

IN THE KNOW

Bulletins for Benefits & HR Professionals



JUNE 30, 2021

Coming Soon to a Workforce Near You: NLRB

"People often associate the National Labor Relations Board (NLRB) exclusively with union issues. This is so even though the agency has investigated and found labor law violations by non-union employers over the years, including with respect to the wording of personnel policies for example. In an apparent attempt to change its image, the NLRB may be launching a new outreach program." [Full Article](#)

Barnes & Thornburg



The Devil Is In the Details: Department of Labor Publishes Tipped Employee Proposed Final Rule

"The DOL proposes to adopt what is known as the 80/20 rule. The devil is in the details, and the DOL now limits the 20 percent of allowable non-tipped duties to only those duties that "directly support the tip-producing work." This change is significant for employers because the DOL has narrowly defined what duties directly support tip-producing work. Additionally, if the tipped employee performs such work continuously for 30 minutes or more, full minimum wage must be paid for that time." [Full Article](#)

Baker Hostetler

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New NLRB Rule Prohibits Solicitation of Voters' Mail Ballots in Union Elections

"The National Labor Relations Board has established a new standard under which a union or employer's offer to collect a voter's mail ballot is objectionable conduct that can result in setting aside the results of an election. The Board's new prohibition on ballot solicitation was handed down in a June 9 decision in which representatives of a UEW local called and texted multiple voters and offered to collect and mail their ballots. The new no-solicitation standard is significant, particularly given that the NLRB is continuing to conduct the overwhelming majority of elections through mail ballots due to COVID-19 related considerations." [Full Article](#)

Barnes & Thornburg



How to Legally Focus on Diversity, Equity, and Inclusion in the Workplace

"June brings the confluence of Pride Month as well as the newly minted federal holiday, Juneteenth. Over the last few years, as social justice issues have been at the forefront, many companies have published statements or made pledges committing support to such important topics and issues. The struggle for employers has always been turning words into action, in a fair, supportive, helpful, and legal way." [Full Article](#)

Holland & Hart

Trends in Employment Anti-Discrimination Training: Why Employers Are Addressing Unconscious Bias in the Workplace



"As anti-harassment and anti-discrimination training becomes more prevalent across the country, and as issues like racial and gender inequality become increasingly important both within and outside the workplace, the subject matter of this training is evolving. Increasingly, employers are incorporating "implicit bias" or "unconscious bias" training into their anti-harassment and anti-discrimination training, and with good reason, since the Equal Employment Opportunity Commission has included unconscious bias within its definition of discrimination." [Full Article](#)

Venable

EEOC Issues LGBTQ+ Restroom Guidance on One-Year Anniversary of Bostock

"Employers remember the seminal Supreme Court decision in *Bostock v. Clayton County, Ga.*, where the Court held that Title VII's "because of sex" protections extend to sexual orientation and transgender status. (See our previous blog entry.) Now, on the one-year anniversary of that influential case, the EEOC has issued guidance to clarify whether employers can segregate bathrooms by gender or sex. That question was conspicuously left unresolved in *Bostock*."

[Full Article](#)

Hunton Andrews Kurth

State & International Compliance

CALIFORNIA



Revised Cal/OSHA COVID-19 Emergency Standard Approved by Board and Fast-Tracked by Governor Newsom

"On Thursday, June 17, the California Occupational Safety and Health Standards Board voted in favor of adopting Cal/OSHA's newly proposed version of the Emergency Temporary Standard (ETS). Immediately afterward, Governor Gavin Newsom issued an executive order that the ETS will be effective immediately upon filing with the Secretary of State."

[Full Article](#)

Reed Smith

NEW YORK



New York Lifts Most COVID-19 Requirements, Prepares to Implement New Employer Obligations

"On June 15, 2021, Gov. Andrew Cuomo lifted New York's COVID-19 restrictions for employers across numerous industries, including businesses in office and retail settings. New York employers are no longer required to, among other things, conduct daily health screenings, enforce capacity restrictions, abide by social distancing protocols or manage employee contact tracing." [Full Article](#)

Cooley

CONNECTICUT



Connecticut Legalizes Recreational Marijuana

"Connecticut has become the 19th state to legalize recreational marijuana use by adults. Governor Ned Lamont signed the Act Concerning Responsible and Equitable Regulation of Adult-use Cannabis on June 22, 2021. Connecticut will permit individuals 21 years of age and older to possess and use recreational cannabis." [Full Article](#)

Jackson Lewis

MAINE



Maine Expands State FMLA to Allow Leave to Care for Serious Health Conditions of Grandchildren

"Maine employees will soon be eligible to take protected unpaid leave to care for serious health conditions of their grandchildren. On June 14, 2021, Governor Janet Mills signed into law L.D. 61, an Act to Include Grandparents Under Maine's Family Medical Leave Laws." [Full Article](#)

Jackson Lewis

COLORADO



Colorado Employers Must Now Pay Out Earned Vacation Pay Irrespective of Contrary Policy

"On June 14, 2021, the Colorado Supreme Court held that the Colorado Wage Claim Act (CWCA) requires Colorado employers to pay out employee vacation pay once earned—regardless of any relevant employment agreement or company policy." [Full Article](#)

Hogan Lovells