

IN THE KNOW

Bulletins for Benefits & HR Professionals



July 28, 2022

Wage Transparency Laws Are Here to Stay

“Some employers wish to post job openings without providing a salary range. They also would like to ask applicants about their salary history. Although this may benefit the employer in the negotiation process, asking about an applicant’s salary history and not providing salary information may be unlawful. Legislators have been concerned that employers’ lack of transparency in job listings and inquiries about salary history may disproportionately impact women, people of color, or those from other underrepresented groups.” [Full Article](#)

Greenberg Traurig LLP



EEOC'S Updated COVID-19 Guidance Places Additional Restrictions on Employers

“For more than two years, employers have had to navigate a frequently changing landscape to ensure they complied with all of the laws relating to the COVID-19 pandemic. That landscape continues to change with two recent developments from the Equal Employment Opportunity Commission. On July 12, the EEOC updated its "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws" guidance to address topics including testing employees for COVID-19, hiring, and required reasonable accommodation. On July 11, the EEOC settled a case involving an allegation that an employer had violated the Genetic Information Non-Discrimination Act by collecting employees' family members' COVID-19 test results.” [Full Article](#)

Day Pitney LLP

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Employment Law “Kitchen Fires” — Protecting Your Restaurant Against Sexual Harassment

“According to the federal Equal Employment Opportunity Commission (EEOC), the restaurant industry is the single largest source of sexual harassment claims in the U.S. Restaurant employers need to take action to protect their employees from harassment and their businesses from potentially costly lawsuits. Surveys show 90% of women and 70% of men working in restaurants have experienced some form of sexual harassment from either managers, co-workers or customers, and recent headlines support those statistics. On a regular basis, well-known restaurant companies and celebrity chefs are being hit with sexual harassment claims as well as high dollar judgments or settlements.” [Full Article](#)

Phelps Dunbar LLP



There and Back Again: Labor Department Issues New Proposed Non-displacement Regulation

“The U.S. Department of Labor has released a proposed regulation to reinstitute a requirement that contractors provide offers of employment to workers covered by the Service Contract Labor Standards, unless the contractor can establish an exception. The regulation would implement an executive order signed by President Joe Biden on Nov. 18, 2021, and comments on the rule will be accepted until Aug. 15, 2022. It is estimated that when the final rule is incorporated, it will affect between 74,000 and 329,000 small businesses.” [Full Article](#)

Holland & Knight LLP

Bonuses & Calculating an Employee’s Regular Rate of Pay for Overtime



“The Fair Labor Standards Act (FLSA) requires that non-exempt employees be paid no less than time and one-half their regular rate of pay for all hours worked over 40 hours in a workweek. How should an employer calculate an employee’s regular rate of pay? Under the FLSA, an employee’s regular rate of pay includes “all remuneration for employment paid to, or on behalf of, the employee,” less certain statutory exceptions. The regular rate is determined by adding the employee’s pay for the workweek and all other earnings and dividing the total by the number of hours the employee worked that week.” [Full Article](#)

Haynsworth Sinkler Boyd P.A.

Employers — Don't Automatically Assume Prescription Meds Pose a Danger in the Workplace

“Have you read the warnings on prescription painkillers? They can be pretty scary — “May cause drowsiness.” “May cause dizziness.” “Do not operate a car or dangerous machinery.” (Or words to that effect). I think by now, everyone is aware of the risks associated with controlled substances. Certainly, the opioid epidemic did not earn its name lightly. So it’s not surprising that some employers are concerned when employees take prescription medications that come with those warnings — particularly when those employees are working with heavy machinery or sharp objects, or getting behind the wheel of a vehicle. But it is important for employers to understand when they can — and cannot — prohibit employees on such medications from working.” [Full Article](#)

Shawe Rosenthal LLP

State & International Compliance

NEW YORK



Sexual Harassment Hotline Law Takes Effect in New York State

“Governor Kathy Hochul signed into law an amendment to the New York State Human Rights Law requiring that the New York State Division of Human Rights (DHR) establish a confidential statewide toll-free hotline to provide free advice to employees about workplace sexual harassment issues. The law took effect on July 14, 2022.” [Full Article](#)

Phillips Lytle LLP

RHODE ISLAND



Rhode Island Enacts Tip Protection Law

“On June 28, 2022, Rhode Island Governor Daniel McKee signed into law a comprehensive tip protection bill. The law, which took effect immediately upon passage, generally prohibits employers from retaining any portion of an employee’s tips.” [Full Article](#)

Epstein Becker Green P.C.

MARYLAND



Maryland Employers Beware — State Wage Laws Do Not Incorporate Federal Portal-to-Portal Act and Its Exclusions from Compensation

“Maryland’s highest court has ruled that the federal Portal-to-Portal Act has not been adopted or incorporated into Maryland’s Wage and Hour Law, Wage Payment and Collection Law, or the corresponding state regulations — meaning that employers may be responsible for more wages for their Maryland employees under state law than under federal law.”

[Full Article](#)

Shawe Rosenthal LLP

NEW JERSEY



What Employers Need to Know About Newly Proposed Non-Compete Legislation in New Jersey

“On May 19, 2022, the New Jersey Assembly’s Labor Committee voted in favor of Assembly Bill 3715 (A3715) (full text available here), which would create significant restrictions on the scope and enforceability of the most common restrictive covenants entered into by New Jersey employees. While it remains to be seen whether the bill’s proposed changes will become law, the passage of A3715 in its current form would represent a seismic shift for New Jersey employers.”

[Full Article](#)

Sheppard Mullin LLP

COLORADO



Colorado Updates its Paid Sick Leave Guidance, Including Clarifications on Carry-Over Amounts and Public Health Emergency Leave

“On June 24, 2022, Colorado’s Department of Labor and Employment (CDLE) published a revised version of its Interpretive Notice & Formal Opinion (INFO) #6B regarding the Healthy Families and Workplaces Act (HFWA), the state’s paid sick leave law that first took effect in 2020. Notably, the updated INFO #6B clarifies the amounts of accrued sick pay and public health emergency leave that employees are entitled to under the HFWA.” [Full Article](#)

Littler Mendelson P.C.