

# HR, Benefits, and Payroll Compliance Monthly Roundup: **November** **2022**

	<p><b>I-9 Updates</b></p> <p>The <b>I-9 flexibilities</b> in place due to COVID-19, have been extended until July 31, 2023. These flexibilities allow for the virtual verification of documents required for a Form I-9.</p> <p>The US Citizenship and Immigration Services (USCIS) announced that employers shall continue using this version of the <b>Form I-9</b> until a new form is published. See our <b>e-Alert</b> for further details.</p> <p><b>NLRB Updates</b></p> <p>The National Labor Relations Board (NLRB) <b>just ruled</b> that employers must continue to collect union dues even after the collective bargaining agreement has expired, a decision that will require many businesses to alter their labor relations practices.</p>
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	<p><b>New EEOC Workplace Poster</b></p> <p>Businesses with at least 15 employees need to replace their workplace discrimination poster with a new notice that the Equal Employment Opportunity Commission (EEOC) recently published. The EEOC issued the new <a href="#">“Know Your Rights: Workplace Discrimination is Illegal,”</a> which replaces the former “EEO is the Law” poster.</p>
	<p><b>California Extends COVID-19 Supplemental Paid Sick Leave Through 2022, Makes Small Amendment, and Offers Grants for Smaller Employers</b></p> <p>The <a href="#">CA SPSL</a>, which has been in effect from January 1, 2022, and was set to expire on September 30, 2022; however, it has been extended to expire on December 31, 2022. Additionally, certain private employers and registered non-profits that began operating before June 1, 2021, are currently active and have a physical presence in California with 26 to 49 employees may be eligible for a grant of up to \$50,000 to cover the actual costs incurred for providing <a href="#">CA 2022 SPSL</a>.</p> <p><b>California Amends Labor Code Provisions for Pay Information in Job Postings and Updates to Pay Data Reports</b></p> <p>California currently requires employers to provide pay information to a job applicant upon request. The amendment now requires employers to provide wage information to a current employee for their current position, upon their request. Employers with 15 or more employees must now include the pay scale in their job postings. Employers, no matter the size, must maintain records of job titles and wage rate history for the duration of each employee’s employment, plus 3 years after their employment is terminated. Employers with 100 or more employees are required to submit annual pay data to the California Civil Rights Department.</p> <p>This amendment now requires the reporting to be submitted on or before the second Wednesday of each year. If the employer has multiple establishments, they will now be required to submit a report for each location versus one consolidated report. These reports must include the median and mean within each job category. If an employer utilizes employees hired through labor contractors, they will be required to submit a pay data report covering labor contractors as well. We will be sending an e-Alert with more information on these requirements.</p>

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### **New California Law Addresses Employers' Use of Certain Tracking Devices**

California conducted an employer to evaluate the use of alternative devices to replace the standard DMV's stickers, tabs, etc. Beginning January 1, 2023, California employers should be aware that they may only monitor an employee's devices if it is truly necessary for employee performance and only during work hours. Employees are allowed to disable or remove the device's monitoring capabilities during non-work hours. The amended law prohibits an employer from retaliating against an employee for doing so. Employers need to provide notice with specific guidelines before locating, tracking, watching, listening to, or otherwise surveilling the employee.

### **California Requires Restroom Access for Individuals with Certain Conditions**

California passed a law requiring certain workplaces and places of public accommodation to provide facilities for employees which are not normally available to the public to provide restroom access for those with certain conditions.

### **California Provides Arrest and Conviction Record Relief**

California amended the state's penal code to provide criminal record relief. If the relief is applied, the individual's criminal record becomes sealed and does not need to be disclosed for an employment-related background check. The Department of Justice will run monthly searches and identify those eligible for record relief and notify the superior court which cases have been granted relief.

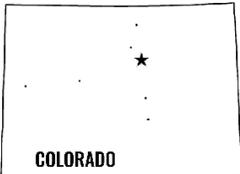
### **California Amends Law on Wage Garnishments**

Beginning January 1, 2023, California amended its [wage garnishment law](#). The amount of an employee's wages that can be paid must not exceed the lesser of:

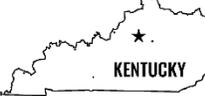
- 20% of the employee's disposable weekly earnings; or
- 40% of the amount by which the employee's disposable weekly earnings exceed 48 times the state hourly minimum wage

For pay periods other than weekly, the minimum wage should be multiplied by:

- For a biweekly pay period, 80 work hours;

	<ul style="list-style-type: none"> <li>• For a semimonthly pay period, by 86 2/3 work hours; and</li> <li>• For a monthly pay period, by 173 1/3 hours</li> </ul> <p><b>California Establishes New Protections During States of Emergency</b></p> <p>Beginning January 1, 2023, California employers are prohibited from taking adverse action against employees who don't report to a worksite if they feel it is unsafe or preventing employees from using their cell phones to seek emergency assistance. This new law does not apply to certain employees (first responders, etc.) Employees must notify their employer of the emergency condition requiring the employee to leave work or not show up to work either before or after the incident.</p>
	<p><b>Colorado Issues Final Rules on PFML</b></p> <p>Paid Family and Medical Leave <a href="#">regulations</a> have been issued. The law provides that the state will administer a program to provide paid family and medical leave insurance to eligible employees, with employers and employees making payments beginning January 1, 2023, and leave available January 1, 2024. An employer may choose to use a different, private plan that provides the same benefits to employees as the state-provided one.</p>
	<p><b>DC Amends Paid Leave Act</b></p> <p>The Act has been amended to address insurance benefits. Under the law, an insurer that provides temporary or short-term disability insurance policies may not reduce or offset the benefits it provides to an individual based on the paid leave benefits that the individual may receive under the Act, subject to certain exceptions. The amended law clarifies that this provision applies regardless of the jurisdiction in which a policy was issued, executed, written, or delivered.</p>
	<p><b>Miami Amends Anti-discrimination Ordinance</b></p> <p>This amendment expands the prohibition on discrimination to include discrimination based on hair texture and/or hairstyle.</p>

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	<p><b>Illinois Amends Minimum Wage Rules</b></p> <p>Illinois has clarified recent amendments to its minimum wage law for domestic workers with regard to what is considered compensable time, overtime, and deductions for lodging and meals. Employers must post the <a href="#">Illinois minimum wage law</a> notice in their physical location(s).</p> <p>The State minimum wage remains unchanged at \$12.00 per hour. Further details may be found on the <a href="#">Your Rights Under Illinois Employment Laws</a> poster.</p>
	<p><b>Kentucky Amends Regulations on Minimum Wage/Overtime Exemptions</b></p> <p>Kentucky small businesses whose operations average an annual gross volume of sales \$95,000 and under, for the five preceding years will be exempt from the minimum wage and overtime provisions. Additionally, certain <a href="#">categories</a> of employees are exempt from overtime requirements.</p> <p><b>Kentucky Amends Rule on Exempt Executive Employees</b></p> <p>Previous regulations defined executive employees as those paid a salary of at least \$684 per week and who meet other criteria regarding their job duties. The amendment expands to include an employee who owns at least 20% of equity in the business if the employee is involved in managing the business. The salary threshold will not apply to these employees.</p> <p><b>Kentucky Issues Final rule on Board, Lodging, Gratuities, and Other Allowances</b></p> <p>Kentucky's final rule clarifies that employers must pay a minimum no less than the hourly wage rate to be paid for tipped employees under federal law for any employees that regularly receive more than \$30.00 a month in tips. This must be in addition to any credit for board, lodging, or other facilities that are allowable under the regulation in the total wages.</p>
	<p><b>Maryland Legalizes Recreational Marijuana</b></p> <p>In addition to legalizing recreational marijuana, Maryland's new law adds employment protections for employees who are authorized to use marijuana for medical purposes under the existing law</p>

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	<p><b>Massachusetts PFML 2023 Changes</b></p> <p>For 2023, the overall <b>PFML contribution rate</b> has decreased from 0.68% to 0.63% of eligible wages for employers with 25 or more covered individuals. The PFML contribution rate for smaller employers – fewer than 25 covered individuals – decreased from 0.344% to 0.318%. Employers must provide employees with notice of the new contribution rate at least 30 days in advance of the rate change. Notice can be provided electronically and is not required to be acknowledged by each employee. Since these changes take effect on January 1, 2023, this means employees shall receive notice by December 1, 2022. We will be sending an e-Alert with further detail.</p> <p><b>Massachusetts Premium Pay Phased Out in 2023</b></p> <p>Massachusetts <b>law</b> has been gradually eliminating a time-and-a-half pay requirement for work in retail establishments on Sundays and the following holidays: New Year's Day, Veterans Day, Indigenous People's Day, Memorial Day, Juneteenth Independence Day, Independence Day and Labor Day. The premium pay requirement will be eliminated altogether on January 1, 2023.</p>
	<p><b>Missouri Legalizes Recreational Marijuana</b></p> <p>In addition to legalizing recreational marijuana, Missouri's new law adds employment protections for employees who are authorized to use marijuana for medical purposes under the existing law.</p>
	<p><b>Westchester County Pay Transparency Law Takes Effect</b></p> <p>Similar to the law that took effect in NYC, the Westchester County <b>Human Rights Law</b> is amended to require that employers with at least four employees that are posting job, transfer, or promotion opportunities which "are required to be performed, in whole or in part, in Westchester County, whether from an office, in the field, or remotely" state the minimum and maximum salary for such position in such posting.</p>
	<p><b>Oklahoma Amends Wage Payment Law to Address Direct Deposit and Payroll Cards</b></p> <p>Oklahoma's Wage Payment Law has been amended to allow employers the option of paying employee wages through deposit at a financial institution or payroll card, effective November 1, 2022.</p>

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### **Oregon Releases New Final Paid Family and Medical Leave Rules**

Oregon's new rule clarifies when an employee's wages are subject to its Paid Family and Medical Leave Insurance (PFMLI) program. The [PFMLI program](#) ensures eligible employees are entitled to 12 weeks of paid family, medical, or safe leave. Beginning January 1, 2023, employers with 25 or more employees will be required to pay into the fund via payroll taxes; Employees will pay 60% of the contribution, while the employer will pay the remaining 40%. Eligibility for leave will begin September 3, 2023. To be eligible, employees must meet [certain requirements](#).

### **Oregon Issues Final Rule Addressing COVID-19 in all Workplaces**

Employers are no longer required to post COVID-19-related postings, such as exposure notification and physical distancing requirements for healthcare employees. The rule also changed the infection notification process requirement to a recommended notification for exceptional risk workplaces. This [final rule](#) is an update from the temporary rule issued in March 2022 that decreased restrictions related to COVID-19 mitigation.



### **Rhode Island Enacts Significant Pay Equity Law**

Beginning January 1, 2023, [amendments](#) prohibit wage discrimination based on several protected characteristics, modify the wage discrimination standard from "equal work" to "comparable work," and create a safe harbor from liability for employers that choose to undertake evaluations of their pay practices.

The amendments also limit salary history inquiries and prohibit employers from requesting or relying on an applicant's wage history in determining whether to hire an applicant and in setting the compensation for a new hire. Employers must also provide a wage range for a job position to both applicants and current employees. We will be sending an e-Alert with further detail.

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