reports of the following:

- Companies that file 100 or more returns in 2022, and 10 or more returns for preceding years, will be required to electronically file Form 194 series, Form 1095-B, Form 1095-C, Form 1099 series, and Form 5498 series.
- Companies that file at least 10 returns of any type will be required to electronically file Form 5330 for tax years ending on or after the date the final rules are published. For plan years beginning January 1, 2022, or after, companies will be required to file Form 8955-SSA.

For companies required to file Form 5500, the rule would require filing electronically for plan years after December 31, 2021.

Changes Proposed to Form 5500

[Form 5500](#) is undergoing revisions by federal agencies. The [proposed revisions](#) will include updates on how defined contribution retirement plans are reported. The public can make comments up until November 1, 2021. Pending approval, the revision will go into effect January 1, 2022.

IRS Issues Guidance for Reporting 2021 FFCRA Leave Wages

The [IRS Notice 2021-53](#) provides us with guidance on how to record paid sick time taken under the Families First Corona Relief Act (FFCRA).

Employers who are claiming tax credits for these dollars are required to follow these reporting standards. Such employers must record all time taken under FFCRA in Box 14 of the employee's Form W-2, or the employer must provide a written statement that is to be provided with the employee's Form W-2.

The notice states that for individuals who took leave between January 1, 2021, and March 31, 2021, or between April 1, 2021, and September 30, 2021, should record such wages in Box 1, 3, or 5 on the employee's Form Q-2.

DOL Announces \$11.25 Minimum Wage Rate for Federal Contractors

Effective January 1, 2022, the minimum wage for specific federal contractors will be raised to \$11.25 per hour. This also impacts the minimum wage for tipped federal contractors, which will be updated to \$7.90 per hour.

The specific contracts affected by this change are:

- Construction contracts in connection with the [Davis-Bacon Act](#) (DBA)
- Service contracts in connection with the [Service Contract Act](#) (SCA)
- Concessions contracts in connection with the SCA
- All other contracts in connection with federal property, where the property provides services to federal employees.

The [DOL's announcement](#) of this increase reminds employers that contracts beginning, renewed, or extended on or after January 30, 2022, will be subject to additional wage requirements.

These new, renewed, or extended contracts must comply with the mandate to pay **federal contractors** a minimum of \$15.00 per hour and tipped federal contractors a minimum of \$10.50 per hour.



Los Angeles Extends Effective Period of Temporary COVID-19 Vaccination Law

The county of Los Angeles had originally set a mandate for employers to provide paid time off to receive COVID-19 vaccinations. The initial mandate was set to expire on August 31, 2021; however, that has now been extended until 14 days after the COVID-19 local emergency declaration has ended.

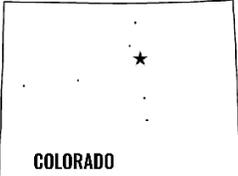
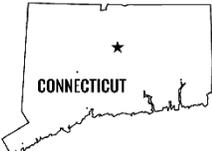
Fairfax, California, Passes Supplemental Paid Sick Leave Ordinance Applicable to Small Employers

Fairfax, California, now requires employers with 25 or fewer employees to provide paid leave to their employees for COVID-19-related absences.

- Employers must provide up to 80 hours of additional sick time to full-time employees, and an equivalent of two weeks leave to part-time employees.
- The equivalent of two weeks leave for part-time employees should be calculated based on the average hours worked by the employee over the past six months.
- The sick time should be paid at the employee's regular rate of pay but is subject to a limit of \$511 per day.
- It is important to note that if the employer is subject to other federal, state, or local ordinances to provide supplemental leave to their employees, the additional sick time bank may be aggregated with other leaves.

An employee may take this paid leave for any of the following reasons related to COVID-19:

- When an employee is advised by a medical professional to self-quarantine.
- When the employee is subject to a federal, state, or local isolation order.
- When the employee is experiencing symptoms of the virus.
- When the employee's household or family member is exposed to the virus, and the employee needs to quarantine.
- When the employee needs to care for a household or family member who is ill with the virus.
- When the employee is attending appointments to receive the vaccination.

	<ul style="list-style-type: none"> • When the employee experiences symptoms as a side effect of the vaccination. <p>When an employee is out for any of the above reasons, they are encouraged to provide documentation to their employer as to why they are taking the leave. Employers may use their discretion to mandate this documentation. Employers may not discriminate against an employee who takes paid leave under this ordinance. Employers must provide notice to employees of this ordinance within seven days of the effective date (September 1, 2021). Records of employees taking time under this ordinance must be kept for a minimum of three years.</p>
	<p>Denver, Colorado, Prohibits Discrimination Based on Protective Hairstyle</p> <p>Effective immediately, Denver, Colorado, includes hairstyles in the list of protected classes under their discrimination law. Protected hairstyles include hair texture, hair type, or hairstyles that can be related back to an individual's national origin. Specific hairstyles include, but are not limited to, braids, locs, twists, tight coils or curls, comrows, Bantu knots, afros, and headwraps.</p>
	<p>Connecticut Requires Employers to Report Employee Data to the Labor Commissioner</p> <p>Connecticut's Labor Commission is revising their reporting standards for employers. On a quarterly basis, employers should report wage information, gender identity, age, race, ethnicity, veteran status, disability status, highest education received, home address, address of primary worksite, occupational code, hours worked, days worked, salary or hourly wage, employment start date, and current title for each of their employees.</p> <p>The reporting requirement is being rolled out in phases based on employer size:</p> <ul style="list-style-type: none"> • Employers with 100 or more employees: Q3 of 2024 • Employers with 50 – 99 employees: Q3 of 2026 • Employers with 49 or fewer employees: Q3 of 2028 <p>Connecticut Passes New Law Requiring Leave for Voting</p> <p>Employers operating in Connecticut must provide unpaid time off for employees to participate in state and federal elections. Employers must provide two hours of unpaid leave to employees who wish to carry out their right to vote. Employees must provide a written request two days in</p>

	<p>advance of the election date to use this time. The provision is set to expire on June 30, 2024.</p> <p>Connecticut Creates Essential Workers COVID-19 Assistance Program Effective October 1, 2021, Connecticut will implement their assistance program for essential workers who have suffered from the COVID-19 virus between March 10, 2020, and July 20, 2021. The program will offer financial assistance to individuals who were not able to work due to COVID-19, and to family members of individuals who passed from the virus.</p> <p>The amount of financial assistance will be offset by any monies previously granted through workers' compensation and/or the Connecticut Essential Workers COVID-19 Assistance Fund.</p> <p>Connecticut Law Requires Notices for Domestic Workers Effective October 1, 2021, Connecticut will require domestic workers to be notified of their pay rate, payment schedule, job duties, scheduled charges for room and board, information on how to file a complaint, and details surrounding time off. The details of time off must include a holiday schedule, as well as an outline of sick and vacation time. At the discretion of the employer, sick and vacation time may be presented as paid or unpaid; however, accrual rates must be provided to the employee. All this information must be presented in writing to the employee when beginning employment.</p>
	<p>District of Columbia Passes Emergency Rule on Testing for Unvaccinated, In-Person Workers Effective immediately, any individual who is not vaccinated and is reporting into a physical worksite within the District of Columbia must be tested for COVID-19 once every seven days. Employees may be responsible for covering some or all the costs associated with this testing requirement. The rule is set to expire on November 18, 2021.</p> <p>District of Columbia Fiscal Year Budget Amends Both Paid and Unpaid Family and Medical Leave Laws The District of Columbia has amended their Universal Paid Leave Amendment Act (UPLA). Under UPLA, employees may take between two and eight weeks of paid leave. Eligible employees may be entitled to:</p> <ul style="list-style-type: none"> • Up to a maximum of eight weeks for Parental Leave • Up to a maximum of six weeks for Family Leave

	<ul style="list-style-type: none"> • Up to a maximum of six weeks for Medical Leave <ul style="list-style-type: none"> ◦ Up to a maximum of two weeks for Prenatal Leave <p>These amounts are applicable to claims filed between October 1, 2021, and October 1, 2022. Employees are eligible for leave under the UPLA if they have been working for the same employer for 12 cumulative months — breaks in service are no longer considered when granting leave. For COVID-19 related cases, employees are eligible to take leave if they are employed for at least 30 days by the same employer.</p> <p>It is important to note that the newly added prenatal leave falls into a subcategory within the medical leave section. An employee may not stack the medical and prenatal leave to receive additional paid leave. Prenatal and medical leave will run concurrently for an aggregate of up to six weeks leave for the same qualifying medical condition.</p> <p>The waiting period has been temporarily removed from the UPLA and is set to expire one year after the COVID-19 public health emergency has ended. Due to the pandemic, the amendment extends the look-back period as it relates to the average weekly wage. Employers should look back to the individual's wages in the last 10 quarters and use the highest four quarters in their calculation.</p> <p>Insurers are prohibited from reducing benefits to an employee who is taking leave under the UPLA.</p>
	<p>Florida Bans Requiring Vaccine Passports</p> <p>Florida has undergone many vaccine updates over the past few months, many of which confused the public about whether businesses and local governments can mandate public health restrictions to control the pandemic.</p> <ul style="list-style-type: none"> • On April 2, 2021, Governor DeSantis issued an executive order prohibiting businesses in Florida from “requiring patrons or customers to provide any documentation certifying COVID-19 vaccination or post-transmission record to gain access to, entry upon, or service from the business. • Effective July 1, 2021, Florida passed a law applying that prohibition to all business entities: the law is enforceable by fines up to \$5,000 per violation.

	<p>On July 30, 2021, Governor DeSantis then issued an order stating that parents have the right to choose whether they wish to mandate masks for their children when going to school. To clarify, current Florida statute does not prohibit public or private employers from requiring their employees, vendors, or independent contractors to be vaccinated or to provide COVID-19 vaccination documentation.</p> <p>Florida statute does not prohibit public or private employers from requiring employees to wear masks or socially distance and does not prohibit school districts from requiring employees to wear masks.</p>
	<p>Illinois Domestic Violence Leave to Cover All Victims of Violence Effective January 1, 2022, Illinois's Victim's Economic Security and Safety Act will be extended to cover all victims of violent crimes. The act allows victims to take an unpaid leave of absence for any of the following reasons:</p> <ul style="list-style-type: none"> • To seek medical attention for, or recovery from, any physical or psychological injuries. • To seek services from a victim services organization. • To seek psychological or other counseling. • For safety planning, relocating, or other actions to increase safety or ensure economic security. <p>The act provides several tiers of allocated leave for victims, based on the employer's size:</p> <ul style="list-style-type: none"> • Employers with 1 – 14 employees must provide four weeks of unpaid leave to victims covered under the act. • Employers with 15 – 49 employees must provide eight weeks of unpaid leave to victims covered under the act. • Employers with 50 or more employees must provide 12 weeks of unpaid leave to victims covered under the act. <p>The amendment updates the definition of family/household member to include grandparents, grandchildren, and individuals who share a relationship through a child.</p> <p>Illinois Clarifies Exception to Salary History Ban Effective January 1, 2022, Illinois's Equal Pay Act will be amended to ban the inquiry of a candidate's salary history. The amendment clarifies that</p>

employers are permitted to discuss the wages that they intended to provide to the candidate. However, they are banned from discussing the candidate's previous wages earned from current or past employers. If a candidate volunteers that they would be forfeiting any kind of deferred compensation during such conversations, the employer may request documentation that supports the candidate's claim.

Illinois Expands Secure Choice Savings Program

Effective January 1, 2022, the [Illinois Secure Choice Savings Program](#) will apply to employers with five or more employees. The program is considered a retirement savings program and is funded by employee payroll deductions. Employers must meet the following three qualifications to offer this program to their employees:

1. The company has a minimum of five employees employed in the state of Illinois within the past calendar year.
2. The company has been in business for at least two years.
3. The company does not offer any type of traditional retirement savings plan.

Employees are eligible to enroll in this plan if they are at least 18 years of age and are employed by an eligible employer. The program has a rolling deadline for enrollment based on the company's size:

- Employers with more than 25 employees: December 1, 2021
- Employers with between 15 and 25 employees: September 1, 2022
- Employers with between 5 and 15 employees: September 1, 2023

Employers who do not enroll their employees into the program after such election will be subject to penalties and fines.

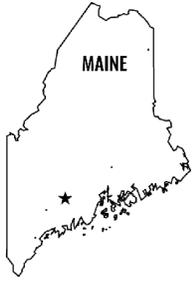
Illinois Law Requires Public Corporations to Report Sexual Orientation and Gender Identity of Directors

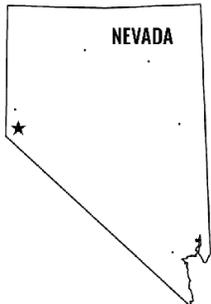
Effective January 1, 2022, the [Illinois Business Corporation Act of 1983](#) will amend their reporting requirements. Amendments include requiring public corporations to report the number of women and minorities on the corporation's board of directors as well as requiring reporting self-identified sexual orientation and self-identified gender identity of their board of directors.

Illinois Imposes New Prerequisites and Restrictions on Employers' Use of Restrictive Covenants

Effective January 1, 2022, the [Illinois Freedom to Work Act](#) (IFWA) will be amended to align with [President Biden's stance](#) on noncomplete agreements. The following will be added into the amendment:

- The minimum amount of annual earnings will be increased over time for an employer to legally enter a noncompete agreement with an individual. The amounts and effective dates are as follows:
 - Effective 2022: \$75,000
 - Effective 2027: \$80,000
 - Effective 2032: \$85,000
 - Effective 2037: \$90,000
- Noncompete agreements will be considered valid if the employer advises the participating individual to consult a lawyer prior to signing the agreement. The individual should be allowed 14 days to review and commit to the terms of the agreement prior to the individual's start date with the employer.
- Noncompete agreements will only be considered valid if they meet with the following standards:
 - The employer commits to employ an individual for a minimum of two consecutive years.
 - The agreement explicitly outlines prohibiting solicitation of employment with competitors in the agreement.
 - The agreement must outline conditions of legitimate employment.
 - The agreement should only outline employer concerns that can be directly tied to the best interest of the business.
 - Conditions of the agreement must not be carried out with ill intent toward the individual or the greater public. This also prohibits agreements from placing undue hardship to the individual entering the agreement.
- Noncompete agreements will be considered null and void should the individual be laid off or furloughed due to unforeseen business or economic circumstances.
- Any legal action brought forth as it relates to the noncompete agreement will be an employer responsibility. This includes costs for attorneys and other legal fees.

	<p>Illinois Prohibits Discrimination Based on Work Authorization Status</p> <p>The Illinois Human Rights Act clarifies that discrimination based on citizenship status will be considered a violation of the Civil Rights Act and is strictly prohibited. Acts of discrimination are defined as any adverse action against an employee due to their work authorization status. This includes, but is not limited to, refusing to hire, segregating, harassing, and limiting opportunities provided to the individual.</p> <p>Illinois Expands Law on Disability Discrimination to Include Associational Discrimination</p> <p>Effective January 1, 2022, the Illinois Human Rights Act will include an associational discrimination clause. Currently, the act prohibits discrimination against an individual who is disabled. The amendment provides those same protections to individuals who associate with an individual who has a bona fide disability.</p> <p>Illinois Amends Personnel Records Review Act to Create a Private Right of Action for Unlawful Disclosure of Disciplinary Action</p> <p>Effective January 1, 2022, Illinois's Personnel Records Review Act will be amended to include parameters around an employee's disciplinary record. An employee's disciplinary record may not be shared with anyone without written consent from the affected employee. Employees who are affected by a violation of this amendment are encouraged to report the incident to the Director of Labor or file an action in court. Employees have three years from the date of the incident to act upon any violations of the law.</p>
	<p>Maine Passes Emergency Rule on COVID-19 Immunization for Health Care Workers</p> <p>Previously, Maine required every facility in the state to have all employees receive immunizations against rubeola (measles), mumps, rubella (German measles), varicella (chicken pox), hepatitis B, and influenza.</p> <p>Effective July 1, 2021, Healthcare facilities, Emergency Medical Services (EMS) organizations and dental health practices now require proof of immunization for COVID-19. Employees not immunized will be barred from the worksite for the duration of the public health emergency.</p>

	<p>Maine Prohibits Discrimination Against Domestic Violence Victims Who Seek an Order of Protection</p> <p>The Maine antidiscrimination law provides protections based on race, color, sex, sexual orientation, disability, religion, age, ancestry, national origin, and individuals who exercise rights under the Workers' Compensation Act or Whistleblower's Act. The law now provides that employers may not discriminate against employees who receive an order of protection from abuse.</p>
	<p>Massachusetts High Court's Ruling on the Domestic Violence and Abuse Leave Act Holds Lessons for Employers</p> <p>The Supreme Judicial Court has declared that retaliation may be made against an employer who violates the Domestic Violence and Abuse Leave Act. The court clarified that the act applies to employees in all stages of the employee life cycle, including those that have been extended an offer.</p> <p>This comes at the conclusion of Osborne Trussell v. The Children's Hospital Corporation. The plaintiff of this case had received an offer of employment from The Children's Hospital, but the offer was rescinded after the defendant was made aware of the plaintiff's victimization in an ongoing domestic abuse case.</p>
	<p>Minnesota's Minimum Wage Rate Updates</p> <p>Effective January 1, 2022, Minnesota will be raising their minimum wage.</p> <ul style="list-style-type: none"> • Large employers, grossing an annual revenue of \$500,000 or more, will be subject to pay their workers at least \$10.33 per hour. • Small employers, grossing less than \$500,000 or more, will be subject to pay their workers at least \$8.42 per hour. • The minimum wage for training periods (first 90 days of employment) and youth workers will also be updated to \$8.42 per hour.
	<p>Nevada Updates Poster Requirement</p> <p>By October 1, 2021, all employers in the state of Nevada are required to update their compliance posters. The newest update comes from the Department of Employment, Training, and Rehabilitation (DETR), and provides additional resources to employees regarding training and employment programs.</p> <p>Nevada Amends Paid Leave Law to Allow Vaccination Leave</p> <p>Nevada's Paid Leave law now expands the reasons employees may use</p>

	<p>paid leave, including to receive a COVID-19 vaccination. The law applies to employers with 50 or more employees. Employers who have an on-site COVID-19 vaccination clinic or have been operating for less than two years are exempt from the law.</p> <ul style="list-style-type: none"> • Employees will receive two hours of leave for a single dose vaccination or four hours of leave for a double-dose vaccination. • Employees must provide at least 12 hours' notice to the employer. • Employees do not need to provide a reason for taking leave; however, the amendment specifies that sick leave may be included as a reason. <p>Employers may not require an individual to seek out a replacement worker and may not deny or retaliate against employees' rights to request or take vaccination leave.</p>
	<p>New Jersey Issues Rules Implementing Marijuana Legalization Law</p> <p>New Jersey's Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act legalizes the purchase and use of marijuana for individuals who are at least 21 years of age.</p> <p>The act explicitly states that employers may continue to prohibit the possession or use of marijuana during work hours and/or while on company property. Should an employer suspect that an employee is under the influence of marijuana during work hours or while on company property, the act requires the opinion of a Certified Workplace Impairment Recognition Expert (WIRE). An employer may not take adverse action against an employee until the WIRE has concluded their investigation.</p> <p>The state is still determining the parameters of a Certified WIRE. Until such time that a formal notice is published on this topic, employers should document each suspected case in detail. Furthermore, adverse action cannot be made against an employee when a drug test yields a positive result for marijuana.</p>
	<p>New York Expands Employees' Ability to Bring Wage Claims</p> <p>Former New York Governor Cuomo has implemented the No Wage Theft Loophole Act. The act allows employees to easily file claims against an employer for unpaid wages.</p> <p>In recent findings, the courts have misrepresented Sections 193 and 198 of the New York Labor Law, where employers would withhold monies from</p>

an individual's paycheck without noting the deduction on the pay stub. Employers have used these precedents as a loophole to withhold wages. The intention of the act is to provide additional context to overcome this loophole for future wage claims.

New York State Requires Health Care Workers to be Vaccinated Against COVID-19

Health care workers in hospitals or long-term care facilities, including nursing homes, adult care, and other congregate care settings, must obtain their first dose of the COVID-19 vaccination by September 27, 2021.

The law requires hospital and long-term care facilities to create and implement a mandatory employee vaccination policy. However, accommodations must be reviewed for any religious objections or medical restrictions that would make receiving the vaccine unfeasible.

The following questions have not been addressed although it is hoped that more details will be provided soon:

- Who is considered a health care worker?
- How do workers demonstrate religious objections, medical restrictions, and need for accommodations?
- Which vaccines are accepted under the new requirement?

Health care employers are encouraged to seek counsel regarding vaccination requirements in New York State and New York City.

New York Designation of COVID-19 as a Highly Contagious Communicable Disease Requires Employers to Implement a NY HERO Act Airborne Infectious Disease Exposure Prevention Plan

New York's health commission has declared COVID-19 a highly contagious communicable disease. Due to this declaration, the following steps must be taken to ensure compliance:

- Employers must review federal, state, and local guidance on COVID-19.
- Employers must finalize and publish their NY HERO Act plan within their workplace.
- Employers must hold a training that goes over the steps the employer is taking to prevent the spread of COVID-19.
 - This includes a verbal overview of the plan, as well as a

physical copy to be provided to each employee.

- Employers must post a copy of the plan in a conspicuous location at each worksite.
- Employers should designate an employee of management status to enforce the plan.
- Employers should regularly monitor the risk of exposure to COVID-19 within their workplace.
- Employers should keep up to date with additional COVID-19 guidance that is provided on a federal, state, or local level.

The declaration is set to expire on September 30, 2021, unless otherwise noted by the health commissioner in future publications.

New York City Requires COVID Vaccination for Certain Establishments

New York City has implemented the "[Key to NYC Pass](#)" requiring people 12 or older to provide proof they have obtained at least one dose of a COVID-19 vaccination. The law requires staff at these locations to be vaccinated as well.

Indoor dining: Restaurants, catering halls, event spaces, hotel banquet rooms, bars, nightclubs, cafeterias, grocery stores with indoor dining, coffee shops, and fast food or quick service with indoor dining

Indoor fitness: Gyms, fitness centers, fitness classes, pools, indoor studios, and dance studios

Indoor entertainment: Movie theatres, concert venues, museums, aquariums, zoos, professional sports arenas, indoor stadiums, convention centers, exhibition halls, performing arts theaters, bowling alleys, arcades, pool and billiard halls, recreational game centers, adult entertainment, and indoor play areas

Proof of Vaccination:

- [CDC Vaccination Card](#)
- [NYC Vaccination Card](#)
- NYC COVID Safe App
- [Excelsior Pass](#)

Employer Requirements:

- Employers are required to check the vaccination status of all staff and customers 12 or older.
- Employers may not allow entry to anyone 12 or older who has not received at least one dose of the COVID-19 vaccination.

Employers may only make exceptions when allowing use of the bathroom or for another reason that will take a small amount of time (less than 10 minutes).

New York City Creates New Mandatory Retirement Savings Program

Two recently enacted laws known as the "[Retirement Security for All](#)" require private sector employers to enroll eligible New York City employees into an employer-specific or city-managed retirement savings plan.

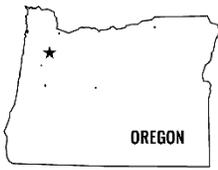
Employee/Employer Eligibility:

- Employers are exempt if they have been operating for less than two years or have a retirement savings program in place.
- Employees must be over 21 years of age and work more than 20 hours a week to be covered.

Employees should be automatically enrolled into individual retirement accounts (IRAs), where employers will deposit funds from wage deductions and retain compliance records for at least three years. The default contribution rate is set to 5% and capped at \$6,000 for employees under 50 or \$7,000 for employees over 50. This program allows employees to adjust contribution rates or opt out at any time.

The penalty for noncompliance with enrollment or depositing funds is \$250 per employee for the first violation and \$500 per employee if a second violation occurs within two years. Any additional violations within two years will result in a \$1,000 fine per employee. Failure to maintain records is also an additional \$100 fine per violation.

This law does not yet extend to employers statewide and is not considered an employee benefit plan under the Employee Retirement Income Security Act of 1974 (ERISA).



Oregon Passes Temporary Rule Requiring COVID-19 Vaccination in Health Care Settings

Individuals who work, learn, study, assist, observe, or volunteer in a health care setting must be vaccinated against the COVID-19 virus within the state of Oregon. All eligible individuals must be fully vaccinated on or before October 18, 2021. In addition, individuals are required to provide documentation to their employer indicating that they are fully vaccinated.

Individuals who are not fully vaccinated at this time should prepare a medical or religious exemption. Individuals who violate this mandate are subject to a \$500 fine for each day they remain out of compliance.

Employers are required to keep a record of vaccination status and any applicable exemptions for at least two years. The Oregon Health Authority reserves the right to request materials regarding this mandate at any time.

Oregon Amends Paid Sick Leave Law to Include Workers Covered Under Collective Bargaining Agreements

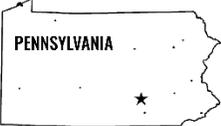
Effective January 1, 2023, employees covered under a collective bargaining agreement will be entitled to [Oregon's paid sick time law](#). Employers with at least 10 employees are subject to provide full-time employees with an annual minimum of 40 hours of paid sick time. The employee can use this time after they have completed their first 90 days of employment.

Employers may be exempt from this mandate if:

- They provide a sick time policy that goes beyond the state mandate;
- The trustees have previously agreed to the benefits provided within a trust benefit plan; and
- Provisions to the benefit plan are made exclusively by the employer participants of the agreed-upon plan.

Oregon Issues Temporary Rule on Renewed Masking Requirement to Address COVID-19 in all Oregon Workplaces

Oregon employers that have employees exposed to other individuals in indoor work environments must implement masking requirements regardless of vaccination status. Oregon has provided a [list](#) for when

	<p>masks are exempt in indoor spaces and outdoor spaces when individuals cannot maintain at least six feet of distance from one another. Some examples of these include, but are not limited to:</p> <ul style="list-style-type: none"> • Sleeping • Actively eating or drinking • Engaging in an activity such as swimming, where wearing a mask is not feasible <p>Employers or those responsible for indoor spaces must ensure all staff members comply and must make reasonable accommodation efforts for individuals entering the space. Signs are required to be posted at every entrance announcing the masking requirement. The rule is set to expire on December 26, 2021.</p>
	<p>Pennsylvania Supreme Court Rules Time Spent on Mandatory Security Screenings Is Compensable</p> <p>Pennsylvania's Supreme Court ruled that under the Pennsylvania Minimum Wage Act (PMWA), time spent waiting for mandatory screenings is compensable time. This decision comes after the final ruling of In re Amazon.com, Inc. The court reminded all parties in this case that the purpose of the PMWA is to protect the employee from being inadequately compensated based on their hours worked. Hours worked include any and all times the employee is required to be on company property.</p> <p>Pennsylvania Appeals Court Determines State's Medical Marijuana Act Includes a Private Right of Action for Employees</p> <p>The Pennsylvania Medical Marijuana Act allows patients to buy and use medical marijuana. It prohibits employers from terminating, refusing to hire, or otherwise discriminating against an employee solely on their medical marijuana status.</p> <p>This act has paved the way for multiple lawsuits against employers that have terminated employees for testing positive for marijuana. In <i>Palmiter v. Commonwealth Health Systems</i>, the Supreme Court of Pennsylvania sided with the employee determining they were wrongfully terminated for testing positive for marijuana during an employer-directed drug test.</p> <p>It is still unclear what restitution employees may seek for damages due to adverse actions taken by the employer; however, safe harbors are built in to protect employers. At this time, employers may:</p>

	<ul style="list-style-type: none"> • Prohibit accommodating the use of marijuana on-site • Discipline employees for working under the influence where conduct falls below the standard accepted for the position • Prohibit employees from performing tasks or duties that are considered a health and safety risk • Reconsider employment or reassign employees in driving positions who are found to be under the influence of medical marijuana
	<p>Rhode Island Passes Emergency Rule Requiring COVID-19 Vaccination for Health Care Workers</p> <p>Health care workers in the state of Rhode Island must be fully vaccinated against COVID-19 by October 1, 2021. Employees who are not vaccinated must provide a medical exemption, and are subject to weekly testing for the virus. Employees must register their vaccination status with the Rhode Island Child and Adult Immunization Registry.</p> <p>Health care employers are required to deny entrance to individuals who do not meet either requirement. Unvaccinated individuals are required to wear a KN95 or N95 mask while inside a health care facility. These masks must be provided by the employer at no cost to the employee.</p>
	<p>Tennessee Amends Military Leave Law</p> <p>Tennessee has amended their military leave law to include active members of the Tennessee state forces and the civil air patrol. An eligible individual has the job protections if they abide by these circumstances:</p> <ul style="list-style-type: none"> • Report back to their employer within eight hours of the next regularly scheduled work period following the individual's return from service that is less than 30 or fewer days. • Apply for reemployment within 14 days following the individual's return from service that is between 30 and 180 days of employment. • Apply for reemployment within 90 days following the individual's return from service that is greater than 180 days. <p>Individuals applying for a military leave must provide advanced notice to their employer.</p>
	<p>Virginia Amends Overtime Wage Act to Clarify Exemptions</p> <p>Effective August 10, 2021, Virginia has amended their Overtime Wage Act. The amendment clarifies that certain employees that are exempt from overtime requirements under the Fair Standards Labor Act (FSLA) are also exempt under the Virginia Overtime Wage Act (VOWA). The amendment also provides that employees who meet the exemption requirements</p>

	<p>under section 213(a) of the FLSA are also exempt under the VOWA. Additionally, the amendment clarifies that under the FLSA, a salesperson, parts person, or mechanic are also exempt under the VOWA.</p>
	<p>Washington Issues New Rules Implementing COVID-Related Paid Family Medical Leave Provision</p> <p>Effective August 1, 2021, Washington has implemented new rules for COVID-Related Paid Family Medical Leave. The amendment permits employees who do not qualify for the Paid Family and Medical Leave (PFML) benefit to take advantage of pandemic leave assistance. Employers and employees are subject to the same rights and responsibilities afforded under the PFML law.</p> <p>Employers may choose to enroll in a state-run plan or implement a voluntary private plan for distribution of family and/or medical benefits. Employer-specific voluntary plans do not need to provide pandemic leave assistance as eligible employees may apply for this through the state. Smaller businesses can apply only once for a Pandemic Leave Assistance grant to help offset costs associated with employees on leave.</p> <p>To apply for leave, an employee must confirm they did not meet the employment hours threshold due to reasons related to COVID-19 and are not due to be terminated for misconduct or voluntarily leaving.</p> <p>Washington Enacts New Rules on Infectious Disease Reporting During a Public Health Emergency</p> <p>Effective August 10, 2021, Washington has enacted new rules regarding infectious disease reporting.</p> <p>Covered employers are required to use the Division of Occupational Safety and Health Division's phone service within 24 hours of receiving the following notifications:</p> <ul style="list-style-type: none"> • Ten or more employees test positive for the infectious disease at a worksite • Ten or more employees at a worksite test positive during a period of time between the following starting and ending points <ul style="list-style-type: none"> ○ Starting Point: Two or more employees test positive within 14 calendar days of each other ○ Ending Point: There have been no positive test results for 28 consecutive days

An individual may be infectious or contagious two days before symptoms appear until the employee left the worksite.

Employers must disclose potential exposures in writing to all employees that were at the worksite on the same day of receiving an exposure notification. If applicable, union representatives must be notified, and the notice must be easily understandable to most employees.

Employers do not need to require employees to wear a specific type of Personal Protective Equipment (PPE); however, they must reasonably accommodate employees who wish to use protective equipment. Employers may verify that use of PPE meets all regulatory requirements for workplace health and safety requirements.

Washington Amends Rule on Backdating Claims for Paid Family and Medical Leave Benefits

Effective September 30, 2021, claims filed under Washington's Paid Family and Medical Leave may be backdated. Reasons for backdating claims may be due to convenience for the Employment Security Department, or for good cause. Good cause is to benefit the employee directly and comes into play when an individual is not able to apply for the leave in a timely manner due to circumstances beyond their control. The individual must provide proof of these uncontrollable circumstances when requesting to backdate a claim.



The People Simplifying HR

For almost twenty years, HR Knowledge has made it our mission to demystify the complex and daunting process of HR management. We do more than just provide the level of service and technology you'd expect from an industry leader. We combine unparalleled passion for service with our decades of HR, payroll, and benefits experience to provide our clients with personalized and actionable advice that is second—to—none. From managed payroll to employee benefits to HR support, we can help your organization thrive, grow, and reduce operating costs—no matter what industry you serve. Whether you're interested in our Full-Service solution or just need your employee handbook written, HR Knowledge can help you minimize risk while staying on top of compliance regulations. The bottom line? We're not just another cloud-based technology company that also does HR, #WeAreHR. [Get the scoop](#) on how we can help you simplify HR.



@WEAREHRK

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).