

HR, Benefits, and Payroll Compliance Monthly Roundup: February 2023



OSHA 300A Posting Period and Increase in Penalties

Employers that are covered by the Occupational Safety and Health Administration's (OSHA's) record-keeping rule must complete and post the OSHA Form 300A, which covers work-related injuries and illnesses, from February 1st to April 30th. The post must cover a summary of 2022 work-related injuries and illnesses and must be posted in a noticeable place. OSHA penalties have also increased; effective January 15, 2023, the Department of Labor (DOL) has announced a 7.75% increase in assessed penalties to align with inflation adjustments.

Click [here](#) for OSHA's web-based tool to help confirm whether your organization is required to file.

EEO-1 Reporting Portal Opening Delayed

Previously set to open in April, the opening of the EEO-1 portal has been postponed till mid-July. Click [here](#) for our e-Alert with further details.

	<p>USCIS Online H-1B Registration is Approaching</p> <p>The USCIS Online H-1B registration system will open at 12:00 pm EST on March 1, 2023, and close at 12:00 pm EST on March 17, 2023. First-time companies can open a new account starting at 12:00 pm EST on February 21st. The H-1B program allows U.S. employers to hire foreign workers temporarily in roles that require specialized knowledge and a bachelor's degree or higher.</p> <p>Expanded Anti-Money Laundering Whistleblower Act</p> <p>The Anti-Money Laundering Act, which provides protections to whistleblowers that report original information to their employers, has been broadened to cover reporting financial violations for 26 categories of institutions, including banks, branches of foreign banks, broker-dealers, insurance companies, and travel agencies.</p>
	<p>California Pay Data Reports Due May 10</p> <p>California implemented pay data reporting in 2020 where employers with 100 or more U.S. employees and at least one employee in California are required to file an annual Pay Data Report with the California Civil Rights Department under California Government Code, section 12999. Please see our e-Alert coming soon with further detail, including recent amendments for the 2023 filing.</p> <p>San Francisco Passes Paid Military Leave Ordinance</p> <p>Starting February 19, 2023, private employers with 100 or more employees, regardless of where they work, will be required to provide differential paid leave for military reservists that are called into active duty. The Military Leave Pay Protection Act (MLPPA) requires employers to pay the difference between military pay and the amount of pay the employee would have received if they were working their regular schedule for up to 30 days in any calendar year. Click here for our e-Alert with further details.</p> <p>California Pay Transparency Law</p> <p>On January 1, 2023, CA's pay transparency law, which expands pay data reporting and requires pay scales in job postings went into effect. The Labor Commission recently provided clarifying guidance for employer compliance in an FAQ. Please see our e-Alert coming soon for further details.</p>

California Passes CAL/OSHA's COVID-19 Non-Emergency Regulations

Effective February 3, 2023, California has approved CAL/OSHA's COVID-19 Non-Emergency Regulations (NER). While generally less restrictive than CAL/OSHA Emergency Temporary Standard, employers are urged to evaluate existing protocols and ensure compliance with NER. Cal/OSHA also issued [FAQs](#) which outlines 8 steps employers should take in correlation with written procedure, COVID-19 training for employees, and hazard control measures. The new regulations are in effect until February 3, 2025.

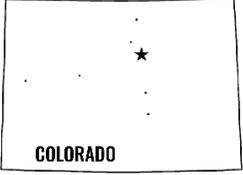
New Notice Requirement for Los Angeles County Employers

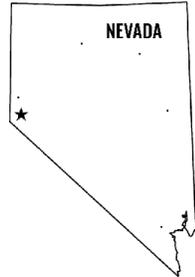
Los Angeles county amended its [Preventing Retaliation for Reporting Public Health Violations ordinance](#). The amendment requires employers to post a notice, in a conspicuous location, notifying their employees of their rights under the ordinance. Employers that do not have a physical location within the boundaries of the County must provide a copy of the notice to each employee who performs work within the geographic boundaries of LA County. The Department of Consumer and Business Affairs (DCBA) is responsible for creating and making the notice available.

Fair Workweek Ordinance – Berkley and Los Angeles

Effective April 1, 2023, Los Angeles retail businesses with at least 300 employees will need to comply with a new [Fair Work Week Ordinance](#). This ordinance will require covered employers to provide a written, good faith estimate of employee work schedules before hiring and within 10 days' of a request. The ordinance includes a host of other recordkeeping and work scheduling obligations, and mandates premium pay for shift changes.

Berkeley's City Council voted unanimously to approve a [Fair Work Week Ordinance](#), which applies to a broad range of businesses such as retail, healthcare, restaurants and nonprofits. The Berkeley ordinance will take effect in November 2023. Similar to the city of Los Angeles's recently passed Fair Work Week Ordinance, covered employers must provide work schedules at least two weeks in advance and provide 11 hours of rest between shifts, among other requirements.

	<p>Fort Collins, CO Broadens Discrimination Protections</p> <p>Effective February 17, 2023, Fort Collins, CO has broadened its discrimination protections to include sexual orientation, gender identity, and gender expression.</p>
	<p>DC Amends 'Human Rights Act'</p> <p>The District of Columbia has broadened coverage under the D.C. Humans Rights Act (DCHRA). The law, which took effect October 1, 2022, adds homeless status as a protected category, lessens the burden for employees to prove harassment, and expands the definition of what defines an 'employee' to include interns and independent contractors.</p> <p>DC Enacts Second Chance Amendment Act</p> <p>The Second Chance Amendment Act is set to take effect in March of 2023. The Act notes how records could be sealed or expunged and what convictions cannot be automatically sealed. Candidates with a sealed or expunged record would no longer be required to disclose or acknowledge the records.</p>
	<p>Gainesville Passes Ban-the-Box Ordinance</p> <p>Gainesville passes the Fair Chance Hiring Law which allows less invasive pre-employment screenings into criminal history. The law applies to employers with 15 or more employees, prohibits employers from disqualifying applicants with criminal history, inquiring criminal history status through the pre-employment process, or refusing to consider an applicant who does not provide their criminal background history.</p>
	<p>Louisiana Implements Fresh Start Program</p> <p>Louisiana's final rule for the administration of the Fresh Start Program has been finalized. Employers who reclassify Independent Contractors to employees will not be liable for prior periods tax withholdings, interest, or penalties. Applications should be submitted electronically for 2023 forms.</p>
	<p>Massachusetts Issues 2023 MAPFML Regulations</p> <p>The MA Department of Family and Medical Leave (DFML) issued 2023 Regulations for MA Paid Family and Medical Leave (MAPFML). These regulations broaden the way employers can maintain employee's health insurance benefits during leave and provide examples. The Regulations also clarify that employers are not required to provide health insurance benefits to employees who were not eligible to participate in benefit plans</p>

	<p>at the time of their leave nor are they required to provide or maintain benefits for employees who resign during their leave or are former employees.</p>
	<p>Reinstatement of Michigan's Earned Sick Time Act Reversed As of January 26, 2023, the ruling on the reinstatement of 2018 Michigan Earned Sick Time Act has been reversed. Paid Medical Leave Act (PMLA) will remain in effect beyond February 20, 2023, requiring employers with 50 or more employees nationwide to provide paid sick time.</p>
	<p>Minnesota Passes CROWN Act Minnesota has passed the Creating a Respectful and Open World for National Hair (CROWN) Act taking effect January 27, 2023. The Act prohibits discrimination on the basis of hair texture and hairstyles associated with race.</p>
	<p>Nevada's Voters Terminate Two-Tier Minimum Wage System Nevada's two-tier minimum wage system previously allowed employers who offered qualified health benefits to employees to pay \$1.00 less an hour. On November 8, 2022, voters elected to return the state to a single minimum wage of \$12.00 per hour, effective July 1, 2024.</p>
	<p>New Jersey Amends Firearms Law Amendments have been made to modify restrictions on where a person may carry a firearm in New Jersey. Employers may prohibit employees from carrying a firearm on private property, however, the amendment also regulates when a person may transport a firearm into a parking area where carrying is otherwise prohibited. The amendment states that the handgun must be unloaded and stored in a secure gun box or locked in the trunk of the vehicle. The provisions are effective as of December 22, 2022.</p> <p>New Jersey Temporary Worker Bill of Rights New Jersey passed the Temp Worker Bill of Rights, the first bill in the nation requiring equal pay for temporary workers. Temporary Agencies are</p>

	<p>required to ensure clients provide over 11 types of information when hiring temporary employees. Temporary employees with certain classifications must be provided with the equivalent average pay and benefits as permanent employees for positions with similar requirements.</p> <p>New Jersey Amends WARN Law</p> <p>The amended law now applies to any employer with 100 or more employees, regardless of full-time or part-time status, working any number of hours, anywhere in the United States, regardless of tenure. It is triggered when there is a termination of 50 employees working at or reporting to a NJ establishment within a 30-day period, unless termination is for misconduct. See our e-Alert for further details.</p>
	<p>New York Expands on Federal 'Speak Out Act' Law</p> <p>New York has adopted its own restrictions around the federal Speak Out Act, which renders pre-dispute agreements unenforceable if they cover alleged sexual assault or sexual harassment. The state now prohibits employers from issuing agreements involving all types of discrimination and harassment complaints, expanding beyond sexual harassment. The restrictions placed on any agreement protects employees and independent contractors who have a viable discrimination claim.</p> <p>New York Warehouse Worker Protections Roll-out</p> <p>Effective February 19, 2023, the Warehouse Worker Protection Act (WWPA) will go into effect for employers with 100 or more employees at one warehouse distribution center. The WWPA protects warehouse workers from adverse employment actions due to failure to meet unreasonably demanding work quotas. The law will also require employers to disclose work speed data to their workers, inform employees of their rights in the workplace, and put quotas in place that allow for proper breaks.</p> <p>New York Veteran's Services Posters</p> <p>Employers with more than 50 full-time employees must display a posting with services available to veterans. The posting, currently being developed by the Department of Labor, will include contact information for the U.S. Department of Veterans Affairs Crisis Line as well as resources for substance abuse treatment, mental health treatment, education, training, taxes, unemployment insurance, legal services, and driver's licenses/identification cards.</p>

	<p>New York Amends Recognition of Workplace Safety Committees</p> <p>New York law requires employers with ten or more employees and an annual payroll over \$800,000 to allow the creation of labor-management safety committees. The recent amendment requires employers to recognize a workplace safety committee within 5 days of it being established or face civil penalties. The amendment also applies to safety committees formed under the Health and Essential Rights Act (HERO Act).</p> <p>Registration Requirement for Contractors and Subcontractors Passed</p> <p>Labor Law Section 240-i requires contractors and subcontractors engaged in public work and covered private projects to register with the NY Department of Labor. By December 30, 2023, contractors and subcontractors must be registered before submitting a bid on a contract for covered projects.</p>
	<p>Ohio Amends Crime Victim Leave Law</p> <p>Effective April 6, 2023, Ohio has amended their Crime Victim Leave Law to allow employees to attend criminal proceedings if the employee is the crime victim or their attendance is permitted under the employee's constitutional and statutory rights. The amendment is now silent regarding employer's obligation to compensate employees for this time.</p> <p>Ohio Amends Electronic Devices While Driving Law</p> <p>Effective April 4, 2023, Ohio has amended their Use of Electronic Devices While Driving Law to allow use of electronic devices featuring a hands-free or voice-operated feature. Activating or deactivating the voice-operated feature must be limited to a single touch or swipe of the device. The amendment prohibits employees from having to manually enter letters, numbers, or symbols while operating a vehicle.</p>
	<p>Rhode Island Issues Final Rule on Wage Transparency</p> <p>Rhode Island amended the state's equal pay and transparency law in July 2021, with the amendments becoming effective January 1, 2023. On January 6, 2023, the state issued a clarifying final rule regarding the changes. See our e-Alert coming soon for further detail.</p>



Austin Wage Theft Protection

Austin, Texas strengthens enforcement against wage theft by removing barriers within the city to report violations. The new ordinance adds wage theft coordinators to assist with complaints, creates a public database listing employers who are doing business within the city and have a record for wage theft violations, and bars employers identified in the wage theft database from working with the city. The ordinance defines wage theft as an employer failing to make full payment after services are rendered.

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