

IN THE KNOW

Bulletins for Benefits & HR Professionals



AUGUST 26, 2021

Noncompete Agreements and The Great Resignation

“The Great Resignation” is upon us. For months, pundits have predicted that millions would leave their jobs as the pandemic subsides, and those predictions have proven prescient. According to The Wall Street Journal, the percentage of people leaving their jobs is higher now than it has been in a generation, and Microsoft’s Work Trend Index reports that more than 40% of the workforce intends to leave their employer this year. Some of these employees will be subject to noncompete/nonsolicitation agreements and may possess confidential trade secrets, so their departures may raise difficult questions for prospective and former employers.” [Full Article](#)

Troutman Pepper



OSHA Updates COVID-19 Guidance for Fully Vaccinated Workers

“On Friday, August 13, 2021, OSHA updated its COVID-19 Guidance to complement the CDC’s mask and testing recommendations for fully vaccinated people. Echoing the CDC’s July 27, 2021 guidance, OSHA urges employers to consider requiring face coverings in indoor work settings, even for fully vaccinated people.” [Full Article](#)

Kilpatrick Townsend

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Equal Pay: The Emerging Legal Landscape

“Over the course of the past year, several states—including Colorado, Connecticut, and Rhode Island—have proposed and passed novel pay equity legislation. The impact of these laws is notable, including because they subject employers to significant notice requirements, which may require sweeping changes to workplace practices and policies. The impact of these laws is even more profound in the midst of the COVID-19 pandemic, due to the explosion of remote work opportunities resulting in more companies having multi-state footprints than ever before.”

[Full Article](#)

Quarles & Brady



Approaching the “New Normal” in the Workplace with the Same Ol’ ADA

“Here is a sentence that I never thought I would write: TikTok has helped me be a better attorney. It’s true and not because there is an abundance of critical legal thought on the app or because #AttorneyTok offers any content of mean-ingful substance. However, the platform has over one billion users globally and a great many of them (like me) are employees. And what do one billion people log onto TikTok to talk about? The answer, for better or for worse, is everything—but especially their jobs.” [Full Article](#)

Ice Miller

Keeping Your Wellness Program Healthy



“For years, employers have used wellness programs with the hope they would help improve employees’ overall health while simultaneously reducing group health plan costs. The pandemic has presented challenges for wellness programs though, as employees have found it more difficult to meet the requirements for discounts because of lockdowns and fears of COVID-19. To address these challenges, some employers are considering modifications to their programs to allow employees to qualify for discounts if they obtain a flu or COVID-19 vaccine.” [Full Article](#)

Haynes Boone

Be Careful About Restricting Employee Communications with Media

“Employers that bar staff from communicating with the media should take another look at those prohibitions, following a recent federal appellate decision finding such a policy unlawful under the National Labor Relations Act (NLRA). An employee’s critical letter to the editor might be embarrassing, but taking action against the author for writing it may be unlawful.” [Full Article](#)

Akerman

State & International Compliance

PENNSYLVANIA



Security (And Other?) Screening Time Is Compensable

“The Pennsylvania Supreme Court recently held that workers must be paid for the time spent waiting in line and undergoing a security screening process. Of note, the principles in this holding have broader application and, in the context of the pandemic, would likely require Pennsylvania employers to pay for COVID-19 screening time” [Full Article](#)

Shawe Rosenthal

ILLINOIS



Chicago Amends Minimum Wage and Paid Sick Leave Ordinance: What Employers Need to Know

“The City of Chicago has amended its Minimum Wage and Paid Sick Leave Ordinance (the “Ordinance”), providing new reasons for taking paid sick leave under the Ordinance, and adding a new remedy for Chicago employees alleging wage theft against their employers (collectively, the “Amendments”). The Amendments are in full effect as of August 1, 2021.”

[Full Article](#)

Bryan Cave Leighton Pisner

CONNECTICUT



Connecticut Limits Inquiries into Prospective Employees’ Ages

“On June 24, 2021, Governor Lamont signed into law Public Act 21-69, which adds to Connecticut’s Fair Employment Practices Act an explicit ban on Connecticut employers inquiring into the ages of prospective employees “on an initial employment application.” The new law, An Act Deterring Age Discrimination in Employment Applications, goes into effect on October 1, 2021.” [Full Article](#)

Little

MICHIGAN



Loaded Questions: Are Noncompetition and Nonsolicitation Clauses Really Enforceable in Michigan?

“Restrictive covenants can be excellent tools for employers to protect their business’ reputation, competitiveness, and confidential information. And in Michigan, such covenants will generally be enforceable, provided that they are reasonable.” [Full Article](#)

Dickinson Wright

FLORIDA



Florida Ban on Requiring Vaccine Passports Banned (For Now)

“Florida employers can require employees to obtain COVID-19 vaccinations, submit records of such vaccination, and can implement other safety measures for their workplaces, notwithstanding national publicity suggesting that recent Florida rules, orders, and laws prohibit or discourage these public health measures.” [Full Article](#)

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