



The HR WIRE

ETC HR Employer Compliance News II *Making Compliance Connections*

September 2024

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

Workplace Labor Notice Updates

NH – released a new [Veteran's Benefits and Services Notice](#).

GA – released a new **Unemployment Insurance for Employees Notice**, Vacation Unemployment Insurance Notice and the Equal Pay for Work Act Notice. All 3 Notice can be found at <https://dol.georgia.gov/laws-and-rules/gdol-required-workplace-posters>

OR – released an updated [Paid Leave Notice](#)

MA - released a revised [Workers' Compensation Notice](#)

Reminders & Alerts!

Compliance Reminder: Medicare Part D Notices Are Due Before Oct. 15, 2024

Each year, Medicare Part D requires group health plan sponsors to disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan's prescription drug coverage is creditable.

Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals before Oct. 15, 2024—the start date of the annual enrollment period for Medicare Part D. CMS has provided [model disclosure notices](#) for employers to use.

CMS has provided two model notices for employers to use:

- A [Model Creditable Coverage Disclosure Notice](#) for when the health plan's prescription drug coverage is creditable; and
- A [Model Non-creditable Coverage Disclosure Notice](#) for when the health plan's prescription drug coverage is not creditable.
- These model notices are also available in Spanish on CMS' [website](#).

This notice is important because Medicare beneficiaries who are not covered by creditable prescription drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Although there are no specific penalties associated with this notice requirement, failing to provide the notice may be detrimental to employees

New! Voting Leave Compliance Obligations

Voting Leave:

Most states require that employers provide at least a few hours off to vote, and sometimes those hours need to be paid. Often these laws require very little advance notice from employees about their need for leave, so employers should be prepared to grant last-minute requests to leave work to vote.



If you're in a state with early voting, you may want to encourage employees to take advantage of that option—by offering the same time-off benefit—to reduce the number of absences on Election Day. The availability of early voting and absentee ballots, however, doesn't change an employee's right to vote on Election Day if that's their preference.

Required Notices:

California, DC, and New York also require that employers post a notice about employees' voting rights in a conspicuous location in the workplace. Employees who work from home or don't report to the workplace regularly should be provided with these notices electronically.

California

California requires the notice to be posted at least 10 days before the November 5 election—which is October 26, a Saturday. If you're closed on Saturdays, we recommend posting or sending this notice by Friday the 25th. California's notice can be found in English [here](#) and in other languages [here](#).

The District of Columbia

DC requires that employers post a voting leave notice created by the DC Board of Elections (DCBOE) at least 60 days before the November 5 election—which is September 6. If you provide this notice electronically for remote employees, you need to get their acknowledgment of receipt. This election's notice can be found in English and in other languages [here](#). The DCBOE has a [web page](#) with additional information.

New York

New York requires the notice to be posted at least 10 working days before the November 5 election (this would be October 22 for a Monday through Friday workplace). New York's notice is available [here](#).

New! Navigating Election Season as an Employer

Employers may encounter a number of challenges during election season, as politics may introduce heightened tension and conflict in the workplace. In addition, employers must contend with a range of laws governing political speech, activity and related conduct. Therefore, it is important for employers to take proactive steps to encourage a civil workplace and avoid potential legal pitfalls. This Compliance Bulletin provides guidance employers may use to navigate politics in the workplace.

Among the issues employers may want to consider in the lead-up to the election include:

- Employee rights and restrictions with respect to political speech in the workplace;
- Employee rights regarding off-duty conduct, including social media use and other political activity;
- Employer rights to and restrictions on political speech and activities; and
- Employee voting leave rights

See the attached, stand-alone resource which walks through each of the above considerations.

New! Draft Forms & Instructions for 2024 ACA Reporting Now Available

In July 2024, the Internal Revenue Service (IRS) released draft 2024 forms for reporting under Internal Revenue Code Sections 6055 and 6056. Thereafter, on Sept. 4, 2024, and Sept. 13, 2024, respectively, the draft instructions for the B series forms and C series forms were released.

- The 2024 draft Forms [1094-B](#) and [1095-B](#) (and related [draft instructions](#)) can be used by providers of minimum essential coverage—including self-insured plan sponsors that are not applicable large employers (ALEs)—to report under Section 6055.
- The 2024 draft Forms [1094-C](#) and [1095-C](#) (and related [draft instructions](#)) can be used by ALEs to report under Section 6056 as well as for combined Section 6055 and 6056 reporting by ALEs that sponsor self-insured plans.

To date, no major changes were made to the draft forms or instructions for 2024 reporting.



Electronic Filing Requirement

The electronic filing threshold for returns required to be filed on or after Jan. 1, 2024, is 10 or more returns (originally, the threshold was 250 or more returns).

Employer Takeaway: Employers should become familiar with the draft forms and instructions for 2024 calendar year reporting.. Employers should also monitor future developments for the release of the final forms and instructions.

Deadline Reminders:

March 3, 2025 - Individual statements for 2024 must be furnished within 30 days of Jan. 31, 2025. An alternative method of furnishing Form 1095-B is available. Because the deadline falls on a weekend, the individual statements must be furnished by the next business day, which is March 3, 2025.

March 31, 2025 - Electronic IRS returns for 2024 must be filed by March 31, 2025.

Resources:

The IRS provides the following resources for reporting entities:

- [Information Reporting by Providers of Minimum Essential Coverage](#)
- [Q&As: Information Reporting by Health Coverage Providers \(Section 6055\)](#)
- [Information Reporting by Applicable Large Employers](#)
- [Q&As: Employer Information Reporting on Form 1094-C and Form 1095-C](#)
- [Q&As: Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#)

Should you have any ACA needs, please do not hesitate to reach out to ETC.

New! 2025 ACA & Affordability

The Internal Revenue Service (IRS) has released [Rev. Proc. 2024-35](#), which contains the inflation adjusted amounts for 2025 used to determine whether employer-sponsored coverage is “affordable” for purposes of the Affordable Care Act’s (ACA) employer shared responsibility provisions and premium tax credit program.

As shown in the table below, for plan years beginning in 2025, the affordability percentage for employer mandate purposes is indexed to 9.02%. This is a slight increase from 2024. Employer shared responsibility payments are also indexed and decreased for the first time in 2025.

Under the ACA, applicable large employers (ALEs) must offer affordable health insurance coverage to full-time employees. If the ALE does not offer affordable coverage, it may be subject to an employer shared responsibility payment. An ALE is an employer that employed 50 or more full-time equivalent employees on average in the prior calendar year. Coverage is considered affordable if the employee’s required contribution for self-only coverage under the employer’s lowest-cost, minimum value plan does not exceed 9.02% of the employee’s household income in 2025 (prior years are also shown above). An ALE may rely on one or more safe harbors in determining if coverage is affordable: W-2, Rate of Pay, and Federal Poverty Level.

If the employer’s coverage is not affordable under one of the safe harbors and a full-time employee is approved for a premium tax credit for Marketplace coverage, the employer may be subject to an employer shared responsibility payment.

Code Section	4980H(a)	4980H(b)	36B(b)(3)(A)(i)
Description	Coverage not offered to 95% of (or all but 5) full-time employees. “No Offer” penalty	Coverage offered, but unaffordable or is not minimum value. “Affordability” penalty	Premium credits and affordability safe harbors.
	\$2,900	\$4,350	9.02%
	\$2,970	\$4,460	8.39%
	\$2,880	\$4,320	9.12%
	\$2,750	\$4,120	9.61%
	\$2,700	\$4,060	9.83%

Employer Takeaways:

This change in the affordability threshold for next year affords employers only a modest increase from 2024 in terms of setting affordability.

As such, Applicable Large Employers should do the following in preparation for 2025:

- Familiarize themselves with the updated, increased affordability percentage for plan years beginning in 2025.
- Factor in this increase when setting employee contribution rates for plan years beginning in 2025 to ensure coverage will be affordable. For employers with non-calendar year plans, use the affordability percentage in place at the start of the plan year.
- Be prepared to file forms 1094-C and 1095-C with the IRS electronically in 2025
- Check to ensure prior year forms have been filed and accepted by the IRS. Employers who e-file receive a receipt ID if their filing is “accepted” or “accepted with errors.”

New! DOL Issues “AI & Inclusive Hiring Framework”

On September 24, 2024, the U.S. Department of Labor (DOL) [announced](#) publication of its “[AI & Inclusive Hiring Framework](#)” website, described as “a new tool designed to support the inclusive use of artificial intelligence in employers’ hiring technology and increase benefits to disabled job seekers.” Previously, DOL released [AI Principles](#), with guidance for employers and AI developers about designing and implementing AI systems in the workplace. DOL issued these AI Principles at the direction of President Biden’s [Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence](#). The AI Executive Order and AI Principles did not specify what practices run afoul of the AI Principles, but DOL’s AI Framework seeks to “chart[] a clear course for employers to navigate” implementation of AI systems in the workplace.

Within the AI Framework website, however, PEAT attempts to provide employers with resources to consider when implementing AI systems.

Employers Takeaways: Employers should regularly assess their AI use and the impact of AI systems in the workplace, not only for employees, but also applicants. Agencies are expected to issue more AI-focused guidance and publications going forward. To date, these publications primarily emphasize avoidance of disability discrimination.



New! HIPAA Policies/Practices for New Reproductive Health Care Rights

Beginning December 23, 2024, regulated entities and their business associates must comply with stricter [HIPAA privacy protections](#) for reproductive health care.

These new protections **prohibit regulated entities from using or disclosing protected health information (PHI) related to lawful reproductive health care:**

- For a criminal, civil or administrative investigation into (or proceeding against) a person in connection with reproductive health care; or
- To identify an individual, health care provider or other person for purposes related to such an investigation or proceeding.

In addition, regulated entities must **obtain a valid attestation when a request is made to use or disclose PHI potentially related to reproductive health care** for certain purposes to ensure that the use or disclosure is permissible.

The new privacy protections impact:

- **Employers with self-insured health plans;** and
- **Employers with fully insured health plans that have access to PHI (other than enrollment information, summary health information and information released pursuant to a HIPAA authorization) from their issuers.**

The new privacy protections **do not impact employers with fully insured health plans that do not have access to PHI (other than the limited types listed above).**

Although the new privacy protections do not specifically require updates to business associate agreements, if applicable, employers should review the terms of their agreements to determine if updates should be made.

Lastly, the U.S. Department of Health and Human Services has provided a [model attestation form](#) that **employer-sponsored health plans may use** to ensure a requested use or disclosure of PHI complies with the new privacy protections. **Health plans** must also update their HIPAA privacy notices for the new privacy protections, although they have until Feb. 16, 2026, to make these updates.

Important dates

Dec. 23, 2024 - Regulated entities must comply with the new privacy restrictions for reproductive health care.

Feb. 16, 2026 - Covered entities (which an employer may be) must update their **HIPAA notice of privacy practices** for the new requirements.

ETC will continue to monitor as HHS is likely to publish Model HIPAA Notice of Privacy Practice (NPPs) inclusive of references to the regulatory changes.

New! EBSA Releases Updated Cybersecurity Guidance for Employee Benefit Plans

Plan fiduciaries (Employers) of ERISA-covered *pension and health and welfare plans* have an obligation to ensure proper mitigation of cybersecurity risks, and because employers often rely on service providers to maintain plan records and keep participant data confidential and plan accounts secure, it is critical to use service providers that follow strong cybersecurity practices.

The Compliance Release, [Compliance Assistance Release No. 2024-01](#), issued by DOL Employee Benefits Security Administration (EBSA), clarifies that the cybersecurity guidance **applies to all types of plans covered by the Employee Retirement Income Security Act of 1974 (ERISA), including health and welfare plans and all employee pension benefit plans.**



EBSA is providing the following updated guidance:

1. **[Tips for Hiring a Service Provider](#)**: This guidance helps plan sponsors and fiduciaries prudently select a service provider with strong cybersecurity practices and monitor their activities, as required by ERISA.
2. **[Cybersecurity Program Best Practices](#)**: This guidance assists plan fiduciaries and recordkeepers in their responsibilities to manage cybersecurity risks.
3. **[Online Security Tips](#)**: This guidance offers plan participants and beneficiaries who check their retirement accounts or other employee benefit information online basic rules to reduce the risk of fraud and loss.

Additional Resources

The U.S. Department of Health and Human Services also offers publications that may help health plans and their service providers maintain good cybersecurity practices, as follows:

- [Health Industry Cybersecurity Practices: Managing Threats and Protecting Patients](#)
- [Technical Volume 1: Cybersecurity Practices for Small Healthcare Organizations](#)
- [Technical Volume 2: Cybersecurity Practices for Medium and Large Healthcare Organizations](#)

Cases to Watch Update: 5th Circuit Upholds DOL's Authority to Set Minimum Salary Requirement for White-collar FLSA Exemptions

If you have been following current federal cases potentially impacting employers, On Sept. 11, 2024, in *Mayfield v. U.S. Department of Labor*, the U.S. Court of Appeals for the 5th Circuit [held](#) that the U.S. Department of Labor's (DOL) **has** the authority to define and delimit the terms of the executive, administrative and professional (EAP) exemptions including the power to set a minimum salary for exemption under the Fair Labor Standards Act (FLSA).

In *Mayfield*, the plaintiff, a small business owner, challenged the DOL's 2019 final rule, arguing that the agency lacks the authority to define the FLSA executive, administrative and professional (EAP) exemptions in terms of salary level.

Decision Impact: The 5th Circuit's ruling is significant, as it provides support for the DOL's authority to implement its [2024 final rule](#) that amended current requirements employees in white-collar occupations must satisfy to qualify for an overtime exemption under the FLSA. The final rule took effect on July 1, 2024, increasing the standard salary level from \$684 to \$844 per week (\$35,568 to \$43,888 per year) for EAP employees and \$107,432 to \$132,964 per year for HCEs. On Jan. 1, 2025, the salary level will again increase from \$844 to \$1,128 per week (\$43,888 to \$58,656 per year) for EAP employees and \$132,964 to \$151,164 per year for HCEs. The rule also enables the DOL to update the salary levels automatically every three years starting July 1, 2027. The DOL's 2024 final rule is currently facing several other legal challenges from businesses in multiple jurisdictions. ETC will continue to monitor and report developments as there remain several other legal challenges to the upcoming increased salary threshold effective Jan 1, 2025.

New! OSHA Releases New Online Severe Injury Report Dashboard

On Sept. 4, 2024, OSHA released an online [tool](#) giving users the ability to search its severe injury report (SIR) database and view trends related to workplace injuries occurring in states covered by federal OSHA.

OSHA requires that employers report all severe work-related injuries, such as amputations, in-patient hospitalizations or losses of an eye, within 24 hours of the incident. This reporting requirement began on Jan. 1, 2015. Until now, there has been no centralized data point that provided an interactive view of severe injuries across federal OSHA states.

The SIR dashboard allows users to search and download data by year, industry, state, establishment name, and occupational injury and illness classification system codes. The dashboard includes information on all severe injuries reported by employers covered under federal OSHA since 2015.

Injuries are coded using the occupational injury and illness classification system. Employers view the data according to selected filters. In addition, the entire SIR dataset can be downloaded.



OSHA states that the data will be updated periodically, and it represents incidents under federal OSHA jurisdiction only. The online tool does not include incidents under state plan jurisdictions.

Employer Takeaway: Be aware that employer establishment data is searchable and the data pulled shows establishment names. Employers are encouraged to use the dashboard to learn how severe injuries happen in their industries.

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! State Law Imposes Transparency Requirements - Child Labor Practices – Jan 1 2025

On September 22, 2024, California Gov. Gavin Newsom signed [Assembly Bill \(AB\) 3234](#) into law, which imposes transparency requirements for employers who audit their child labor practices. The bill will take effect on January 1, 2025.

Under AB 3234, any employer who has voluntarily subjected itself to a “social compliance audit,” in whole or in part, to determine if child labor is involved in the employer’s operations or practices, must post a clear and conspicuous link on its website to a report detailing the findings of its audit. “Child labor” means any work performed by a person under 18 years old in violation of state or federal law. AB 3234 defines “social compliance audit” as a voluntary, nongovernmental inspection or assessment of an employer’s operations or practices to evaluate whether the operations or practices are in compliance with state or federal labor laws, including wage-and-hour and health and safety regulations, including those regarding child labor.

Employer Takeaways

1. AB 3234 does not impose a substantive requirement to conduct social compliance audits relating to child labor or otherwise. However, if an employer voluntarily subjects itself to a partial or complete audit of child labor compliance, the law will require specific disclosures about the audit.
2. The public disclosure of the social compliance audit report may deter employers from voluntarily engaging in these audits. The U.S. Department of Labor’s Wage and Hour Division (the Department) has enhanced its response to child labor violations following a 69% increase in findings of child labor violations between 2018 and 2022. As previously reported, the Department has strengthened federal efforts to protect minors from illegal employment situations, changing the penalty structure for violations, and enforcing the “hot goods” provision that would prohibit the shipping of goods that were produced in an establishment where oppressive



child labor occurred. State agencies have also enhanced their response and increased enforcement activities to address potential child labor violations.

3. There are open questions about AB 3234 that will be crucial for compliance. AB 3234 does not specify a deadline for posting findings following a social compliance audit, how long the report must be posted, and penalties for noncompliance. Further guidance will be required from the Division of Labor Standards Enforcement (DLSE) before enforcement activities ensue.
4. California employers will need to determine whether AB 3234 will apply to their operations or practices, which in many cases will involve a fact-intensive analysis. Employers will need to put a process in place to meet the compliance requirements of AB 3234. Companies also should consider how AB 3234 will impact their corporate social responsibility reporting and compliance with global forced labor laws. Multiple countries have recently implemented laws to combat forced labor in supply chains and require disclosure of potential exposure and measures taken to remediate forced labor or child labor. California employers should promptly work with legal counsel to assess whether their companies are subject to the AB 3234 disclosure requirements.

ETC will continue to monitor and report updates.

Reminder: LA County – Fair Chance Ordinance – Eff Sept 3, 2024

As previously reported in the HR WIRE, employers in the unincorporated areas of Los Angeles County must comply with the Los Angeles County Fair Chance Ordinance (FCO), which places restrictions on criminal background screening beyond those required by California's Fair Chance Act (Fair Chance Act) as of September 3, 2024

The FCO covers employers with five or more employees in any location, and which "is located or doing business in the unincorporated areas of Los Angeles County." Covered employers and those covered employers with even one employee who works in the unincorporated areas of Los Angeles County should take heed of the FCO.

Additional information published by the California Civil Rights Department regarding the [Fair Chance Act can be found online](#) and Los Angeles County has [published some useful FAQs online](#).

Connecticut

New & Reminder! State Expands Family Violence Leave – Oct 2024

Beginning October 1, 2024, Connecticut has expanded its family violence leave law to include leave for sexual assault. The law applies to employers with three or more employees and allows employees who are victims to take up to 12 days of leave per calendar year for specified reasons, such as to seek counseling or to relocate.

Employer Takeaway: Update your domestic violence leave policy to include victims of sexual assault.

NOTE: ETC's CT State Handbook Addendum released 7/2024 included this update reference.

Florida

New! Minimum Wage Increase – Sep 2024

Effective September 30, 2024, Florida's minimum wage will increase to \$13 per hour. The minimum base wage for tipped employees will increase to \$9.98 per hour.

Illinois

Reminder: 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.

Reminder: 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.

Reminder: 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.

Reminder: 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](#)

Reminder: 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.

Maryland

Employment Law Updated Effective – Oct 1

The following apply to employers of all sizes, unless otherwise noted:

Pay and Benefit Transparency in Job Posting Requirements ([MD H 649](#))

Employers will be required to **post a wage range in all job postings for positions that will be physically performed, even in part, in Maryland.**

A *wage range* is defined as a minimum and maximum hourly rate or salary that's established in good faith based on any of the following:

- Any applicable pay scale
- Any previously determined wage range for the position
- The wage range of an individual holding a comparable position at the time of the posting
- The budgeted amount for the position



Job postings must also include a general description of any benefits and other compensation offered for that position. Internal job postings, such as promotions and transfers, and all forms of recruitment (whether directly by the employer or indirectly by a third-party on the employer's behalf) are covered by this new posting law. If an applicant didn't have access to the posting for a position, employers are required to provide this information to them before any discussion of compensation occurs and at any other time upon the applicant's request. Employers are required to maintain records showing compliance with this law for at least three years after the position was filled or posted, whichever comes later. The state will create a form that employers can include in their job postings and provide to applicants, though using the state's form will not be mandatory.

The Wage Transparency Guidance: As to the wage transparency requirement, the MDOL has provided the following resources:

- [Wage Range Transparency FAQs](#)
- [Narrative Examples](#)
- [Compensation Disclosure Form](#) (PDF)
- [Compensation Disclosure Form Instructions](#) (PDF)

Employer Takeaway: Amend job postings to include the required pay information by October 1.

Written Pay Information Required ([MD H 385](#))

Two existing pay-related notice obligations for employers have been revised.

First, the **notice** that employers must give employees at the time of hire, **detailing their pay rate, scheduled paydays, and leave benefits**, will now need to **be in writing**.

Second, employers will be required to **provide the following written information on employees' pay stubs**, whether paper or electronic:

- Employer's business name (as it's registered with the state), address, and telephone number
- Date of payment and the beginning and end dates of the pay period the payment covers
- Employee's rate of pay
- Employee's gross and net pay earned during the pay period
- Name and amount of all deductions
- List of additional bases of pay (e.g., bonuses or commissions)
- For nonexempt employees, the number of hours they worked during the pay period
- For employees paid on a piece rate basis, the piece rates of pay and the number of pieces completed at each rate

The state will create a pay stub template for employers to use, though it hasn't said when it will be made available.

Employer Takeaway: Revise your new hire paperwork to include the new hire notice in *writing*. Ensure your pay stubs are modified to contain the specific written information required by the law.

Military Status Protected ([MD H 598](#))

The state has updated its **antidiscrimination law to include military status** as a protected category. *Military status* is defined as being a member of the uniformed services or a reserve component of the U.S. Armed Forces or **being a servicemember's dependent**. The inclusion of servicemember's dependents makes this law notably broader than federal Uniformed Services Employment and Reemployment Rights Act (USERRA). Maryland's antidiscrimination **law applies to employers with 15 or more employees** (and employers of all sizes for *harassment* claims).



Employer Takeaway: Update your Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include military status, if it's not included already.

NOTE: ETC's EEO Policy Statement address servicemember applicability. That said, you can elect to include an additional statement in your Maryland State Handbook Addendum if you feel it necessary. Either way, do be sure from a procedural standpoint that you realize that antidiscrimination is extended to cover servicemember's dependents.

Equal Pay Law Expanded ([MD H 602](#) & [MD H 1397](#))

The state's equal pay law has been expanded to include **additional protected characteristics**. Employers will be **required to ensure equal pay and job opportunities between employees of different sexual orientations, races, and religious beliefs, unless there are bona fide reasons for a discrepancy**. Additionally, the law specifically prohibits offering less favorable job opportunities to those with disabilities. Previously, sex and gender identity were the only protected characteristics under the state's equal pay law.

Employer Takeaway: If you haven't reviewed employee compensation recently, now is the time. Assess the salaries of employees performing comparable work, those within the same business unit, or those engaged in similar operations or projects. This review should verify that salaries are consistent or that any pay disparities are justified by a legitimate system or factor.

Paid Family Leave Insurance Program ([SB0485](#))

Maryland legislators passed a law modifying the timeline and deadlines for the Family and Medical Leave Insurance Program ("FAMLI"), a program first established in a [2022 bill](#).

[FAMLI](#) is an insurance program where employers and workers make contributions into a fund administered by the State. Alternatively, an employer may apply to use a commercial or self-insured plan.

The FAMLI program will cover all Maryland employers with at least one employee and is funded by contributions from employers and employees. SB0485 becomes effective **October 1, 2024**.

- **Employers:** Two classes of Maryland employers exist for the purposes of FAMLI.
 - Employers with < 15 employees are not required to make contributions, but their employees will be required to contribute
 - Employers with at least 15 employees requires contributions from both employers and employees.
- **Employees:** All Maryland employees are required to contribute to FAMLI and are entitled to FAMLI benefits as a result. An employee is defined in the bill as someone who has worked at least 680 hours in Maryland in the 12 months immediately preceding the date on which leave will begin.

Contribution Date: The start date for required contributions changed from October 1, 2024, to **July 1, 2025**. This means payroll deductions will begin on July 1, 2025, and employers will remit the first payment in October 2025

Benefit Date: The start date for benefit payments changed from January 1, 2026, to **July 1, 2026**. The contributions employers remit to the State will create a trust fund. The fund will grow and begin paying out benefits to Maryland workers.

Massachusetts

New! State's Supreme Judicial Court Rules Leave Does Not Accrue During PFML



As a point of clarity, the Massachusetts Supreme Judicial Court ruled on September 13, 2024, that the state's paid family and medical leave (PFML) [law](#) does not provide for the accrual of vacation time, sick time and length-of-service credit during the period workers are on PFML. The Supreme Judicial Court affirmed the lower court's dismissal, holding that the statute only ensures that any rights the employee already has to the benefits at issue are not affected while the employee is on leave. As an additional reminder, Health insurance must be continued during PFML.

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

Reminder: 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.

Minnesota

New! State Paid Leave Wage Reports - October 31, 2024

Minnesota employers of all sizes will be required to submit their first employee wage reports to the state by October 31, 2024, as part of their obligations under the state's Paid Leave law.

The reports must include each employee's name, Social Security number, hours worked, and wages paid for the period of July 1, 2024, through September 30, 2024.

Employers will need to submit this information quarterly through the state's Unemployment Insurance (UI) online system. Employers that are covered by the UI program will be able to submit a single wage detail file for both programs when they pay their UI taxes. Employers not covered by UI are required to set up a "Paid Leave Only" account in the UI system.



Paid Leave *benefits* will be available to employees starting on January 1, 2026. Employers can begin taking payroll deductions on the same date, and must submit their first premiums to the state by April 30, 2026. Additional detail forthcoming closer to the effective date.

For more information, see [Minnesota's Paid Leave employer website](#).

New! State Makes Several Changes to Work Comp Laws – Aug & Oct 2024

Although changes are not likely to greatly impact employers, the below is provided for informational purposes to keep employers aware of the recent changes.

The governor of Minnesota recently signed legislation that changed a number of key workers' compensation laws. The bill was enacted on May 8, 2024, with some changes going into effect Aug. 1, 2024, and others to go into effect on Oct. 1, 2024, with the aim of such being to offer improved financial support, fair compensation and more thorough processes for determining benefits.

Key Changes

- Procedural timeline extensions;
- An increase to the maximum compensation rate increase;
- Medical record penalties;
- Average weekly wage (AWW) revisions for agricultural workers;
- Attorney fees increase; and
- An increase in home remodeling benefits.

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](#)

New York

New! State Enacts Retail Workplace Violence Prevention Law – March 25 & Jan 2027

On Sept. 4, 2024, New York enacted the Retail Worker Safety Act (the Act) ([S8358C/A8947C](#)). The Act is aimed at enhancing worker safety and mitigating the risk of workplace violence in retail environments. It applies to employers that have 10 or more employees working in a retail store. Under the Act, a “retail store” is defined as a store that sells consumer commodities at retail and is not primarily engaged in the sale of food for consumption on the premises.

Important Upcoming Dates:

March 3, 2025 - Employers must have their workplace violence prevention policy and training implemented.

January 1, 2027 - Employers with 500 or more retail employees nationwide must provide panic-button access to employees.

Regulatory Requirements

- Employer must implement written workplace violence prevention policies that address workplace violence risk factors and prevention methods.
- Additionally, they are required to provide information and interactive training to employees on various workplace violence issues. These include “measures that retail employees can use to protect themselves when faced with workplace violence,” such as de-escalation tactics, active shooter drills, emergency procedures, security alarms, panic buttons, and other emergency devices. Employers will have to provide this training to each employee upon hire, and then at least annually thereafter.
- Also, employers must provide access to panic buttons. This provision goes into effect on **January 1, 2027**, and it applies to any employer with 500 or more retail employees *nationwide*. Employers that must comply with this section may choose to provide panic buttons throughout their workplaces or mobile phone-based panic buttons.

Key Takeaways: New York retail employers should review the requirements of the Act and create a workplace violence prevention policy or adopt the model policy developed by the NY DOL by **March 3, 2025**. Retail employers that have a current workplace violence prevention policy should ensure their policies meet or surpass the minimum requirements of the NY DOL model policy. Retail employers should ensure that employees receive workplace violence prevention training as required under the Act. In addition, employers with 500 or more employees should prepare to have panic buttons implemented by Jan. 1, 2027, to comply with the Act’s requirements.

Pennsylvania

Reminder: 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

Reminder: 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.

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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