

HR Compliance Insights

December 2023

Introduction

Hilb Group's HR Compliance Insights delivers summaries of HR legislative and regulatory updates to your inbox each month.



Late EEO-1 Filers Receive Filing Extension

The deadline to submit 2022 EEO-1 Reporting was December 5, 2023. Employers that have not submitted and certified their data have now entered the "Failure to File" period. Eligible employers must file before the [portal closes](#) on January 9th. See our previous [HR-Alert](#) for details on the EEO-1 reporting criteria.

NLRB Determines New Joint-Employer Standard

The National Labor Board (NLRB) published a [final rule](#) addressing the standard for determining joint-employer status, making it more likely for one employer to be deemed a joint employer of another. This ruling has been challenged and there could be further updates. The latest effective date has been pushed out to February 26, 2024.



California Creates Equal Pay and Anti-Retaliation Protection Act

Effective January 1, 2024, California's new [Equal Pay and Anti-Retaliation Protection Act](#) makes it easier for employees to establish retaliation claims. It creates a rebuttable presumption of retaliation if an employee experiences an adverse employment action within 90 days from when they engaged in any protected activity covered by the specified sections. Additionally, this law also entitles a prevailing plaintiff to civil penalties for each violation.

California Amends Paid Sick and Safe Leave Law

Effective January 1, 2024, California has [amended](#) its paid sick and safe leave law to increase the amount of paid leave that an employee may be eligible for. See our [HR-Alert](#) for further information.



Colorado Amends Equal Pay Transparency

Effective January 1, 2024, Colorado amends its [Equal Pay Transparency Act](#), requiring employers to disclose salary information on job postings and provide various notices to current employees. Recent amendments expand the requirement to disclose information about promotions and other internal job opportunities.

Colorado Issues Amendments and Final Rules to Its FMLI Program

Colorado has issued the following [amendments and final rules](#) regarding its Paid Family and Medical Leave Insurance (FMLI) program. As a reminder, covered employees may begin to take leave as of January 1, 2024.

See our upcoming HR-Alert for further information.



Illinois District Court Confirms COVID Screening Time is Not Compensable

Illinois court issued [guidance](#) confirming that time spent in COVID screenings is not compensable under federal or Illinois law, elaborating that employers are not required to pay for time spent on preliminary or postliminary activities that occur before or after the primary activity an employee is employed to do. The exception to this rule is for tasks that are deemed “integral and indispensable” to the primary activities.

Chicago, Illinois Paid Leave Changes Delayed to July 1, 2024

Chicago, Illinois voted to delay the paid leave changes under the new Chicago Paid Leave and Paid Sick Leave Ordinance from January 1, 2024 to July 1, 2024. We are monitoring updates and will share more information once proposed rules are signed into law.

Illinois Extends Leave to Crime Victim’s Families

Effective January 1, 2024, Illinois will amend their [Victims’ Economic Security & Safety Act](#). The amendment allows employees to use leave to attend the funeral or funeral alternative, plan arrangements, or grieve the death of a family or household member that was killed by a crime of violence. Employees are entitled to up to ten days of unpaid leave that must be taken within 60 days of the date the employee receives notice of the death.



Minnesota Publishes Sample Earned Sick and Safe Time Employee Notice

Effective January 1, 2024, the state of Minnesota will require employers to provide paid Earned Sick and Safe Time (ESST) to eligible employees. The Minnesota Department of Labor and Industry (DLI) has recently published a [sample notice](#) for employers to satisfy the ESST notice requirements. See our previous [HR-Alert](#) for more information.

St. Paul's Aligns Sick and Safe Time Ordinance

St. Paul has amended its [Sick and Safe Ordinance](#) to align with the new Minnesota ESST law; both laws will take effect January 1, 2024.



New York Amends Release Agreement Laws

New York amended its [nondisclosure agreement laws](#) imposing employer restrictions on release agreements related to discrimination, harassment, or retaliation. In addition, New York's revised NDA law expands nondisclosure provisions to harassment and retaliation settlements, prohibits certain clauses in discrimination-related settlements, extends notice requirements to independent contractors, and removes the mandatory 21-day waiting period for complainants to review NDA's. The amended law is applicable to any agreements entered on or after the effective date.

New York Implements Freelance Isn't Free Act

Effective May 20, 2024, New York will require employers to provide written agreements to freelancers, such as independent contractors, under its [Freelance Isn't Free Act](#). The Act applies to services with a value over \$800. The agreement must include the name and address of the hiring party and freelancer, an itemized list of all services to be provided, rate and method of compensation, date of which the freelancer must be paid or how the payment will be determined, and the date by which the freelancer must submit invoices or services rendered in order meet internal processing deadlines for purpose of timely compensation.

New York Eliminates Hiring Barriers with Clean Slate Act

Effective November 16, 2024, New York will automatically seal certain criminal records through its new [Clean Slate Act](#). The Act's purpose is to encourage employment for applicants with past criminal convictions. Individuals with misdemeanors will have their records sealed if it has been at least three years since a misdemeanor conviction and there is no sentence of incarceration. Individuals with felony convictions will have their records sealed if at least eight years have passed with no criminal charges pending and the individual is not on any probation or parole. The Act does not modify employer obligation under the federal Fair Credit Reporting Act.

New York City Enacts Temporary Schedule Change Act

Effective March 4, 2024, New York City will require employers to distribute electronic materials published by the city's Department of Consumer and Worker Protection regarding the [Temporary Schedule Change Act](#). The Act grants employees the right to request schedule adjustments for qualifying personal events. The materials provided will be available in electronic and print form in 7 languages.

Paid Vaccination Leave Expires

New York employers will no longer be required to provide up to four hours of paid leave for employees to receive a COVID-19 vaccine as of January 1, 2024. The [previous legislation](#) was extended to be in effect until December 31, 2023.



Ohio Legalizes Recreational Marijuana

Ohio has [legalized recreational marijuana](#) for individuals 21 and up. Employers will not be prohibited from taking adverse action against employees for recreational marijuana use. Employers may continue to mandate random drug testing, enforce drug testing policies, and have the ability to discharge, discipline, or refuse to hire individuals based on their use, possession, or distribution of marijuana while onsite.



Oregon Adopts Military Leave Law Amendments

Oregon's [Military Leave Law](#) has been amended to clarify key terms, such as active service, active service of the state, and state active duty. The amendments also include revisions to the state sample policy. The law allows employees who are members of the organized militia to take a leave of absence to perform military service when called into active service of the state or state active duty.



Tennessee Enacts Paid Family Leave Insurance Act

Effective January 1, 2024, Tennessee will implement its new [Paid Family Leave Insurance Act](#). The law outlines that an insurer that is licensed to issue life or disability insurance can also issue a policy covering paid family leave. The policy may be added as an amendment to a group disability or life insurance policy, or independently as a group insurance policy. The family leave insurance covers a portion of an employee's lost income due to the birth or adoption of a child, placement of a child for foster care, care of a family member with a serious health condition, or the status of an employee's family member on active duty or who has been notified of impending call to active duty.



Texas Prohibits COVID-19 Vaccine Mandates

Texas has [enacted](#) a law that prohibits employers from implementing or enforcing COVID-19 mandates. The law also prohibits adverse action against employees who refuse COVID-19 vaccination and applies to all employers outside of governmental entities.