



The HR WIRE

ETC HR Employer Compliance News II *Making Compliance Connections*

August 2024

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

Workplace Labor Notice Updates

DOL Updates Model Employer CHIP Notice - The U.S. Department of Labor (DOL), through its Employee Benefits Security Administration (EBSA), has released a [new model Employer CHIP Notice](#) with information current as of **July 31, 2024**.

An employer is subject to this annual notice requirement if its group health plan covers participants who reside in a state that provides a premium assistance subsidy, regardless of the employer's location.

An employer can choose to provide the notice on its own or concurrent with the furnishing of:

- Materials notifying the employee of health plan eligibility;
 - Materials provided to the employee in connection with an open season or election process conducted under the plan; or
 - The summary plan description (SPD).
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- **VA** - revised [VOSHA, Job Safety and Health Notice](#). This update includes several key changes. First, the new notice features an updated URL for accessing OSHA standards. Second, The penalties have been increased for mandatory, optional, and willful or repeated offenses. Third, the address for the Virginia OSHA Headquarters has been updated.
 - **CO** - [Colorado Discrimination in Employment Notice](#) has been updated following an amendment to the 2020 CROWN Act. This amendment broadens existing anti-discrimination laws to include hair length as a characteristic commonly associated with race, thereby expanding the CROWN Act protections. Additionally, the timing for filing requirements has been modified. Similarly, the **Colorado Discrimination in Housing Notice** has revised the CROWN Act section to expand hair length as protected.
 - **KS** - [Kansas Workers' Compensation Notice](#) has been updated to reflect new reporting timelines for accidents or injuries. Employees now have 30 calendar days to report an incident to their employer. Additionally, if the employee is no longer working for the employer, they have 20 calendar days from their last day of work to report an accident or injury.
 - **TN** - issued an updated [Wage Regulation and Child Labor Notice](#). The revised notice includes changes to the wording in the Payday section, clarifying protections and requirements. Additionally, in the section on Occupations Prohibited for Minors Under 18, there are updates regarding certain occupations that the commissioner may classify as hazardous.

Reminders & Alerts!

NEW! USCIS has extended the expiration date of the current Form I-9 to May 31, 2027.

Employers that use the Form I-9 with the expiration date of July 31, 2026, can continue using it until that date.

Effective July 31, 2026, only Form I-9 (Rev. 08/01/23) with the expiration date of May 31, 2027, will be accepted.



Form I-9 with the updated expiration date can be found on the USCIS [website](#).
USCIS [announced](#) Form I-9's new expiration date on August 2, 2024.

NEW UPDATE! FTC Noncompete Ban Struck Down Nationwide

The U.S. District Court for the Northern District of Texas's decision in *Ryan v. Federal Trade Commission* was issued on August 20, 2024, with a federal judge striking down the Federal Trade Commission (FTC)'s rule that banned virtually all noncompete clauses. The court concluded that the FTC exceeded its authority when it issued the rule and that the rule itself was overbroad because it applied to *all* noncompete clauses rather than targeting those that were harmful. Access the federal [order](#).

Employer Takeaway: In light of the Texas court's ruling, employers will not need to take steps in the immediate term to invalidate existing noncompetes, update agreements or issue notices. Employers may also continue to rely on state-level guidance regarding the enforceability of noncompetes. However, the FTC will likely appeal the ruling, so employers should continue to monitor for updates in this case.

NEW! Increased Civil Penalty Amounts for SBC, MSP, HIPAA Violations

Aug. 8, 2024, the U.S. Department of Health and Human Services (HHS) published a [final rule](#) increasing key penalties affecting group health plans. HHS adjusts these penalty amounts for inflation each year to improve their effectiveness and maintain their deterrent effect.

Employer Takeaway: Because these penalties are substantial, employers with group health plans should periodically review their benefit plan administration protocols to ensure full compliance.

Summary of Benefits and Coverage (SBC) (Typically distributed at Open Enrollment)

The Affordable Care Act requires group health plans and health insurance issuers to provide participants and beneficiaries with a summary of benefits and coverage (SBC). Failure to provide the SBC may now result in a penalty of up to \$1,406 per participant or beneficiary (up from \$1,362).

Medicare Secondary Payer (MSP)

When Medicare is the secondary payer, employers cannot discourage employees from enrolling in their group health plan and cannot offer any "financial or other incentive" for an individual entitled to Medicare not to enroll or to terminate enrollment in a group health plan that would otherwise be primary. A violation of the prohibition on offering incentives can now trigger penalties of up to \$11,524 (up from \$11,162). The penalty for insurers, third-party administrators, or fiduciaries of a group health plan that fail to provide information identifying situations where the group health plan is or was primary is now \$1,474 (up from \$1,428).

HIPAA Privacy and Security Rules

Penalties for a covered entity or business associate violating the Health Insurance Portability and Accountability Act's (HIPAA) privacy and security rules will depend on the type of violation involved. Penalties are broken down into "tiers" that reflect increasing levels of knowledge about the violation. Each tier carries a minimum and maximum penalty with an annual cap, all of which have increased as follows:

Tier One: For violations where the covered entity or business associate did not know about the violation (and by exercising reasonable diligence, would not have known about the violation), the penalty amount is between \$141 and \$71,162 for each violation, with an annual cap of \$2,134,831.

- Tier Two: If the violation is due to reasonable cause, the penalty amount is between \$1,424 and \$71,162 for each violation, with an annual cap of \$2,134,831.
- Tier Three: For corrected violations that are caused by willful neglect, the penalty amount is between \$14,232 and \$71,162 for each violation, with an annual cap of \$2,134,831.
- Tier Four: For violations caused by willful neglect that are not corrected, the penalty amount is \$71,162 for each violation, with an annual cap of \$2,134,831.



Compliance Reminder: SAR Is Due by Sept. 30 for Calendar Year Plans (for Some Employers)

Many employers that must file Form 5500 on behalf of their employee benefit plans must also provide plan participants with a summary annual report (SAR). The SAR is a summary of the information included in the Form 5500. (Reminder: Employers with large fully insured welfare plans with 100 or more employee plan participants must adhere to Form 5500 7 SAR obligations each year. Employers with self-insured, unfunded plans are not subject to the SAR requirement, regardless of plan size.)

Covered Employers with plans that operate on a calendar year basis and have Form 5500 compliance obligations must provide the SAR by **Sept. 30, 2024**.

The SAR requirement only applies to plans that must file a Form 5500. Also, self-insured welfare plans, regardless of size, are not required to provide a SAR if they are unfunded.

The DOL has released a [model SAR](#) relating to welfare plans for plan years beginning in 2023 and later. Acceptable delivery methods for the SAR include U.S. mail, in-hand delivery and electronic delivery, if certain requirements are satisfied.

IN THE NEWS! Fifth Circuit Strikes Down the DOL Tip Credit Rule

On August 23, 2024, in *Restaurant Law Center v. U.S. Department of Labor*, the U.S. Court of Appeals for the Fifth Circuit vacated the U.S. Department of Labor's ("DOL") December 2021 final rule that had set strict limits on the amount of time that employers could apply a "tip credit" to tipped employees performing non-tipped job duties (the "Tip Credit Rule"). As a result, the Tip Credit Rule has been voided on a nationwide basis.

The FLSA and Tip Credits

Under the Fair Labor Standards Act ("FLSA"), employers may take advantage of a "tip credit" for employees engaged in occupations in which they customarily and regularly receive more than \$30 per month in tips. This "tip credit" allows the employer to pay tipped employees \$2.13 per hour, so long as the employee makes at least \$7.25 per hour (i.e., the federal minimum wage) when tips are added to the total amount of wages paid to the employee.

The Tip Credit Rule

In 1988, the DOL first published the "80/20" rule in its Field Operations Handbook. Under that rule, if an employee spends more than 20% of their time during a workweek performing non-tipped job duties (i.e., setting tables, making coffee, etc.), the employer must pay the employee the full minimum wage for the time spent on such "directly supporting work" and may not apply any tip credit to lower the employee's wages for that work.

The 80/20 rule remained in place until the DOL rescinded the guidance in a 2009 opinion letter, but the rule was later re-issued in 2018 under the Trump administration. In December 2021, the DOL issued the Tip Credit Rule, which largely codified the 80/20 rule described above, but identified three categories of work that dictated whether employers could apply a tip credit to work performed by tipped employees. Namely, the categories of work included:

- (1) tip-producing work (i.e., providing table service);
- (2) directly supporting work (i.e., setting tables); and
- (3) work not part of the tipped occupation (i.e., preparing food).

The Tip Credit Rule also stated that an employee must be paid the full minimum wage if they spend more than 30 minutes on "directly supporting work" at any given time.

Employer Takeaway

The *Restaurant Law Center v. U.S. Department of Labor* decision is seen as a big win for hospitality employers. **Employers no longer need to distinguish between tip-producing and tip-supporting work or monitor the time spent performing tip-supporting duties.** However, employers are still subject to local or state laws that are more beneficial to employees or that prohibit tip credits entirely. And as was the case before, employers can't take a tip credit when an employee performs tasks *unrelated* to their tipped occupation.



That being said, employers should stay tuned for any future developments as the DOL may appeal the decision and it is possible that other courts outside of the Fifth Circuit may rule that the Court lacked authority to impact the Tip Credit Rule on a nationwide basis. Notably, this ruling does not impact the DOL's "dual jobs" regulation, which provides that when an employee is working for the same employer in both a tipped and non-tipped occupation (i.e., a waiter and a maintenance person), the employer may only take tip credits for the work performed as part of the employee's tipped occupation. Employers should also be wary of any state or local laws or regulations governing tipped employees.

IN THE NEWS! Legal Cases to Watch – Fall 2024

The Supreme Court's next term, which starts **Oct. 7, 2024**, will also decide cases that will impact the workplace with topics including:

- **Employee misclassification**—The court will decide the burden of proof employers must satisfy to establish an exemption from minimum wage and overtime requirements under the Fair Labor Standards Act (FLSA). *E.M.D. Sales Inc. v. Carrera*
- **Post-employment ADA discrimination**—The court will decide whether a former employee has the right to sue their former employer under the Americans with Disabilities Act (ADA). *Stanley v. City of Sanford, Florida*

More to come as decisions and rulings are announced.

SECTION III:

New & Upcoming! Noteworthy State/City Compliance Alerts

California

New! San Francisco-Based Employees & Health Care Expenditures May Be Required

The San Francisco Health Care Security Ordinance (HCSO) requires employers to make certain health care expenditures on behalf of their San Francisco-based employees, even if the employer is not located in the City.

Employer Take-aways:

- Determine if organization is a Covered Employer
- Determine Employer Spending Requirements
- Maintain Records
- Post the [2024 HCSO Poster](#) (effective January 1, 2024) in all workplaces with covered employees.
- Submit an HCSO Annual Reporting Form to the OLSE by April 30th of each year.

Access the [San Francisco, Gov Health care Security Ordinance website](#) to learn more, access training, administrative Code & FAQs

Illinois

New! State Amends Biometric Information Privacy Act – Aug 2024

On Aug. 2, 2024, Illinois enacted [Senate Bill \(SB\) 2979](#), which amends the Illinois Biometric Information Privacy Act (BIPA). SB 2979 limits potential statutory damage awards under BIPA and allows private entities to obtain consent from individuals for the collection, use, disclosure and storage of their biometric information through electronic signature. The amendments to BIPA went into effect immediately on Aug. 2, 2024.

SB 2979 effectively overrules the Illinois Supreme Court's decision in *Cothron v. White Castle System* by limiting the number of violations an individual can accumulate under BIPA. Under the act, as amended by SB 2979, multiple



instances of the same violation involving the same biometric data from the same person and the same method of collection or dissemination will be treated as a single violation under the law.

Additionally, SB 2979 clarifies that BIPA's written consent release requirement may be met by an "electronic signature," now defined as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."

New! State Enacts AI Employment Law – Jan 1, 2026

On Aug. 9, 2024, Illinois enacted an [amendment](#) to the Human Rights Act that bans employers from using artificial intelligence (AI) that results in discrimination based on an employee's protected class. It also requires employers to notify employees that AI is being used. The law takes effect on **Jan. 1, 2026**.

The law prohibits employers from using AI that results in the discrimination of employees on the basis of protected classes (e.g., age, race, sex, religion or disability) with respect to recruitment; hiring; promotion; renewal of employment; selection for training or apprenticeship; discharge; discipline; tenure; and the terms, privileges or conditions of employment. The law also bans AI that uses an individual's ZIP code as a proxy for their protected class. Under the law, "**AI**" means a machine-based system that, for explicit or implicit objectives, infers from the input it receives how to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments (including generative AI).

More to come closer to the effective date which is more than a year away.

New! Banned Coerced Participation - Political or Religious Meetings - Jan 1, 2025

Illinois enacted the [Worker Freedom of Speech Act](#). This law protects workers from punishment or retaliation for refusing to attend meetings or listen to their employer's speech on religious or political matters, including speech regarding labor unions. The new law takes effect on **Jan. 1, 2025**.

Overview of the New Law

Under the new law, employers may not discharge, discipline or otherwise penalize, threaten to discharge, discipline, or otherwise penalize or take any adverse employment action against an employee:

- Because the employee declines to or as a means of requiring an employee to:
 - Attend or participate in employer-sponsored meetings that communicate the employer's views on religious or political matters; or
 - Receive or participate in employer communications that communicate the employer's views on religious or political matters; or
- Because the employee makes a good-faith report of a violation or suspected violation of the law.

Important Definitions

- "**Political matters**" are matters relating to political elections, political parties, proposals to change legislation, regulations or public policy, and the decision to join or support any political party or political, civic, community, fraternal or labor organization.
- "**Religious matters**" are matters relating to religious belief, affiliation or practice, or the decision to support or join any religious organization or association.

Notice Requirement

Within 30 days of the law's effective date, employers must post a notice of employee rights under the law in a location where employee notices are customarily posted. As the applicable Notice is released, ETC will provide a link in the HR WIRE for employers.

Exceptions

The new law includes the following exceptions:

- Employers may offer voluntary meetings or other communications regarding religious or political matters;



- Employers may communicate the information that they are legally required to communicate or that is necessary for the employees to perform their jobs;
- Employers may require employees to attend trainings intended to foster a civil and collaborative workplace or reduce or prevent workplace harassment or discrimination;
- Institutions of higher education may conduct meetings or communicate with employees regarding coursework, symposia, research, publication or an academic program at the institution;
- State or local legislative or regulatory bodies may require employees to attend meetings or participate in communications regarding the employer's proposals to change legislation, regulations or public policy;
- Political organizations, political party organizations, caucus organizations, candidates' political organizations or not-for-profit tax-exempt organizations may require employees to attend meetings or participate in communications regarding the employer's political tenets or purposes; and
- Religious organizations may require employees to attend meetings or participate in communications regarding the employer's religious beliefs, practices or tenets.

Employer Takeaway: To ensure compliance with the new law, employers may consider reviewing formal and informal meeting and communication practices and preparing a notice of employee rights under the law.

New! State Expands Protected Classes, Statute of Limitations and Penalties for Discrimination Claims – Jan 1, 2025

Illinois has passed four amendments to its Human Rights Act (the Act). The amendments, which take effect on **Jan. 1, 2025**, prohibit employment discrimination on the basis of an individual's reproductive health decisions and family responsibilities, extend the Act's statute of limitations to two years and increase penalties for violations of the Act.

Expansion of Protected Classes

Under the Act, employers may not discipline, discharge, refuse to hire, segregate, harass or otherwise discriminate in the terms, privileges or conditions of employment on the basis of an individual's protected class.

Effective Jan. 1, 2025, the list of protected classes will include an individual's:

- **Reproductive health decisions**—Decisions on the use of contraception, fertility or sterilization care; assisted reproductive technologies; miscarriage management care; health care related to the continuation or termination of pregnancy; and prenatal, intranatal or postnatal care; and
- **Family responsibilities**—Actual or perceived provision of personal care to a family member (i.e., a child, stepchild, spouse, domestic partner, sibling, parent, parent-in-law, grandchild, grandparent or stepparent).

However, employers do not need to modify and may enforce workplace policies based on an individual's family responsibilities (including leave, scheduling, productivity, attendance, absenteeism, timeliness, performance, referrals from a labor union hiring hall and benefits policies) if the policies comply with the Act.

Employer Takeaways: Prior to the effective date, ETC will release a revised State Handbook Addendum to detail and reference the newly protected classes for the State.

New! State Enacts New Child Labor Laws – Jan 1, 2025

Illinois has enacted [Senate Bill 3646](#). Known as the Child Labor Law of 2024 (the "Act"), it repeals and replaces the state's existing child labor laws. The Act was enacted to safeguard all working minors' health, safety, welfare and access to education. It establishes standards for working conditions for children 15 years old and younger, including limiting work hours, outlining permitted jobs, requiring employment certificates, enhancing enforcement and updating penalties for violations. The Act becomes effective **Jan. 1, 2025**.

Employment Certificates

Under the Act, it's unlawful for employers to employ minors without ensuring the minor holds a valid employment certificate issued by a school issuing officer. Employers seeking to employ a minor must provide the minor with a signed



notice of intention to employ, setting forth the specific nature of the occupation and the exact hours of the day and number of hours per day and days per week the minor will be employed. The minor must submit this notice to their school's issuing officer along with their employment certificate application. **"School issuing officer"** means a regional or district superintendent of schools or their duly authorized agent.

Supervision

The Act requires that all minors are supervised at all times by an adult of 21 years of age or older.

Recordkeeping

Under the Act, employers must keep records that include the following for every minor employed:

- The minor's name, date of birth and place of residence;
- Notice of intention to employ the minor; and
- The minor's employment certificate.

Employers must keep these records on the premises where the minor works. Additionally, employers must keep a copy of the minor's employment certificate on file for the period of the minor's employment and three years after.

Posting Requirements

Employers must post a notice summarizing the Act's requirements in a conspicuous place where minors work. The notice must include a list of prohibited occupations under the Act and the IDOL's toll-free telephone number.

Enforcement and Penalties

The Act authorizes the IDOL to investigate alleged violations, conduct hearings, adjudicate complaints, and award penalties and injunctive relief. Employers that violate the Act may be subject to the following civil penalties:

- A penalty not exceeding \$60,000 if a minor dies while working for an employer that is found by the IDOL to have been employing the minor to work in violation of the Act;
- A penalty not exceeding \$30,000 if a minor receives an illness or injury that must be reported to the IDOL while working for an employer that is found by the IDOL to have been employing the minor to work in violation of the Act;
- A penalty not exceeding \$15,000 if an employer permits a minor to work in a restricted occupation;
- A penalty not exceeding \$500 if an employer fails to post or provide the required notice; and
- A penalty not exceeding \$10,000 if an employer commits any other violation of the Act.

All civil penalties are payable to the IDOL.

To read/learn more, access the Illinois Child Labor Law webpages [HERE](#)

New! State Grants Employees the Right to Inspect Pay Stubs Upon Request – Jan 1, 2025

Aug. 9, 2024, Illinois amended the Illinois Wage Payment and Collection Act (IWPCA) to allow employees to inspect their pay stubs. The amendments also impose new recordkeeping requirements on employers, expand the information employers must provide employees in their pay stubs, and create penalties for employers that fail to furnish current and former employees with pay stubs. These amendments become effective **Jan. 1, 2025**.

Right to Inspect Pay Stubs

The amendments grant current and former employees the right to inspect their pay stubs. Employers must provide current and former employees copies of their pay stubs upon request. Employers may require employees to submit their request in writing. Employers must provide current and former employees with a copy of the pay stub within 21 calendar



days of the request. Employers are not required to grant a current or former employee's request for a copy of pay stubs more than twice in a 12-month period. Additionally, employers do not need to grant a former employee's request for a copy of pay stubs more than one year after the date of separation.

Employers must provide former employees with copies of the pay stubs in either a physical or electronic format, as chosen by the former employee, and include a communication that is transmitted through electronic mail, text message, computer system, or is otherwise sent or stored electronically and is capable of being downloaded or permanently retained by the former employee. If an employer provides electronic pay stubs in a manner that a former employee cannot access for at least a full year after separation, then the employer must, upon an employee's separation from employment, offer to provide the outgoing employee with a record of all their pay stubs from the year preceding the date of separation. The offer must be made to the outgoing employee by the end of the outgoing employee's final pay period. The employer must record in writing the date on which the offer was made to the outgoing employee and if and how the outgoing employee responded.

To request copies of their pay stubs, current or former employees must contact a person responsible for maintaining an employer's payroll, including:

- The HR department;
- The payroll department;
- The employee's supervisor or department manager; or
- An individual designated in the employer's written policy.

Pay Stub Requirements

The amendments to the IWPCA expand the definition of "pay stub" and, in so doing, require employers to provide each employee with a more detailed description of an employee's pay than previously required with each pay stub for each pay period. The amendments define "pay stub" as "an itemized statement or statements reflecting an employee's":

- Hours worked;
- Rate of pay;
- Overtime pay;
- Overtime hours worked;
- Gross wages earned;
- Deductions from an employee's wages;
- Total wages year to date; and
- Total deductions year to date.

Recordkeeping

Under the amendments to the IWPCA, employers must maintain a copy of an employee's pay stubs for a minimum of three years after the payment date. Employers must maintain a copy of an employee's pay stubs regardless of whether the employee's employment ends during the retention period or whether the pay stubs are provided electronically or in paper form.

Penalties

Employers that fail to provide a current or former employee with a pay stub as required under the amendments will be subject to a civil penalty of up to \$500 per violation payable to the Illinois Department of Labor. The department must consider the appropriateness of the penalty to the size of the employer's business and the gravity of the violation.

Massachusetts

Reminder: State Enacts Pay Transparency (July 2025) & Pay Data Reporting Law (Feb 2025)

On July 31, 2024, Massachusetts enacted the [Frances Perkins Workplace Equity Act](#). This law requires employers with 100 or more employees to provide pay data reports to the Massachusetts state secretary effective **Feb. 1, 2025**, and employers with 25 or more employees to disclose the pay range in job postings effective **July 31, 2025**.



Pay Data Reporting Requirements

Under the new law, all employers with **100 or more employees** who are subject to federal equal employment opportunity (EEO) reporting requirements (i.e., required to file EEO-1, EEO-3, EEO-4 or EEO-5 data reports) must provide a copy of their federal EEO data reports for the prior year to the Massachusetts state secretary by Feb. 1. The reports must contain workforce demographic and pay data categorized by race, ethnicity, sex and job category.

Pay Transparency Requirements

Effective **July 31, 2025**, employers with **25 or more employees** will be required to:

- Disclose the pay range for a specific position in the posting of the position;
- Provide the pay range for a specific position to an employee who is offered a promotion or transfer to a new position with different job responsibilities; and
- Provide the pay range for a particular position to an existing employee holding such position or to an applicant for such position upon request.

Under the new law:

- **"Pay range"** means the annual salary or hourly wage range that the employer reasonably and in good faith expects to pay for such position; and
- **"Posting"** means any advertisement or job posting intended to recruit job applicants, whether such recruitment is done by the employer or through a third party.

No Retaliation

Employers may not terminate or otherwise retaliate or discriminate against any employee or applicant for exercising their rights under the pay transparency provisions of the law (e.g., make a complaint, or institute or testify in any proceeding regarding an alleged violation).

Enforcement and Penalties

The Massachusetts attorney general has the exclusive authority to enforce the law.

Employers that fail to submit an annual report or post pay ranges will be subject to

- a warning for the first offense,
- \$500 for the second offense,
- \$1,000 for the third offense, and
- penalties ranging from \$7,500 to \$25,000 for subsequent offenses.

For violations that occur on or prior to July 31, 2026, employers will have two business days to cure a violation before incurring a fine.

Michigan

New! State Supreme Court Increases Minimum Wage and Paid Leave – Feb 2025

Michigan Supreme Court reversed a lower court decision, reinstating wage and paid sick leave laws presented as 2018 ballot initiatives. This means significant changes to Michigan's minimum wage and paid sick leave requirements, including the eventual elimination of the tipped minimum wage. The ruling was issued in the case *Mothering Justice v. Attorney General*.

Employer Takeaways: Employers should review the new minimum wage, comp time and expanded paid sick leave requirements to ensure compliance by Feb. 21, 2025.

Paid Sick Leave Expansion

The original paid sick leave provisions of the 2018 ballot initiative will take effect **Feb. 21, 2025**.

The legislature's amendments to the ESTA significantly narrowed employee benefits, and they renamed the law the Paid Medical Leave Act (PMLA), which is currently in effect.

Key differences between the laws include that the more generous ESTA:

- Covers all employers (the PMLA exempts employers with fewer than 50 employees);
- Covers all employees (the PMLA contains employee exemptions);



- Requires accrual of one hour of leave per every 30 (not 35) hours worked;
- Allows employees to use 72 hours of leave annually instead of 40; and
- Prohibits employers from taking retaliatory action against employees.

Minimum Wage Increases

In keeping with the terms of the original Wage Act, which would have increased Michigan's minimum wage starting in 2019, the state's Supreme Court established a minimum wage and tip credit schedule as follows:

- **Feb. 21, 2025**—The minimum hourly wage will be \$10 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 48% of the minimum wage.
- **Feb. 21, 2026**—The minimum hourly wage will be \$10.65 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 60% of the minimum wage.
- **Feb. 21, 2027**—The minimum hourly wage will be \$11.35 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 70% of the minimum wage.
- **Feb. 21, 2028**—The minimum hourly wage will be \$12 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 80% of the minimum wage.
- **Feb. 21, 2029, and thereafter**—The state treasurer will calculate the inflation-adjusted minimum hourly wage according to state law. Tipped employees must be paid at least the minimum wage, as the tip credit will cease to exist.

In addition, on **Feb. 21, 2025**, another provision of the original Wage Act takes effect. Employees will be allowed to accrue 1.5 hours of paid time off for every hour of overtime worked in lieu of compensation ("comp time"), up to a maximum of 240 hours. The law allows employees to later convert the comp time back into compensation at the same wage they were earning when the hours accrued.

New Hampshire

Reminder - Hampshire Prohibits Hairstyle Discrimination – Sept 1, 2024

New Hampshire law will prohibit employers of all sizes from discriminating against applicants and employees based on their protective hairstyle. Protective hairstyles are defined as hair type or style, including braids, locs, tight coils or curls, cornrows, Bantu knots, Afros, twists, and head wraps. [NH H 1169](#) was signed by the governor on July 3, 2024.

Employer Takeaways:

- Employers that have dress or grooming policies that regulate hairstyles should consider whether those policies are truly necessary for the organization.
- Employers should review policies to ensure your equal employment opportunity (EEO) policies to include protective hairstyles

New Jersey

Reminder – Upcoming Deadlines for RetireReady NJ - Sept & Nov 2024

Employers that are required to participate in New Jersey's state-facilitated individual retirement account (IRA) savings program—known as [RetireReady NJ](#)—**must register or certify an exemption this Fall.**

- Sept. 15, 2024 - Employers with 40 or more employees must register by this date.
- Nov. 15, 2024 - Employers with 25-39 employees must register by this date.

Covered Employers

New Jersey employers must participate in RetirePath if they:

- Are a nongovernmental business, industry, trade, profession or other enterprise—whether conducted on a **for-profit or nonprofit basis**;
- Have **at least 25 employees**;
- Have been in business for **at least two years**; and
- **Do not offer** a qualified retirement plan to their employees.



Registration Information

Employers will be notified by RetireReady NJ when it is time for their businesses to register. To begin, employers will need their:

- Federal Employer Identification Number (EIN); and
- The RetireReady NJ access code from the notification. Employers that are unable to find the access code can [look it up online](#).

At registration, employers will have the option to exempt their businesses if they already offer a qualified plan or are otherwise exempt. More details are available [here](#).

Employers can invite a payroll representative to help facilitate the registration process by adding the individual as a teammate to their RetireReady NJ account and allowing them to manage the employee list and process payroll if they do not require integration.

Resources:

- [employer portal](#)
- [Frequently asked questions](#)

Pennsylvania

New! State Amends Data Breach Reporting Law – Sept 26, 2024

On June 28, 2024, Pennsylvania enacted [Senate Bill 824](#) (SB 824), which makes significant changes to the state's [Breach of Personal Information Act](#) (the Act). SB 824 establishes new requirements to notify the Office of the Attorney General of certain types of data breaches, changes the thresholds related to notifying credit reporting agencies, and, under certain conditions, requires organizations to provide free credit report and credit monitoring services to individuals whose information was compromised by a data breach. The amended version of the Act goes into effect on Sept. 26, 2026.

Employer Takeaway: Organizations that are covered by the Act should evaluate and update their data breach response plans and procedures to ensure that the new requirements are met. Additionally, organizations are advised to assess their cyber insurance policies and the corresponding limits to determine if they are adequate in light of the new requirements.

Changes to Regulatory Notification

Once SB 824 takes effect, whenever an organization provides notice of a data breach under Pennsylvania law to more than 500 residents of the state, it will also be required to concurrently notify the Pennsylvania attorney general. The notice to the Pennsylvania attorney general will need to include the following information:

- The organization's name and location;
- The date of the breach;
- A summary of the breach incident;
- An estimated total number of individuals affected by the breach; and
- An estimated total number of individuals in Pennsylvania affected by the breach.

Changes to the Threshold for Notice to Credit Reporting Agencies

- The Act currently requires any organization providing notice of a data breach to 1,000 or more Pennsylvania residents to **also** provide notice to the consumer reporting agencies that compile and maintain files on consumers on a nationwide basis.
- SB 824 lowers that threshold from 1,000 to 500.
- Any organization that is providing notice to 500 or more individuals will also need to notify the credit reporting agencies as defined by section 603 of the Fair Credit Reporting Act.

New Credit Reporting and Credit Monitoring Requirements

Under SB 824, organizations will be required to provide impacted Pennsylvania residents with free access to credit reporting and credit monitoring services if:

- There was a data breach as defined by Pennsylvania law; and



- The data accessed in connection with the breach included the individual's name (first and last name or first initial and last name) in combination with the individual's Social Security number, bank account number or driver's license/state identification card number.

If these two conditions are met, organizations must provide the impacted individuals with:

- Access to one independent credit report from a consumer reporting agency if the individual is not eligible to obtain an independent credit report from a consumer reporting agency for free under the federal Fair Credit Reporting Act; and
- Access to credit monitoring services for a period of 12 months following notification. An entity may satisfy the requirements of this paragraph by providing notice to the individual of the availability of monitoring services for a period of 12 months at no cost to the individual.

Rhode Island

New! State Enacts New Consumer Data Privacy Law – Jan 1, 2025

Rhode Island enacted the Rhode Island Data Transparency and Privacy Protection Act (DTPPA), a comprehensive consumer data protection law. The DTPPA provides Rhode Island residents with new rights related to their personal information and imposes requirements on how personal information can be collected, controlled and shared by certain businesses referred to as "controllers." The new law takes effect on **Jan. 1, 2026**.

Covered Entities

The DTPPA applies to any controller that conducts business in Rhode Island (or produces products or services targeted to residents of Rhode Island) within the preceding calendar year and who:

- Controlled or processed personal data of at least 35,000 Rhode Island customers, excluding instances where controllers are processing data solely for the purpose of completing a financial transaction; or
- Controlled or processed personal data of 10,000 Rhode Island customers and derived more than 20% of their gross revenue from the sale of personal data.

Under the DTPPA, "controller" is defined as individuals or legal entities that determine the purpose and means of processing personal data. Notably, state and local governments, nonprofit organizations, institutions of higher education, national securities associations, and entities subject to the Health Insurance Portability and Accountability Act (HIPAA) or the Gramm-Leach-Bliley Act (GLBA) are all exempt from the DTPPA.

Covered Personal Data

The DTPPA applies to personal data that is linked or reasonably linkable to an identified or identifiable individual and does not include de-identified data or publicly available information.

The DTPPA provides heightened protections and rules around "sensitive data." Under the law, "sensitive data" refers to data revealing racial or ethnic origin, religious beliefs, mental or physical health condition or diagnosis, sex life, sexual orientation, or citizenship or immigration status; the processing of genetic or biometric data for the purpose of uniquely identifying an individual; the personal data of a known child; or precise geolocation data.

Certain types of data are excluded from the DTPPA. Notably, the DTPPA does not cover data processed or maintained during an individual's employment.

Consumer Rights

Under the DTPPA, residents of Rhode Island have the following rights with respect to data collected by covered entities that conduct business in the state or produce products or services targeted to residents of the state:

- Confirm whether a controller processes their personal data and access such data, unless a trade secret would be revealed;
- Obtain, on an annual basis, a copy of their personal data held by the controller in a readily usable format;
- Correct inaccuracies in their personal data;
- Delete their personal data; and
- Opt out of the processing of their personal data for the purposes of targeted advertising, the sale of their personal data, or profiling.



Controller Requirements

Under the DTPPA, controllers must:

- Establish and maintain reasonable administrative, technical and physical data security practices to protect the confidentiality, integrity and accessibility of personal data;
- Limit data processing to what is adequate, relevant and necessary for the controller's purposes;
- Obtain consent before processing sensitive personal data;
- Conduct a data protection impact assessment on the processing of personal data that presents a heightened risk of harm to the customer;
- Provide customers with a mechanism to grant and revoke consent when required;
- Require, through contract, any processors who will process personal data on behalf of the organization to adhere to specific data protection obligations, including ensuring the security of the processing.

Enforcement

The DTPPA contains no private right of action, and the Rhode Island Attorney General has exclusive enforcement authority for the law. Violations of the DTPPA will be considered a violation of the Rhode Island Deceptive Trade Practices Act, under which each violation can incur civil penalties of up to \$10,000 per violation. Additionally, the DTPPA provides for fines up to \$500 for unauthorized disclosures of personal data.

Wyoming

New! State OSHA Increases Civil Penalties – Eff July 2024

The Wyoming OSHA Commission [amended](#) its rules to align Wyoming civil penalties for occupational safety and health citations with the corresponding federal OSHA penalties.

Penalty Changes Overview

Wyoming changes to penalty fees include minimum and maximum penalties for each type of citation. The civil penalties changes are as follows:

- Willful violation—The penalty minimum increased from \$11,162 to \$11,524 per violation, and the maximum amount per violation increased from \$156,259 to \$161,323.
- Repeated violation—The penalty minimum increased from \$11,162 to \$11,524 per violation, and the maximum amount per violation increased from \$156,259 to \$161,323.
- Serious violation—The penalty minimum increased from \$1,116 to \$1,190 per violation, and the maximum amount per violation increased from \$15,625 to \$16,131.
- Other-than-serious violation—The maximum penalties increased from \$15,625 to \$16,131.
- Failure to correct violation—The maximum penalties increased from \$15,625 to \$16,131.
- Posting, reporting or recordkeeping violation—The maximum penalties increased from \$15,625 to \$16,131.

In addition, a gravity-based penalty (GBP) will be proposed for a repeated other-than-serious violation that otherwise would have no initial penalty. The GBP will be \$460 for the first repeated violation, \$1,152 for the second violation and \$2,304 for the third violation.

Employer Takeaway: Employers should become familiar with the new penalty amounts and review their safety protocols to ensure compliance with Wyoming OSHA regulations.

SECTION IV: **Previously Reported Regulatory Matters**

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



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