



The HR WIRE

ETC HR Employer Compliance News II *Making Compliance Connections*

June 2024

SECTION I: Notices, Reminders & Alerts & SECTION II: Noteworthy Compliance Happenings

Workplace Labor Notice Updates

- **NV** - updated notices that will become mandatory on July 1, 2024: [Annual Minimum Wage Bulletin](#) (\$12.00), [Daily Overtime Annual Bulletin](#), [Rules to be Observed by Employers](#), and the [Domestic Violence Notice](#)
- **VA** – released an updated [Unemployment Insurance Notice](#) which has changes throughout and now includes a requirement that employers must also provide a copy of the notice to each worker at the time of separation from employment.

- Eff 7.1.24- employers that deny a covered employee's request for workers' compensation benefits in Virginia must provide a specific notice regarding the employee's rights to dispute the denial.

Text of Required Notice

The amendment requires any letter denying an employee's request for workers' compensation benefits to include the following text: "EMPLOYEE RIGHT TO DISPUTE DENIAL OF WORKERS' COMPENSATION BENEFITS. IF YOU DISAGREE WITH THIS DENIAL, YOU HAVE THE RIGHT TO DISPUTE THE DECISION BY FILING A REQUEST FOR A HEARING WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION. IT IS YOUR RESPONSIBILITY TO DISPUTE THE DECISION AS SOON AS PRACTICABLE. THE WORKERS' COMPENSATION COMMISSION IS A STATE AGENCY RESPONSIBLE FOR MAKING FINAL DECISIONS ON DISPUTED WORKERS' COMPENSATION CLAIMS. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITHIN THE TIME LIMIT PROVIDED BY LAW, WHICH IS TYPICALLY TWO YEARS AFTER THE INJURY."

The letter must also include the address, telephone number and website an employee may use to [contact the state workers' compensation commission](#).

The amendment applies to all employers that are subject to the [Virginia Workers' Compensation Act](#). These include any employer that regularly employs **three or more employees**, all underground coal mine operators regardless of the number of employees, and all "[statutory employers](#)."

- **IL (Chicago)** – Newly released [Paid Leave and Paid Sick Leave Notice](#) (Employers to provide to employees with their first applicable paycheck—in July 2024, or after hire, whichever comes first—and annually thereafter in July.)
- **WA** - has implemented new legislation prohibiting employers from requiring employees to attend meetings for religious or political purposes. With the enactment of SB 577, employers are now required to post a notice informing employees of their rights under these new protections. Please see the attached resource for this Notice Statement.
- **NY** - Updated mandatory model policy released [New York State Department of Labor's Policy on the Rights of Employees to Express Breast Milk in the Workplace](#). New York State employers must ensure they (1) provide paid break times to employees for expression of breast milk and (2) issue the revised notice when required.)



Second, the "[New York Discrimination Notice](#)" has been revised to include citizenship or immigration status and domestic violence victim status as new protected categories.

Reminders & Alerts!

New! EEOC Announces "Failure to File" Deadline for 2023 EEO-1 Reports - July 9

The U.S. Equal Employment Opportunity Commission (EEOC) [announced](#) that it had entered the "Failure to File" phase for EEO-1 reporting, as described in the agency's recently updated [EEO-1 Reporting Instruction Booklet](#). The EEOC offers a [fact sheet](#) regarding the failure to file deadline.

This announcement means that if an employer failed to submit a required EEO-1 Report by the "Published Due Date" of June 4, 2024, the EEOC will send it a Notice of Failure to File letter requesting that it complete the submission as soon as possible but no later than **July 9, 2024**.

After this date, which is deemed the "**Failure to File**" deadline, no additional 2023 EEO-1 Component 1 Reports will be accepted, and employers that remain out of compliance with EEO-1 reporting requirements may expect to face EEOC lawsuits in federal District Court to compel them to file. In fact, the EEOC recently filed lawsuits against 15 employers for failing to submit their mandatory workforce demographic reports.

Reminder: Who is a Covered Employers?

The following entities are subject to EEO-1 reporting:

- A **private employer** that has **100 or more employees** (with limited exceptions for schools and other organizations);
- A **private employer** with **between 15 and 99 employees** if it is part of a group of employers that legally constitutes a single enterprise that employs a total of 100 or more employees; and
- A **federal contractor** that has **50 or more employees**; is either a prime contractor or first-tier subcontractor; and has a contract, subcontract or purchase order amounting to **\$50,000** or more.

New! HHS Updates HIPAA FAQs Regarding Change Healthcare Cybersecurity Incident

On May 31, 2024, the U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) updated its [frequently asked questions \(FAQs\)](#) regarding HIPAA and the recent cybersecurity incident involving Change Healthcare, a unit of UnitedHealth Group. OCR enforces the HIPAA [Privacy](#), [Security](#) and [Breach Notification](#) Rules (HIPAA Rules), which require covered entities and their business associates to protect the privacy and security of protected health information (PHI) and notify HHS and affected individuals following a breach.

FAQ Updates

The updates to the FAQs address the **responsibility for providing breach notification to HHS, affected individuals and, where applicable, the media**. Specifically, the FAQs provide that:

- Covered entities affected by the Change Healthcare breach may delegate to Change Healthcare the task of providing the required breach notifications on their behalf;
- Only one entity (which could be the covered entity or Change Healthcare) needs to provide breach notifications; and
- If covered entities ensure that Change Healthcare provides the required breach notifications in a manner consistent with the HIPAA Rules, they will not have additional HIPAA breach notification obligations.

Employer Takeaway: In connection with the Change Healthcare cybersecurity incident, OCR has encouraged HIPAA-covered entities (e.g., health plans, health insurance issuers and healthcare providers) and their business associates to **review their cybersecurity measures "with urgency"** to ensure that health information is protected.

While many employers do not have access to PHI from their health plans, employers that use third-party vendors, such as third-party administrators (TPAs) and pharmacy benefit managers (PBMs), should investigate and verify these vendors' cybersecurity measures during the selection process. Employers should also ensure they have business associate agreements in place that include adequate security protections for electronic PHI.



Compliance Resources

Safeguarding PHI is a top priority for OCR. To help covered entities and business associates protect their systems from cyberattacks, OCR has provided a variety of resources, including:

- [HIPAA Security Rule Guidance Material](#)
- [OCR Webinar on HIPAA Security Rule Risk Analysis Requirement](#)
- [HIPAA Security Risk Assessment Tool](#)
- [Fact Sheet: Ransomware and HIPAA](#)

New! OFCCP Releases New Vietnam Era Veterans' Readjustment Assistance Act Resources

The U.S Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA). Under VEVRAA, federal contractors and subcontractors are prohibited from engaging in discrimination in employment practices against veterans and required to provide equal employment opportunity in recruiting, hiring, promoting, and retaining protected veterans.

OFCCP continues to release new resources to help contractors understand their obligations under VEVRAA. Published on June 14th is a [new example](#) illustrating the use of the VEVRAA national benchmark, which is a yardstick contractors use to measure their progress toward achieving equal employment opportunity for protected veterans. OFCCP also published an updated [VEVRAA Affirmative Action Program \(AAP\) sample](#). The update includes additional information for contractors on how to use the hiring benchmark effectively to monitor their veteran hiring and recruitment efforts.

Reminder: Corporate Transparency Act

The [Corporate Transparency Act](#) (CTA), which became effective **Jan. 1, 2024**, requires certain business entities, or CTA "reporting companies," to report their beneficial ownership information (BOI) and certain related information to the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

The CTA aims to combat illicit financial activity, including money laundering, the financing of terrorism, tax fraud and drug trafficking, by creating a centralized database of information about the individuals who ultimately own or control certain businesses that do business in the United States. The CTA generally targets small, privately held businesses and exempts many organizations from its requirements, including large employers and publicly held companies.

The reporting requirements may be unfamiliar to many small businesses that have not been subject to similar requirements in the past. Therefore, businesses that are considered reporting companies under the CTA should familiarize themselves with their reporting obligations and take steps now to ensure that they will be in compliance by their initial reporting deadline.

Starting January 1, 2025 reporting companies created or registered to do business in the United States before Jan. 1, 2024, must file their initial BOI reports.

Employer Take away: Tough outside of the scope of consulting by ETC HR, businesses should carefully review the CTA to determine whether they are subject to its reporting requirements or qualify for one of the 23 listed exemptions. Businesses that meet the definition of reporting companies under the law may begin gathering all the necessary information, including information regarding the company and its beneficial owners, to ensure that they are prepared to comply with the CTA before their initial reporting deadline. As FinCEN began accepting reports on Jan. 1, 2024, reporting companies may submit finalized reports at any time prior to such deadline. See also attached resource.

Resources:

- FinCEN – [BOI Homepage](#)
- FinCEN – [BOI Informational Brochure](#)
- FinCEN – [BOI Frequently Asked Questions](#)
- FinCEN – [BOI Small Entity Compliance Guide](#)



Reminder: Federal: DOL Increases Exempt Employee Minimum Salaries - July 1

On April 26, 2024, the U.S. Department of Labor (DOL) published the much-anticipated final rule that will increase the minimum salary for many exempt employees. The increase will take effect in two steps. If you'd like to review the regulations yourself, they are available [here](#)—the relevant changes start on page 130 of the downloadable PDF.

Executive, Administrative, and Professional Employees

Under the new rule, exempt *executive*, *administrative*, and *professional* employees (often referred to collectively as "EAP" employees) must be paid at least:

- **\$844 per week** (\$43,888 per year) beginning on **July 1, 2024**
- **\$1,128 per week** (\$58,656 per year) beginning on **January 1, 2025**

Exceptions

Teachers and practicing doctors and lawyers are exempt from these minimum salary requirements under federal law but may be subject to different state minimums. School-specific minimums apply to academic administrative employees.

Computer Employees

Exempt computer employees can be paid on a salary *or* hourly basis. If salaried, they're considered part of the EAP group and need to make the minimums listed above. Alternatively, they can be paid at least \$27.63 per hour—this hourly rate was not changed by the rule.

Highly Compensated Employees (HCE)

Employees who are exempt under the HCE exemption must be paid at least the minimums listed above on a salary basis *and* receive total annual compensation of at least:

- **\$132,964 per year** beginning **July 1, 2024**
- **\$151,164 per year** beginning **January 1, 2025**

State Law

As usual, if a state law requires higher minimum salaries than what is required by the federal rule, the state minimums must be followed.

Potential Challenges

The last time the DOL attempted a significant change to the salary minimums, the rule was challenged and ultimately blocked just weeks before taking effect. While we have no way of predicting if that will happen again, it's very likely that this final rule will be litigated.

SECTION III:

New & Upcoming! Noteworthy State/City Compliance Alerts

Alabama

New! Minimum Wage Increases – July 1

Effective June 1, 2024, Alabama will no longer require minors to provide an Eligibility to Work Form for employment. The amended law can be found here: AL S 53 .

California

New! Minimum Wage Increases – July 1

MINIMUM WAGE FOR HEALTHCARE WORKERS DELAYED - The new minimum wage rates and salary threshold will now take effect **July 1, 2024** (instead of June 1)



LOCAL MINIMUM WAGE INCREASES

On July 1, 2024, numerous cities and counties across California will increase their hourly minimum wage. The new rates are as follows:

Alameda: \$17
Berkeley: \$18.67
Emeryville: \$19.36
Fremont: \$17.30
Long Beach hotels with 100+ guest rooms: \$18.16
Los Angeles City: \$17.28
Los Angeles City hotels with 60+ guest rooms: \$20.32
Unincorporated Los Angeles County: \$17.27
Malibu: \$17.27
Milpitas: \$17.70
Pasadena: \$17.50
San Francisco: \$18.67
Santa Monica: \$17.27
Santa Monica hotels: \$20.32
West Hollywood hotels: \$19.61

New! Cal/OSHA Passes Indoor Heat Regulation

On June 20, 2024, the California Occupational Safety and Health Standards Board (Cal/OSHA) unanimously [adopted a new standard for Heat Illness Prevention in Indoor Places of Employment](#).

Employer Obligations

For workplaces subject to the regulations employers will be required to do some or all of the following depending on the heat index at the workplace:

- Provide drinking water. Where drinking water is not plumbed or otherwise continuously supplied, employers shall provide sufficient quantities at the start of the shift to provide one quart per employee per hour of drinking for the entire shift.
- Provide access to cool-down areas which are defined as an indoor or outdoor area that are blocked from direct sunlight and shielded from other high radiant heat sources.
- Assess temperature and heat index and evaluate risk factors of heat illness.
- Establish and maintain accurate records of either the temperature or heat index measurements.
- Use control measures to minimize the risk of heat illness including engineering controls, and administrative controls.
- Develop emergency response procedures and conduct employee training.

The Cal/OSHA Board has requested that the Office of Administrative Law (OAL) expedite its effective date. If this happens the standard will take effect in early **August 2024**. If the rule is not expedited, then it will take effect on **October 1, 2024**.

Reminder: Cal/OSHA Issues Guidance & Model Workplace Violence Prevention Plan-July 1

As previously communicated, starting **July 1, 2024**, California employers across all industries must have a written Workplace Violence Prevention Plan ("WVPP") in place.

On March 18, 2024, California's Division of Occupational Safety and Health ("Cal/OSHA"), the agency responsible for enforcing the new law's requirements, announced the creation of its [Cal/OSHA Workplace Violence Prevention Guidance and Resources webpage](#). The webpage contains guidance and educational materials on the new law and workplace violence prevention, a [model WVPP](#), fact sheets, and other resources for employers and employees.



Employers are required to provide employees with training on the workplace violence plan when it's first established and annually thereafter. Additional training has to be provided when a new workplace violence hazard is identified or when changes are made to the plan, but this training can be limited to covering those specific topics.

Employer Takeaway: Although the provided model WVPP reflects the procedures required by section 6401.9, employer likely need to customize to their industry and worksite-specifics to ensure compliance.

Colorado

New! Employment Applications, Expanded Protections for Race & Organ Donations – July 1

APPLICANT AGE-RELATED INQUIRIES PROHIBITED

Beginning July 1, 2024, employers will be prohibited from asking for an applicant's age, birth date, or school attendance or graduation dates on an initial job application. (These limitations don't apply to applications for jobs that will be performed entirely outside of Colorado, though inquiring as to any age-related data could potentially run afoul of Age Discrimination and EEO regulations)

Employers can ask applicants to *verify their compliance* with certain age requirements imposed by any of the following:

- A bona fide occupational qualification (BFOQ) related to public or occupational safety
- A federal law or regulation
- A state or local law or regulation based on a BFOQ

This means you can ask for a yes or no answer to a question like, "This job involves serving liquor and requires that you be at least 21 years old. Do you meet the age requirement?"

Additionally, employers can require that an applicant provide additional application materials (e.g., a resume) with their initial application, but only if they notify the applicant that they can redact information that identifies their age, birth date, or dates of schooling.

The Colorado Department of Labor and Employment has provided additional guidance on the law in [INFO #9B](#).

Employer Takeaway:

- Review employment applications and remove any questions prohibited by the law.
- Train those involved in the interview process not to ask questions that are likely to reveal the applicant's age.

PROTECTIONS FOR RACE EXPANDED

The state has expanded the definition of *race* in its antidiscrimination statute to include hair length. If you have dress or grooming policies that regulate hair length, consider whether they're absolutely necessary for your organization. If you believe they are, consider consulting with an attorney to ensure they don't run afoul of this law. This law was passed on June 3, 2024, and took effect immediately.

Employer Takeaway: If necessary, update Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include *hair length* in the definition of race (if you include this level of detail). ETC will be updating & communicating an updated EEO Policy to include hair length.

ORGAN DONORS PROTECTED

Employers are prohibited from discriminating or taking adverse action against employees who donate an organ. The new law doesn't specifically require that employers provide organ donation *leave*, but employees who donate an organ should be allowed to use any leaves that a similarly situated employee would be entitled to, such as a personal leave of absence. This law was passed on June 3, 2024, and took effect immediately.

Employer Takeaway: Update your Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include *organ donors*.

New! Colorado Enacts Comprehensive AI Legislation

On May 17, 2024, Colorado enacted Senate Bill (SB) 24-205, becoming the first state to pass comprehensive artificial intelligence (AI) regulation. The law, effective on **February 1, 2026**, will require businesses to use reasonable care to



avoid discrimination when using AI for consequential decision-making (such as hiring, termination and other employment decisions). More to come as the effective date approaches.

Employer take-away:

Employers who use AI tools in making employment decisions may wish to review existing AI tools and take steps now to ensure compliance with the law's broad requirements by early 2026. However, Colorado Gov. Jared Polis expressed concerns that the law would be too onerous on businesses and encouraged legislators to revise the law to reduce compliance burdens. Therefore, employers should monitor for updates to the legislation prior to its effective date. Further, while Colorado is the first state to adopt broad AI legislation, other jurisdictions—including New York City, Tennessee, Illinois and Maryland—have already passed different AI-related laws, and additional states may follow Colorado's lead. Therefore, employers should monitor the growing trend to regulate AI in the U.S.

District of Columbia

New! Minimum Wage Increases – July 1

On July 1, 2024, the District of Columbia minimum hourly wage will increase to \$17.50. The minimum base wage for tipped employees will increase to \$10 per hour.

Illinois

New! Minimum Wage Increases – July 1

LOCAL MINIMUM WAGE INCREASES

Chicago

For employers with four or more employees, the minimum hourly wage will increase to \$16.20. The minimum hourly base wage for tipped employees will increase to \$11.02—this is the first rate increase that's part of the gradual phase out of the tip credit, which will be eliminated in 2028.

Cook County

The minimum hourly wage will increase to \$14.05. The minimum hourly base wage for tipped employees will remain at \$8.40.

Reminder: Chicago Fair Workweek Threshold Increase - July 1

CHICAGO FAIR WORKWEEK THRESHOLD INCREASE

The threshold for coverage under the Fair Workweek Ordinance will increase to \$61,149.35 per year (if salaried) or \$31.85 per hour (if paid hourly).

Reminder: Chicago Start of New Paid Leave - July 1

Recap of New Paid Leave & Paid Sick & Safe Leave Regulations:

Under the city's new Paid Leave and Paid Sick and Safe Leave Ordinance, which applies to employers of all sizes, employees will be entitled to accrue two separate types of leave: Paid Leave (PL) that can be used for any reason and Paid Sick and Safe Leave (PSL) that can be used for the reasons allowed by Chicago's previous paid sick leave law.

Accrual

Both types of leave begin to accrue on July 1, 2024 (or upon hire, if after that) at a rate of one hour for every 35 hours worked *in Chicago*. An employee who works 35 hours will have earned one hour of PL and one hour of PSL. Employers can cap *annual* accrual at 40 hours for each type of leave.

Carryover

Employees can carry over up to 16 hours of PL from one benefit year to the next unless their employer frontloads PL, in which case no PL needs to carry over. Employees can carry over up to 80 hours of PSL from one benefit year to the next, *regardless* of whether the employer frontloads.

Use

Employers can't cap use of either type of leave (except up to the amount that an employee has accrued). Employers can deny PL requests if the denial is based on a rationale covered by their written policy—they must also provide employees with a written explanation for the denial. Employers can impose a 30-day waiting period on use of PSL and a 90-day waiting period on use of PL from the time an employee begins to accrue.



Payout at Termination

Employers don't have to pay out any unused PSL but may need to pay out *accrued but unused* PL at termination, according to the following rules:

- Employers with 1–50 employees are exempt from PL payout
- Employers with 51–100 employees must pay out up to 16 hours of PL through June 30, 2025, and all unused, accrued PL after that date
- Employers with 101 or more employees must pay out all unused, accrued PL

Notice to Employees

Employees need to be given a notice about PL and PSL with their first applicable paycheck—in July 2024, or after hire, whichever comes first—and annually thereafter in July. The notice also needs to be posted in the workplace. The notice, made by the city, is available in six languages [here](#).

Employers also need to give employees written notification of their available PL and PSL, and their accrual rate, each time they're paid. Employers can meet this obligation in several ways, including by putting the information on a paystub or having it available online where employees can easily access it.

Documentation for Use of Leave

Employers can't require any documentation for use of PL. Employers can require that employees provide certification of their need for PSL if they're gone for *more* than three consecutive scheduled workdays. Note that the FAQs are a bit misleading in saying that an employer can ask for a note "after" an employee uses three days in a row—that's only true if the employee also uses PSL for all or part of a *fourth* scheduled workday in a row.

For More Information

- Paid Leave and Paid Sick Leave [Ordinance](#)
- Paid Leave and Paid Sick Leave [Rules](#)
- Paid Leave and Paid Sick Leave [FAQs](#)
- Business Affairs and Consumer Protection [public notices](#)

Maine

Maine Retirement Investment Trust Savings Program Registration Deadlines

The Maine Retirement Investment Trust Savings Program (MERITSaves), signed into law on June 23, 2021, is a retirement savings program designed for most private sector employees who lack access to qualified employer-sponsored retirement plans.

Employers registered in Maine with 15 or more covered employees that do not provide an employer-sponsored retirement program must register with the state by April 30, 2024. Employers with 5–14 covered employees must register by **June 30, 2024**. Employers offering a qualified retirement program may certify exemption through MERITSaves. Details about the program may be found on the MERITSaves [website](#).

Minnesota

New! Minimum Wage Update – July 1

Minneapolis

The minimum wage will be \$15.57 for employers of *all* sizes.

St. Paul

Employers with 1–5 employees: \$12.25

Employers with 6–100 employees: \$14

Employers with 101 or more employees: \$15.57

New Updates: Minnesota Amends Sick Leave, Paid Family and Medical Leave

Minnesota has enacted the [2024 Transportation, Housing and Labor Omnibus Budget Bill](#), which makes numerous changes to the state's earned sick and safe time (ESST) and paid leave laws.



Amended Sick & Safe Leave Law:

The most significant changes relate to reporting and usage requirements, and a majority of the clarifications and updates to the ESST law are effective immediately. The changes of most practical importance to companies employing workers in Minnesota relate to tracking ESST, reporting requirements, using paid time off to satisfy ESST requirements, and covered employees:

- The amendments override the Minnesota Department of Labor and Industry's position that employers must track ESST using the smallest increment of time the employer uses for tracking time worked. Instead, employers are permitted to require ESST use in increments of no less than 15 minutes.
- Employers are no longer required to include information about accrued and used ESST on each earnings statement issued to an employee. Instead, employers have the option of making the information available to employees through an electronic system, as long as the employer provides access to a computer that employees can use to check their ESST balance during regular working hours.
- Effective **Jan. 1, 2025**, employers who meet their ESST obligations through a general paid time off policy will have to follow ESST requirements with respect to all such paid time off. In other words, employers who do not maintain a separate ESST bank will be required to allow all available time off that can be used for personal illness or injury to be taken as ESST, as long as the time qualifies as ESST under the statute.
- An employee is immediately covered and may begin using ESST if it is anticipated that the employee will work at least 80 hours in a year for an employer in Minnesota. The previous statutory language had suggested that an employee was not eligible for ESST until they had actually worked 80 hours in the state.

The amendments also include new information on how to calculate pay for ESST and use of ESST as bereavement leave.

Under Minnesota's Paid Leave Law (PLL) that was passed in 2023, eligible employees may take up to 20 weeks per year of paid leave during certain family and medical leave events starting in **January 2026**. The PLL created a state-run family and medical leave insurance account modeled after the unemployment insurance fund. By **October 31, 2024**, employers must submit their first quarterly wage detail report. This first report will be based on wages paid between July 1, 2024, and September 30, 2024. Reports will be submitted through DEED's employer portal. [DEED's website](#) explains in detail what must be included on a wage detail report and how to submit it.

Reminder: Significant Changes to State's Independent Contractor & Employment Laws - Updates to Employee Misclassification Prohibitions – July 1

Effective **July 1, 2024**, all employers, as well as their owners, risk significantly increased penalties for misclassifying employees as independent contractors. In addition, it changes the independent contractor test for those performing building construction or improvement services. Under the new statute, no person may:

- Fail to classify, represent, or treat an individual who is an employee as an employee under applicable law.
- Fail to report a person as an employee when required by applicable law.
- Require an employee to misrepresent or misclassify themselves as non-employees, including as an independent contractor.

Officers or agents who engage in the above prohibited activities can be deemed personally liable. Compensatory damages to any misclassified person may be available, along with penalties of up to \$10,000 for each misclassified person and each violation, and a penalty of up to \$1,000 for each person who fails to cooperate or obstructs an investigation into violations of the classification law. Additional clarifications and additions specific to construction employees and contractors have also been added.

Key Takeaway: Employers operating in Minnesota should carefully evaluate whether the independent contractors with whom they conduct business are properly classified under state law. In particular, in the construction industry, contractors have until March 1, 2025, to review their business models and contracts to ensure that their subcontractors meet the new 14-factor test. With the new 14-factor test focused on the time at which the services were provided, construction contractors will want to be extra vigilant to ensure that their subcontractors'



registrations and licenses remain valid through the entire time when they are performing work for the contractor. Inadvertent lapses in registrations/licensure could lead to significant misclassification liabilities.
([Minn. Stat. §§ 177.27, 181.722, 181.723](#))

New! New Pay Transparency Disclosure Requirements - Jan 1, 2025

The Minnesota legislature continues to expand protections for job applicants. In 2023, Minnesota enacted legislation that prohibits employers from inquiring into an applicants' pay history during the hiring process. Minnesota Gov. Walz signed the [Omnibus Labor and Industry policy bill](#), including new job posting requirements. This law is in addition to existing Minnesota [wage disclosure protections](#) for employees. Now, most employers will be required to disclose salary ranges in their job postings. The pay transparency law will take effect **January 1, 2025**.

Who must comply with the pay transparency requirements?

The pay transparency requirements apply to any person or entity that employs 30 or more employees at one or more sites in Minnesota.

What must be included in job postings?

Covered employers must disclose in each posting for each job opening the starting salary range, and a general description of all benefits available and other compensation to be offered to a hired applicant. This could include health insurance, retirement options, bonuses, or other financial perks that come with the position.

"Salary range" means the minimum and maximum annual salary or hourly range of compensation for a job opportunity at the time of the posting of an advertisement for that job opportunity. Salary ranges can be based on the employer's good faith estimate but must not be open-ended. An employer that does not plan to offer a salary range for a position must list the fixed pay rate.

What is a "posting"?

A job posting means anything intended to recruit job applicants for a specific available position. This could include recruiting done directly by the employer or indirectly through a third party. It includes postings made electronically or via printed hard copy.

Employer Take away: Minnesota employers should review their current pay rates, hiring practices, and job postings in anticipation of the January 1, 2025, effective date.

Nevada

New! Updated Minimum Wage Increase – July 1

Beginning July 1, 2024, the hourly minimum wage in Nevada will increase to \$12 for *all employers*.

As of that date, the tiered minimum wage rates currently allowed by the state based on whether employers offer qualifying health benefits will be eliminated, and a single minimum wage rate will apply to all employers.

New York

Reminder: New York Requires Paid Lactation Breaks - June 19

Paid Lactation Breaks

Effective [June 19, 2024](#), all private sector employers (regardless of size) will be required to provide 30 minutes of **paid** break time to employees who need to express breast milk for a nursing child at work. Employees must also be allowed to use any existing paid break or meal time for breast milk expression in excess of 30 minutes. The law does not explicitly cap the number of paid lactation breaks employees are entitled to per day. Rather, the law provides that employers are required to provide paid lactation breaks "each time such employee has reasonable need to express breast milk," suggesting that employees may be entitled to multiple paid lactation breaks per day.

Currently, New York employers are only required to provide "reasonable unpaid break time" for breast milk expression up to three years following childbirth. The new law retains this three-year limitation but significantly departs from existing law by requiring that such breaks be compensated. Note that 2023 amendments to New York's lactation accommodation law required employers to distribute a lactation accommodation policy to all employees which meets



or exceeds the model policy developed by the New York Department of Labor. Although that model policy has not yet been updated, employers are encouraged to update their policies to reflect changes to the law.

Oregon

New! Minimum Wage Update - July 1

MINIMUM WAGE INCREASES

The hourly minimum wage in Oregon will increase as follows:

- Portland Metro (within Portland's Urban Growth Boundary): \$15.95
- Nonurban Counties: \$13.70
- All Other ("Standard") Counties: \$14.70

New! Predictive Scheduling Exceptions Broadened

The state's predictive scheduling law (which only applies to employers in the retail, hospitality, and food services industries with 500 or more employees) will contain a new exception for short-notice schedule changes due to PLO, OFLA, and related leaves. Specifically, when an employer is provided with less than 14 days' notice of an employee going out on, or returning from, a protected leave, they won't owe predictive scheduling pay to an employee who is temporarily covering the absent employee's shifts.

Employer Takeaways: If this law applies to you and your policy includes exceptions to required pay, update it to include this scenario.

Reminder & Recap: Oregon Family Leave Act – July 1

Employers covered by the Oregon Family Leave Act (OFLA) (those with 25 or more employees in Oregon) should be aware of the following significant changes to the law.

Forward-Looking Leave Year Required

Employers will be required to use a forward-looking leave year to determine the amount of OFLA leave an employee is entitled to take within a given one-year period. The forward-looking leave year is a consecutive 52-week period, beginning on the Sunday immediately preceding the date on which leave begins. Employers that don't currently use a forward-looking leave year calculation will have to transition to one as of **July 1**.

Many Covered Reasons for Leave Eliminated

OFLA's covered reasons for leave will be significantly reduced to limit overlap with Paid Leave Oregon (PLO). OFLA will *no longer cover* the following reasons for leave:

- To care for an infant or newly adopted or foster child
- To care for a family member with a serious health condition (except for caring for a sick or injured child at home)
- To recover from, or seek treatment for, the employee's own serious health condition

Employees' leave entitlement under OFLA will be limited to the following:

- Up to 12 weeks of leave per year to either care for a child at home because they are sick or injured (for both serious and nonserious health conditions) or because their school or care provider is closed due to a public health emergency.
- Up to four *total* weeks of leave per year for bereavement (employees are still allowed to take two weeks of leave for each death, but the total amount of leave has been reduced from 12 weeks to four weeks).
- Up to 12 weeks of leave for any illness, injury, or condition related to their own pregnancy or childbirth that prevents them from performing any available job duties offered by the employer. (As before, this time is available in addition to an employee's use of OFLA for other purposes.)
- Up to 14 days per deployment under the Oregon Military Family Leave Act.

Additionally, from **July 1, 2024, through December 31, 2024**, OFLA will provide employees with two weeks of leave to complete the necessary legal steps for the placement of a foster child or the adoption of a child. These two weeks are available in addition to an employee's use of OFLA for other purposes. Beginning **January 1, 2025**, this will be covered under PLO.



Rescinding Previously Designated OFLA Leaves

Oregon's Bureau of Labor and Industries (BOLI) requires employers to take certain steps with respect to rescinding approvals for OFLA leaves that are currently covered under the law but won't be as of July 1, 2024. Employers can use the [model notice](#) provided by the Oregon Employment Department for these communications. See the platform for more information or the recently updated [BOLI page](#) covering the changes.

OFLA and PLO Won't Run Concurrently

OFLA and PLO will no longer run concurrently. This means that any leave taken under one law will be *in addition to* any leave taken under the other.

Employer Takeaways:

- Update your OFLA policies if still needed
- Prepare for the new forward-looking OFLA leave year
- Provide necessary notices for leaves that will no longer be covered by OFLA

Reminder: PLO & Use of Accrued Paid Leave

Employees on PLO leave will be entitled to use any accrued paid leave in conjunction with PLO benefits, up to the amount that would result in full wage replacement. Employers will also have the *option* of allowing the use of accrued paid leave in an amount that would result in the employee getting *more* than full wage replacement. Additionally, if multiple types of accrued leave are available to an employee, the employer can determine the order in which the different types of accrued leave are used.

Employer Takeaways: Update your PLO policy to state that employees have the option to use any accrued paid leave they have available to make themselves whole and specify whether they will be permitted to use accrued paid leave to exceed full wage replacement.

Rhode Island

New! State Passes Secure Choice Retirement Savings Program

On June 26, 2024, [Senate Bill 2045](#) was signed into law, establishing a state-operated retirement savings program called Rhode Island Secure Choice. Employers who do not already offer a retirement savings plan will be required to offer workers access to the Secure Choice program, which will be administered by the Office of the General Treasurer and implemented in phases. An "eligible employer" is generally defined as one that has five or more employees. Employers with less than five employees have the option of participating in the program. Rhode Island employers with at least five employees that do not already offer a retirement plan will be required to sign up for Secure Choice.

Phased Implementation:

There will be a phased implementation period, as follows:

- Employers with **100 or more employees** will have to participate **within 12 months** of the program opening;
- Employers with **50 or more employees** will have to participate **within 24 months** of the program opening; and
- All other eligible employers will have to participate within **36 months** of the program opening.

Employer Takeaway: Employers will have no liability or fiduciary duty to employees in relation to the program; however, employers will be subject to penalties of \$250/eligible employee if the employer fails to allow the eligible employees to participate. More to come as guidance and details are released.

South Dakota

New! State Clarifies Medical Cannabis Protections – July 1

South Dakota has updated its workplace medical cannabis law to clarify that employers can refuse to hire an applicant for a safety-sensitive job or take adverse action against an employee in a safety-sensitive job based on a test result that is positive for cannabis metabolites. The law takes effect **July 1, 2024**.

Employer Takeaway: Ensure that all safety-sensitive positions are documented as such in job descriptions and ads. If you plan to make employment decisions based on a positive test result for cannabis metabolites with respect to safety-sensitive positions, make that clear in all related policies.



Vermont

Reminder: VT Expands Protections for Race - July 1

Beginning July 1, 2024, Vermont has an updated definition of race in its discrimination statute, which applies to employers of all sizes. Race will include traits associated with or perceived to be associated with race. This specifically includes hair type and texture, hairstyles, and protective hairstyles including (but not limited to) braids, cornrows, locs, afros, wigs, headwraps, and other head coverings.

This definition creates a very broad set of protections for employees and has the potential for wide application, such as protecting dialect and styles of dress.

Employer Take-aways:

- Ensure your EEO Policy includes an expanded definition of race:
- Sample Policy language:
*COMPANY is an Equal Opportunity Employer that does not discriminate on the basis of actual or perceived race, and traits commonly or historically associated with race **including but not limited to hair texture and hair styles such as afros, braids, twists, knots, locks and high-top fades**, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, physical or mental disability, pregnancy, sex (including pregnancy, childbirth and related medical conditions), gender identity or expression (including transgender status), marital status, veteran status, sexual orientation, genetic information, arrest record, service in the Armed Forces of the United States, status as a veteran or special disabled veteran, or any other characteristic protected by applicable federal, state or local laws.*
- If you have dress or grooming policies that regulate hairstyles or head coverings, consider whether they're absolutely necessary for your organization. If you believe that they are, consider consulting with an attorney to ensure they don't run afoul of this law.
- Train managers and those involved in the hiring process to not make judgments about professionalism or cultural fit based on how someone wears their hair and to ensure their own unconscious bias doesn't negatively affect candidates or employees.
- Update your equal employment opportunity (EEO) policy to make it clear that race includes traits associated with or perceived to be associated with race

([VT H. 363](#) was signed by the governor on April 25, 2024)

Reminder: Upcoming State's Paid Leave Expansion – July 1

The Vermont Family and Medical Leave Insurance Plan (FMLI) program will be expanded to private employers this year, Vermont Governor Phil Scott announced. Beginning on Feb. 15, 2024, Vermont employers with at least two employees will have the opportunity to purchase FMLI benefit plans by a new offering from The Hartford. These plans will provide benefits to eligible employees beginning on **July 1, 2024**.

The FMLI program was rolled out in 2023 for state workers and will be making its scheduled expansion to the private sector. The next and final step in the roll-out of this program, beginning in 2025, will allow individual employees and self-employed workers to become able to purchase individual coverage if their employers do not offer it.

The FMLI program is voluntary in the private sector and will provide Vermont workers with 60-percent wage replacement for up to six weeks of work in a 12-month period if they take time off for qualified events. Vermont employers can access more information concerning the program and design a plan through their employee benefits broker or by visiting The Hartford's website.

Employees who work for businesses electing to participate in the voluntary program or who obtain coverage individually will be able to utilize the paid leave benefits for qualified events, including:

- The birth of a child and to care for the newborn child within one year of birth;
- An employee's adoption of a child or foster care placement and to care for the newly placed child within one year of placement;



- Caring for the employee's spouse, child, stepchild, foster child, ward who lives with the employee, parent, or parent of the employee's spouse who has a serious health condition;
- A serious health condition that makes the employee unable to perform the essential functions of their job; or
- Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on "covered active duty," or to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (i.e., "military caregiver leave").

Virginia

New! New Notice Required for Workers' Compensation Claim Denials – July 1

Under an [amendment](#) that goes into effect on **July 1, 2024**, employers that deny a covered employee's request for workers' compensation benefits in Virginia must provide a specific notice regarding the employee's rights to dispute the denial.

Covered Employers

The amendment applies to all employers that are subject to the [Virginia Workers' Compensation Act](#). These include any employer that regularly employs **three or more employees**, all underground coal mine operators regardless of the number of employees, and all "[statutory employers](#)."

Text of Required Notice

The amendment requires any letter denying an employee's request for workers' compensation benefits to include the following text: "EMPLOYEE RIGHT TO DISPUTE DENIAL OF WORKERS' COMPENSATION BENEFITS. IF YOU DISAGREE WITH THIS DENIAL, YOU HAVE THE RIGHT TO DISPUTE THE DECISION BY FILING A REQUEST FOR A HEARING WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION. IT IS YOUR RESPONSIBILITY TO DISPUTE THE DECISION AS SOON AS PRACTICABLE. THE WORKERS' COMPENSATION COMMISSION IS A STATE AGENCY RESPONSIBLE FOR MAKING FINAL DECISIONS ON DISPUTED WORKERS' COMPENSATION CLAIMS. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITHIN THE TIME LIMIT PROVIDED BY LAW, WHICH IS TYPICALLY TWO YEARS AFTER THE INJURY."

The letter must also include the address, telephone number and website an employee may use to [contact the state workers' compensation commission](#).

Enforcement

An employer (or its insurance carrier) that fails to comply with the new notice requirement may be subject to a civil penalty of up to \$500 per violation. If a violation is willful, the penalty may be increased to between \$500 and \$5,000.

New! Captive Audience Meetings Limited & Race Protections Expanded – July 1

LIMITS ON CAPTIVE AUDIENCE MEETINGS

Employers can't take—or threaten to take—adverse action against an employee to get them to attend, or for not attending, an employer-sponsored meeting if its primary purpose is to express the employer's opinion on religious or political matters. The same applies to participating in or viewing communications for this purpose. Laws of this type are primarily aimed at preventing employees from being forced to attend anti-unionization meetings.

This law defines matters as *religious* if they relate to religious affiliation and practice and the decision to join or support any religious organization or institution. Matters are considered *political* if they relate to any of the following:

- Political affiliation
- Elections for political office
- Political parties
- Legislative proposals
- The decision to join or support any political party or political, civic, community, fraternal, or labor organization

The law contains several exceptions, including communications that are legally mandated or essential for an employee's job duties and requiring attendance at meetings necessary for an employee to perform their job or to discuss



the employer's business operations. Additionally, the restrictions on religious meetings and communications don't apply to religious organizations and the political restrictions don't apply to political organizations.

Employer Take-away: Allow employees to opt out of any meeting or communication covered by this law and make sure supervisors understand the law.

New! EXPANDED PROTECTIONS FOR RACE

Vermont has updated the definition of race in its antidiscrimination statute to include traits associated with or perceived to be associated with race. This specifically includes hair type and texture, hairstyles, and protective hairstyles including (but not limited to) braids, cornrows, locs, afros, wigs, headwraps, and other head coverings. This definition creates a very broad set of protections for employees and has the potential for wide application, such as protecting dialect and styles of dress.

Employer Take-away: If you have dress or grooming policies that regulate hairstyles or head coverings, consider whether they're absolutely necessary for your organization. If you believe that they are, consider consulting with an attorney to ensure they don't run afoul of this law. Additionally, train managers and those involved in the hiring process to not make judgments about professionalism or cultural fit based on how someone wears their hair and to ensure their own unconscious bias doesn't negatively affect candidates or employees.

Lastly, consider updating your Equal Employment Opportunity (EEO) policy to make it clear that race includes traits associated with or perceived to be associated with race. ETC's EEO Policy does include the reference "actual or perceived race, and traits commonly or historically associated with race including but not limited to hair texture and hair styles such as afros, braids, twists, knots, locks and high-top fades."

Washington

Reminder: Local Changes & Regulatory Enactments – July 1

LOCAL MINIMUM WAGE INCREASES

The following minimum wage increases are effective July 1, 2024.

Tukwila

- Large Employers: \$20.29 per hour
- Mid-Size Employers: \$19.29 per hour
- All other employers: state minimum wage

Renton

- Large Employers: \$20.29 per hour
- Mid-Size Employers: \$18.29 per hour
- All other employers: state minimum wage

For both cities, *Large Employers* are defined as those with more than 500 employees worldwide, and all franchisees associated with a franchise that employs more than 500 employees combined. *Mid-Size Employers* are those with 15–500 employees or that have annual gross revenue of over \$2 million generated within city limits.

Renton Extra Hour Offerings

Also beginning July 1, 2024, Renton (like Tukwila) will require that any additional hours be offered and distributed to an employer's part-time workers who have the skills and experience to perform the work before hiring new employees, contractors, or temporary workers.

SECTION IV: Previously Reported Regulatory Matters

Effective April 2024, please see separate , standalone publication for a listing of previously reported regulatory matters.

The WIRE is for informational purposes only and should not be construed as legal advice.