

IN THE KNOW

Bulletins for Benefits & HR Professionals



JANUARY 13, 2022

More Vax-or-Test ETS Guidance from OSHA on Over-the-Counter Tests

“Now that the stay on the vax-or-test ETS has been lifted, the Occupational Safety and Health Administration has plunged back into its implementation activities, including updating the FAQs. Of particular interest, OSHA has added a number of questions addressing the use of over-the-counter (OTC) tests. The ETS allows for the use of COVID tests that have been cleared, approved or authorized by the Food and Drug Administration, which would include certain OTC tests. However, the ETS also provides that such tests may not be self-administered and self-read unless observed by the employer or an authorized telehealth proctor.”

[Full Article](#)

Shawe Rosenthal



It's a New Year – With Many New State Minimum Wage Laws

“The new year brings a host of new state wage and hour laws. Employers should take note that as of January 1, 2022, almost half of U.S. states increased their minimum wage rate. As a result, 30 states and the District of Columbia now have minimum wage rates higher than the federal minimum wage, which has remained at \$7.25 per hour for over a decade. It is important to note that many states have exceptions to their minimum wage rates for a variety of workers, including but not limited to employees of small businesses, farm workers, and tipped employees.”

[Full Article](#)

Cozen O'Connor

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Immigration Updates in COVID-19 Times

“International borders have been closed for 18 months, U.S. embassies abroad have been operating at a limited capacity, and yet employers struggle to find and retain talent. Corporate immigration, including H-1Bs and other visas, continues to provide a solution for savvy employers. Here are the most important immigration changes within the last year.”

[Full Article](#)

Holland & Hart



Effectively Implementing Social Media Policies in the Workplace

“The stated goal of the National Labor Relations Board (“NLRB”) is to ensure that employers are not violating Section 8(a)(1) of the National Labor Relations Act (the “Act”) by implementing a work rule that would “reasonably tend to chill employees in the exercise of their Section 7 rights.” In particular, the NLRB has focused on the precise wording and language used in employment handbooks. Although the NLRB’s yardstick in this area is apparently flexible rather than rigid, a careful understanding of applicable NLRB opinions can help employers regulate social media usage more effectively.”

[Full Article](#)

Klein, Moynihan, Turco

Coworking Spaces: COVID-19 Considerations



“As workplaces are reimagined, employers and operators of coworking spaces need to consider how to operate safely in the age of the COVID-19 pandemic. Coworking spaces have become an intriguing work alternative for remote employees, hybrid workers, self-employed individuals, independent contractors, and others. Employers and operators of coworking spaces should consider such issues as the security of sensitive company or employee information and compliance with COVID-19 health and safety rules, among others.”

[Full Article](#)

Jackson Lewis

Federal Contractors Must Ban the Box

“The Fair Chance to Compete for Jobs Act of 2019 took effect on December 20, 2021 and requires agencies to include a clause in federal contracts that prohibits contractors from requesting, either verbally or in writing, the criminal history of an applicant for work under a federal contract until after a conditional offer of employment has been made. (The “box” refers to the box on many employment applications, which must be checked if the applicant has a criminal record). There are exceptions where a criminal background check prior to the offer is required by law, the position is related to law enforcement or national security duties, or the position has access to classified information.”

[Full Article](#)

Shawe Rosenthal

State & International Compliance

NEW YORK



New York Department of Labor Releases Final Regulations for State Sick Leave Law

"The New York Department of Labor issued final regulations regarding the New York State Sick Leave Law (NYSSLL), which has been in effect since September 30, 2020. The final regulations do not contain any changes to the rules initially proposed on December 9, 2020." [Full Article](#)

Littler Mendelson

CONNECTICUT



Connecticut Paid Leave Payments and Connecticut FMLA Changes Coming January 1: What You Need to Know

"As we speed closer to January 1, the date when payments will begin under Connecticut's Paid Family and Medical Leave Act and the effective date of changes to Connecticut's Family and Medical Leave Act (CT FMLA), below are some updates and considerations for employers." [Full Article](#)

Jackson Lewis

MINNESOTA



A Blizzard of Activity from Minnesota OSHA in the New Year

"On January 3, 2022, Minnesota OSHA adopted the ETS by reference in the State Register. For Minnesota employers with 100 or more employees this means they must develop and implement a COVID-19 vaccination and testing policy by January 10, 2022. (MNOSHA indicated it will not issue citations for noncompliance with any requirements of the ETS before Jan. 10.) Further, employers must make the testing requirements of their policies operational by February 9, 2022." [Full Article](#)

Littler Mendelson

CALIFORNIA



California Adopts New CDC Guidance Regarding Quarantine and Isolation Periods With Its Own Twists

"The California Department of Public Health (CDPH) released updated guidance to conform to the new CDC guidelines but added additional requirements, including testing to exit isolation or quarantine after the fifth day. Notably, the new guidance also introduces a distinction between boosted and non-boosted individuals for the first time." [Full Article](#)

Hunton Andrews Kurth

WASHINGTON



Washington Long-Term Cares Fund Update: Employers Advised to Withhold Premiums Starting January 1

"Governor Jay Inslee has clarified that, starting January 1, "employers will still be legally obligated to pay the full amount owed to state ESD [Employment Security Department] to begin the long-term care program" under the Washington Long-Term Services and Supports Act, until the legislature changes the law." [Full Article](#)

Jackson Lewis