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QUESTCO

Employers State Law Alert

Summarizing Significant New Employment Laws & Regs in All 50 States

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Arkansas General Assembly looks poised to pass paid maternity leave, p. 3.

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Thinking of offering on-demand pay? Expect more regulatory action

by Tammy Binford

A tight labor market is driving employers to offer innovative benefits in their quest to attract and retain workers. One such benefit gaining popularity is on-demand pay, often referred to as earned wage access (EWA).

It sounds simple and attractive: Workers can collect at least part of the wages they've earned without having to wait for payday. But the devil is in the details.

How should the system work? Should the employer invest in the software to make it happen, or should it instead contract with a third party? Who should pay for the service, and how much should it cost? Is it permissible for workers to have to pay even a small fee to get paid?

And maybe the biggest question of all—exactly how should EWA be defined, and how will a definition mesh with federal and state laws?

EWA: WHAT IS IT?

EWA programs allow workers to collect pay that has been earned but is not yet due. Vendors offering the service collect fees or other kinds of payments, so regulators are studying when on-demand pay amounts to a loan subject to regulation as an extension of credit.

In November 2020, the federal Consumer Financial Protection Bureau (CFPB) released an advisory opinion related to whether EWA is an extension of credit as credit is defined by the federal Truth in Lending Act's implementing regulation known as Regulation Z.

In a March 2021 article, the American Bar Association (ABA) pointed out that the CFPB opinion said a "covered EWA program" does not constitute an extension of credit and therefore is not subject to Regulation Z.

Covered EWA programs must meet certain criteria, including that the employee pay no fee to use the program and the advance must be sent to an account of the employee's choice. Also, the provider must recover the advance only through an employer-facilitated payroll deduction from the employee's next paycheck.

In this Issue:

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The ABA article reported that the CFPB determined covered EWA transactions operate like advances on accrued cash value of an insurance policy or pension account, which are not considered credit under Regulation Z.

The CFPB advisory opinion didn't entirely clear up the matter, and it issued another order in December 2020 indicating some kinds of EWA providers can't rely on a credit safe harbor in the law and therefore may be seen as extending credit.

The CFPB clarified that EWA providers can charge nominal fees in some circumstances without their programs being considered credit, but there are still parallels in some EWA programs that may cross the line into providing credit.

PROS, CONS

Regardless of how EWA programs are defined, some employers see them as a benefit that will help attract and retain workers. But many consumer protection advocates warn that workers who routinely access their wages early—thereby lowering the amount they collect on payday and possibly also paying a fee for the privilege—can put themselves in a vicious cycle, consistently running short on money before payday.

The ABA article cites the case of PayActiv, a company offering EWA programs that was given a compliance assistance sandbox (CAS) approval order in 2020. A CAS allows a company facing regulatory uncertainty a safe harbor from liability under specified legal provisions. The CFPB said entities can be offered such safe harbors "for specified conduct that the Bureau finds compliant with those legal provisions, subject to good faith compliance with the terms of the approval."

In granting the CAS, the CFPB called PayActiv's fee "nominal." But the ABA article points out that "in an actual credit transaction, a $5 finance charge for a two-week period on a $100 wage advance would yield a triple-digit annual percentage rate."

In June 2022, the CFPB announced it had terminated its CAS with PayActiv after informing the company it was considering terminating it "in light of certain public statements the company made wrongly suggesting a CFPB endorsement of its products."

The company then requested the termination so it could make changes to its fee model, and the CFPB terminated the CAS on June 30, 2022.

LOOKING AHEAD

In December 2022, FlexWage, a company offering financial services including an EWA program, reported what it expects in the form of regulations shaping EWA programs in 2023. The forecast says the Government Accountability Office (GAO) is to complete a Review of Fintech, Equity, and Inclusion and submit it to Congress and the administration. FlexWage predicts the CFPB will use that study along with previous actions to define EWA programs more clearly.

FlexWage also predicts regulators will examine EWA vendors that mandate the use of their card or wallet accounts for both EWA transfers and payroll deposits.

"Neither the federal government nor states allow mandating a specific account for payroll deposits," the FlexWage report says. "Employers may find themselves non-compliant and named in class action lawsuits for allowing EWA providers to mandate their specified account for their employee's payroll deposit."

FlexWage also expects scrutiny of EWA providers that have the ability to change and control an employee's direct deposit account. "Employers who contract with these EWA vendors may find themselves in hot water," the FlexWage report says. "It is not just an ethical issue but could very easily be a consumer protection and privacy issue."

STATE LAW PICTURE

Several states have looked into legislation related to EWA, but no legislation had passed as of the FlexWage report at the end of December 2022. The report predicts that in addition to the federal CFPB, states will continue issuing clarifying opinions about whether EWA solutions require licensing for lending and money transmission.

The FlexWage report says California and Kansas issued opinions during 2022. In addition to agency opinions, FlexWage predicts states will continue looking at legislation affecting EWA providers. Some states that have introduced, but not passed, legislation include Georgia, Nevada, New Jersey, New York, South Carolina, and Utah.

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STATUTES

Arkansas

ANALYSIS

Paid Leave

2023 Arkansas General Assembly looking at paid maternity leave

by Steve Jones, Jack Nelson Jones

The 94th Arkansas General Assembly is now in session, and bills related to employment are being introduced. Of course, the mere introduction of a bill doesn't mean it will ultimately be reported out of committee, much less voted into law. Particularly of interest to employers is a bill to mandate paid maternity leave in certain situations, which we cover here. You may wish to keep an eye on other potential legislation of interest, however, and maybe even inform your representative and senator regarding your views on proposed bills.

PAID MATERNITY LEAVE

House Bill (HB) 1006 seeks to add Section 11-5-119 to Chapter 5 of Title 11 of the Arkansas Code—"Working Conditions Generally"—to require 12 weeks of paid maternity leave for employees of companies offering abortion coverage under their health benefit plans.

First, it applies only to employers with 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. This tracks the coverage of the Family and Medical Leave Act (FMLA).

Second, only full-time employees who have been employed for at least 12 months are eligible. The bill doesn't mention whether the period must be consecutive months immediately prior to the leave. The FMLA regulations provide, however, that it can be cumulative of several periods of broken service.

Third, and most important, paid maternity leave is only required if the employer "covers abortions or travel expenses related to abortions for employees."

Fourth, to be eligible, an employee must be enrolled in the employer's health benefit plan and must be the birth mother. It doesn't apply to caring for a covered dependent.

Fifth, the amount paid would be 100% of the eligible employee's salary, or a 12-week average of weekly pay, depending on whether the employee is hourly or salaried.

Sixth, a covered employer may meet the provision's requirement by combining paid maternity leave with other forms of paid leave. This is consistent with the FMLA, which allows the employer to require the concurrent use of any accumulated vacation or sick leave as part of any FMLA leave.

Status: HB 1006 seems to be on a fast track for adoption. It has ready been reported out of committee and passed by the House. It has been transmitted to the Senate, where it has been read the first and second time and was referred to the Senate Public Health, Welfare and Labor Committee on February 13.

Observations: Employers need to act quickly if they want to oppose HB 1006 or seek amendments. It was submitted by five Republican members of the House and one Republican Senator. It passed the House by a vote of 80 Yes, 12 No, and 8 Abstained. Given that level of support in the House and the fact it's a Republican-sponsored bill in a Republican-controlled legislature, it seems very likely to pass and be signed into law. If employers want to oppose this legislation, they need to contact their legislators and lobbyists immediately.

Excerpted from Arkansas Employment Law Letter
Steve Jones, Editor
Jack Nelson Jones

Minnesota

ANALYSIS

Race Discrimination

Minnesota passes law banning hair discrimination

by Colleen Kaufenberg, Felhaber Larson

On February 1, 2023, Minnesota Governor Tim Walz signed the CROWN Act, whose name stands for "Creating a Respectful and Open World for Natural Hair." The law prohibits racial discrimination based on natural hair texture and protective hairstyles. At least 18 other states have passed similar laws. A federal bill passed the U.S. House in 2022, led by Black women lawmakers including Representative Ilhan Omar (D-MN), but failed in the Senate.

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WHAT THE CROWN ACT DOES

The legislation adds protections to the Minnesota Human Rights Act for "traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists." It protects a person's decision, free from discrimination, to wear their natural hair in the workplace and in school.

The Act is intended to safeguard people whose natural hair styles have been treated as "unprofessional" or in violation of employers' or schools' dress code policies. The new law will go into effect on August 1, 2023.

The law doesn't apply to unnatural colors such as pink or blue hair, for example, or supersede military or safety laws.

BOTTOM LINE

You should review your policies and handbooks to ensure they are broad enough to prohibit discrimination based on traits associated with race, such as natural hair and hair styles, including but not limited to braids, locs, and twists. You should also train your managers, HR staff, and other employees involved in interviewing and hiring decisions on the policies regarding employees' appearance.

Excerpted from Minnesota Employment Law Letter
Ryan A. Olson and David A. Richie, Editors
Felhaber Larson

New Jersey

ANALYSIS

Layoffs

Stricter requirements on mass layoffs, business closures set to take effect

by Yostina Mishriky and Brigette N. Eagan, Genova Burns LLC

In 2020, New Jersey amended the Millville Dallas Airmotive Plant Job Loss Notification Act (referred to as the NJ WARN Act), which regulates employers implementing mass layoffs and business closures.

Governor Phil Murphy placed the amendments on hold because of the COVID-19 pandemic. Three years after their enactment, on January 10, 2023, the governor passed legislation making the amendments effective on April 10, 2023. The amendments change the landscape for employers that are forced to close their doors or reduce their workforce.

CURRENT NJ WARN ACT

The NJ WARN Act currently requires employers with 100 or more full-time employees to provide a 60-day advance notice prior to a mass layoff, termination, or transfer of operations that results in the termination of employment of 50 or more full-time employees.

Under the NJ WARN Act, a "mass layoff." is the termination of employment within a 30-day period. Additionally, in a mass layoff, the employer doesn't make a commitment to reinstate within six months, either of the following:

- 500 or more full-time employees; or
- 50 or more full-time employees, which represent 33% or more of the full-time employees at the establishment at issue.

MAJOR CHANGES TO THE NJ WARN ACT:

The following changes to the NJ WARN Act become effective on April 10, 2023:

- All employers with 100 or more employees are covered. Both part-time and full-time employees are now counted toward this 100-person trigger. The current law only counts full-time employees.
- Employers must give employees a 90-day notice of the mass layoff or business closure, while the current law only requires a 60-day notice.
- All laid-off employees must receive one week's severance pay for every year the employee worked for the employer. The current law contains no severance requirement.
- Employers that fail to give the required 90-day notice for layoffs must also pay affected employees an additional four weeks' severance pay.
- Under the amendments, a mass layoff is defined as a layoff that results in the termination of 50 or more employees at, or reporting to, an establishment within any 30-day period. This applies regardless of whether the 50 employees constitute one-third of the establishment's employees.
- The definition of an "establishment" is now expanded to encompass multiple non-contiguous sites and employees at jobsites reporting into the location, even employees outside of New Jersey who report into the establishment.

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- Employers must receive approval from the New Jersey Department of Labor and Workforce Development or a court order to obtain a valid waiver of an employee's NJ WARN rights.

TAKEAWAYS

There are three significant takeaways from these amendments. First, more employer layoffs will be subject to the NJ WARN requirements. Second, for the first time in New Jersey, employers will be required to pay severance to laid-off employees. Third, employers must carefully plan out layoffs to comply with the 90 days' notice requirement (or else they are required to pay affected employees an additional four weeks of severance).

The amendments also raise an important practical consideration. Employers routinely prepare severance packages for laid-off employees in exchange for a release waiving the employee's right to sue the employer for unlawful termination or discrimination. Employers must give employees something of value to which they wouldn't otherwise be entitled to have a valid and enforceable release.

If the amendments now statutorily entitle the employee to at least one week of severance pay for each year worked, the employer must give something in addition to this required sum in exchange for a valid release of claims from the employee. This means layoffs have just become more expensive for New Jersey employers.

Excerpted from New Jersey Employment Law Letter
John C. Petrella and Dina M. Mastellone, Editors
Genova Burns LLC

ANALYSIS

Legislation

Temporary Workers' Bill of Rights could spell end for NJ's agency industry

by Harris S. Freier and Yostina Mishriky, Genova Burns LLC

On February 6, 2023, Governor Phil Murphy signed Assembly Bill 1474/S511, commonly referred to as the Temporary Workers' Bill of Rights.

The bill's "equal-pay-equal-benefit" provision requires temporary workers to be paid at least the same average pay rate and equivalent benefits (or cash equivalent) as the third-party client's permanent employees performing the same or similar work on jobs that require equal skill, effort, and responsibility.

The legislation applies to workers in designated classifications, including certain workers in protective service; food preparation and serving; building and grounds cleaning and maintenance; personal care and service; construction; production; and transportation.

IMPACT ON TEMP AGENCIES AND EMPLOYERS HIRING TEMPS

In addition to the key provision setting equal pay protections for the covered categories of temporary workers, it further requires the following:

- At the request of a temporary worker, temporary help service firms must hold daily wages and provide biweekly pay checks to avoid unnecessary check cashing fees that reduce earnings. The bill prohibits pay deductions for meals and equipment that would reduce temporary workers' pay below minimum wage.
- Temporary help service firms must pay workers for a minimum of four hours when they are assigned to work for a client but no work is available.
- Firms are prevented from interfering with workers' rights to accept employment with the companies in which they are placed on a temporary basis.
- Firms and third-party clients are prohibited from charging fees to transport temporary workers to their work sites.
- Temporary workers must be provided with information detailing key terms of employment in the workers' primary languages, such as hours worked and pay rate.
- Firms must keep certain records of each temporary labor engagement (including the location of the worksite, the type and number of hours worked, and the hourly rate) for a period of six years.
- Employers must promptly provide certain information about the assignment to the staffing firm (no later than seven days following the last day of the work week worked by the temporary laborer) as well as provide a work verification form to each temporary laborer who is contracted to work for a single day.
- Employers also must reimburse staffing firms for wages and related payroll taxes for services performed by temporary workers as per the payment terms of their agreements with the firms.

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Finally, the bill forbids temporary help service firms or third-party clients from retaliating against any temporary worker by firing them or treating them unfairly in any other way for exercising their legal rights. Termination or discipline within 90 days of the exercise of rights raises a rebuttable presumption that retaliation has occurred.

To ensure compliance, staffing agencies will be required to register with the New Jersey Department of Labor and Workforce Development (NJDOL), and third-party employers will be barred from engaging temporary workers through the use of unregistered staffing agencies. The Division of Consumer Affairs (DCA) will oversee enhanced certification requirements for temporary help service firms. The consequences of the Temporary Workers' Bill of Rights being signed into law are critical for employers and staffing agencies.

It's important to highlight that this law applies only to third-party temporary laborers. It doesn't apply to temporary employees who, for example, are placed under an employer's own payroll.

BOTTOM LINE

This law is likely going to cause a number of staffing agencies in New Jersey to go out of business because the loophole around the law is for employers to hire employees directly rather than relying on staffing agencies.

The fact that the law requires benefit levels of temp workers to equal those of an employer's actual employees is likely to be challenged under Employee Retirement Income Security Act of 1974 (ERISA) preemption.

Excerpted from New Jersey Employment Law Letter
John C. Petrella and Dina M. Mastellone, Editors
Genova Burns LLC

Tennessee

ANALYSIS

Right to Work

Tennessee constitutionalizes its 'right-to-work' status

by Sara Anne Quinn, Butler Snow, LLP

During the midterm elections in early November, Tennesseans voted to amend the Tennessee Constitution to make it unconstitutional to deny employment to individuals based on their union membership status. This amendment doesn't change the long-standing "right-to-work" law in Tennessee or require employers to make new policies. Rather, it provides constitutional protection to the state's "right-to-work" status, making it harder to change in the future.

MIDTERM ELECTIONS

In the November 8, 2022, midterm elections, Tennesseans voted on four amendments to the Tennessee Constitution. The first amendment on the ballot asked voters whether they desired to amend Article XI of the constitution to add the following language:

> It is unlawful for any person, corporation, association, or this state or its political subdivisions to deny or attempt to deny employment to any person by reason of the person's membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor union or employee organization.

This amendment passed by a wide margin, with almost 70% of Tennessee voters voting "yes" in favor of adding this language. The change has left some employers asking what it means for them and what they need to do differently. The short and simple answer is that nothing has changed.

WHAT WAS THE LAW PRIOR TO THE AMENDMENT?

Under federal law, employees have the right to unionize, and employers can't deny employment or fire employees for their membership in or affiliation with a union.

Federal law, however, doesn't address whether employees can be required to be a member and pay union dues as a condition of employment, leaving that up to individual states. States that have prohibited mandatory union membership are often referred to as "right-to-work" states.

Tennessee has long been a "right-to-work" state. Although voters were deciding whether to amend the constitution to include the above language, it has been unlawful to deny employment to anyone based on their union membership or refusal to join since 1947 when legislators passed a statute almost identical to the language of the constitutional amendment.

Because of this previous statute, the current state of the law essentially remains the same. While employers can't refuse to hire individuals because they're union members, they also

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can't require individuals to be union members and/or pay union dues to be employed.

THE AMENDMENT

So, if the amendment didn't change the current law in Tennessee, why was it even included on the ballot? Under the new amendment, it's no longer simply illegal to require employees to be union members or pay dues as a term of employment: It's unconstitutional.

Giving constitutional protection to the long-standing "right-to-work" law makes it harder to change the law in the future. The proponents of the amendment hope that it will provide some assurances to employers that Tennessee's status as a "right-to-work" state will stay secure and potentially discourage pushes for large-scale union activity in the state.

BOTTOM LINE

Although the amendment is a change to the Tennessee Constitution, it doesn't change the current state of Tennessee law or require any new policies or practices from employers. As always, however, employers must take care to comply with all federal and state laws regarding union membership and activity. Employers facing union activity or those who need help complying with the law should contact an experienced labor and employment attorney.

Excerpted from Tennessee Employment Law Letter
Kara E. Shea, David Johnson, and Sara Anne T. Quinn, Editors
Butler Snow LLP

REGULATIONS

Alaska

Licensure

Temporary military certificates of registration

The Board of Registration for Architects, Engineers, and Land Surveyors adopted new regulations to provide guidance for the issuance of temporary certificates of registration for active-duty military members or spouses of active-duty military members.

Cite: 12 AAC 36.112 (Online Weekly Notice System, 12/30/2022) (7 pages)

Adopted: 12/30/2022

Effective: 1/29/2023

https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=138659

Workers' Compensation

Fees for medical treatment and services

The Alaska Department of Labor and Workforce Development amended regulations and published an updated Workers' Compensation Medical Fee Schedule for 2023, authorizing its use for the next calendar year.

Cite: 8 AAC 45.083 (Online Weekly Notice System, 12/30/2022) (58 pages)

Adopted: 12/22/2022

Effective: 1/29/2023

https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=138660

Arizona

Occupational Safety

Boiler and water heater safety

The Industrial Commission repealed and amended rules for the safe installation, use, inspection, and repair of applicable boilers and water heaters operated in the state.

Cite: A.A.C. R20-5 (28 A.A.R. 3952, 12/30/2022) (13 pages)

Adopted: 12/30/2022

Effective: 12/7/2022

https://apps.azsos.gov/public_services/register/2022/52/contents.pdf

California

Licensure

Educational requirements

The state Physical Therapy Board updated regulations and corresponding documents relating to standards for satisfactory evidence of equivalent degree for licensure as a physical therapist or physical therapist assistant.

Cite: 16 CCR § 1398.26.1 (CRNR 2022, No. 52-Z, 12/30/2022, page 1556) (2 pages)

Adopted: 12/14/2022

Effective: 1/1/2023

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https://govt.westlaw.com/calregs/Search/Index

Licensure

Retired licensure

The California Dental Hygiene Board amended and adopted rules to establish a system for a retired category for registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended function.

Cite: 16 CCR §§ 1117, 1119 (CRNR 2022, No. 48-Z, 12/02/2022, page 1471) (4 pages)

Adopted: 11/16/2022

Effective: 1/1/2022

https://govt.westlaw.com/calregs/Search/Index

Occupational Safety

Definition of normal consumption

The state Occupational Safety and Health Division adopted amendments to make permanent an emergency regulation implementing a policy to clarify the meaning of "normal consumption" of personal protective equipment (PPE) and providing a formula for calculating "three months of normal consumption" of PPE consistent with Labor Code definitions and requirements.

Cite: 8 CCR § 340.70 (CRNR 2022, No. 50-Z, 12/16/2022, page 1511) (2 pages)

Adopted: 12/5/2022

Effective: 12/5/2022

https://govt.westlaw.com/calregs/Search/Index

Colorado

Wages

Prevailing wage and residency rules

The Colorado Division of Labor Standards and Statistics amended rules to update the administration and enforcement of the Keep Jobs in Colorado Act, incorporating Wage Protection Rules by reference.

Cite: 7 C.C.R. 1103-6 (45 CR 23, 12/10/2022) (8 pages)

Adopted: 11/10/2022

Effective: 1/1/2023

https://www.sos.state.co.us/CCR/Upload/AGORequest/AdoptedRules12022-00606.docx

Whistleblowers

Whistleblower, antiretaliation, noninterference, and notice-giving

The Division of Labor Standards and Statistics amended rules to implement Colorado legislative enactments and accompanying rules protecting against retaliation for, or interference with, the exercise of protected rights and requiring that employees and other workers receive various forms of notification of their rights.

Cite: 7 C.C.R. 1103-11 (45 CR 23, 12/10/2022) (12 pages)

Adopted: 11/10/2022

Effective: 1/1/2023

https://www.sos.state.co.us/CCR/Upload/AGORequest/AdoptedRules02022-00587.docx

Florida

Employee Leasing

Form for termination of operations

The Florida Board of Employee Leasing Companies amended rules to update the language and Board form for the termination of employee leasing company operations, incorporating the form by reference.

Cite: Fla. Admin. Code R. 61G7-10.002 (48 faw 245, 12/20/2022) (1 page)

Adopted: 12/13/2022

Effective: 1/2/2023

https://www.flrules.org/gateway/readFile.asp?sid=0&type=1&tid=26639224&file=61G7-10.002.doc

Kentucky

Licensure

Optometric practice

The Kentucky Board of Optometric Examiners adopted new regulations to govern the enforcement of legislative prohibitions against false, misleading, or deceptive

advertising, with rules defining various violations, establishing disciplinary requirements, and related Board rules.

Cite: 201 KAR 005:002 (49 Ky.R. 6, 11/01/2022, page 1371) (4 pages)

Adopted: 11/15/2022

Effective: 11/15/2022

https://apps.legislature.ky.gov/law/kar/registers/49Ky_R_2022-23/06_Dec.pdf

Maine

Licensure: Healthcare Professionals

Training programs

The State Board of Nursing adopted amendments to an existing rule regarding training programs and delegation by registered professional nurses of selected nursing tasks to certified nursing assistants to align with changes in the Certified Nursing Assistant-Medication (CNA-M) curriculum.

Cite: 02 380 CMR Ch. 5 Rule 2022-257 (Weekly Notices of State Rulemaking, 12/28/2022) (14 pages)

Adopted: 12/28/2022

Effective: 1/1/2023

https://www.maine.gov/boardofnursing/laws-rules/rules-chapters/Adopted%20Chapter%205%20Rule%20-%20Effective%201-1-2023/Chapter%205%20Adopted%20Rule_.pdf

Michigan

Licensure

Accountancy rules

The Michigan Department of Licensing and Regulatory Affairs amended rules for the practice of accountancy, including general provisions, licensure requirements, continuing education, and professional conduct.

Cite: AC, R 338.5101, 5102, 5104, 5110a, 5111, 5115, 5116, 5139, 5140, 5210, 5211, 5215, 5230, 5401, 5405, 5460, 5465, 5475, 5501, 5503 (2022 MR 22, 12/15/2022, page 9) (14 pages)

Adopted: 11/21/22

Effective: 11/28/22

https://www.michigan.gov/lara/-/media/Project/Websites/lara/moahr/ARD/2022-Michigan-Register/MR22_121522.pdf?rev=ea2cb24f6a8442dd928e2d68961d33f8

Mississippi

Employees

Substance use/abuse and mental health conditions

The Mississippi Board of Nursing renewed regulations for the framework and processes for implementation of a confidential and nondisciplinary program for eligible nurse applicants designed to promote early identification of substance use/abuse or mental health condition; removal from nursing practice and entry into treatment; and for monitoring of compliance upon reentry into nursing practice.

Cite: 30 Miss. Admin. Code Pt. 2826 (Mississippi Administrative Bulletin, 12/22/2022) (10 pages)

Adopted: 12/22/22

Effective: 12/22/22

https://www.sos.ms.gov/adminsearch/ACProposed/00026704b.pdf

New Mexico

Licensure: Healthcare Professionals

Nurse licensure

The New Mexico Board of Nursing repealed and replaced rules for all nurses licensed in the state and nurses who wish to practice in the state under a multistate license privilege, with licensure requirements, continuing education rules, standards of practice, and expedited licensure for military service members and veterans.

Cite: 16.12.2.1 NMAC (33 n m reg 23, 12/13/2022) (26 pages)

Adopted: 12/13/2022

Effective: 12/13/2022

https://www.srca.nm.gov/nmac/nmregister/xxxiii/16.12.2.html

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New York

Wages

Minimum wage increases

The New York Department of Labor amended minimum wage orders for the building service industry, miscellaneous industries and occupations, the hospitality industry, and nonprofitmaking institutions that certify payment of statutory minimum wages.

Cite: 12 NYCRR 141, 142, 143, 146 (2022-52 N.Y. St. Reg. 58, 12/28/2022) (5 pages)

Adopted: 12/13/2022

Effective: 12/31/2022

https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I04c71940ad0d11dda763b337bd8cd8ca&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)

Oregon

Benefits

Sick time exemptions

The Oregon Bureau of Labor and Industries repealed a rule pursuant to legislative requirements, removing specific exemptions from sick time requirements.

Cite: OAR 839-007-0060 (Oregon Bulletin, December 2022) (1 page)

Adopted: 11/2/2022

Effective: 1/1/2023

https://secure.sos.state.or.us/oard/viewReceiptPDF.action?filingRsn=52487

Workers' Compensation

Apportionment of permanent partial disability

The Oregon Workers' Compensation Division amended rules to limit apportionment for a denied condition and to limit the adjustment of a worker's residual functional capacity due to a denied condition.

Cite: OAR 436-035-0007, 436-035-0012, 436-035-0013, 436-035-0014, 436-035-0230, 436-035-0250, 436-035-0380, 436-035-0385, 436-035-0390 (Oregon Bulletin, December 2022) (43 pages)

Adopted: 11/8/2022

Effective: 12/4/2022

https://secure.sos.state.or.us/oard/viewReceiptPDF.action?filingRsn=52525

Texas

Civil Rights

Equal opportunity provisions, complaints, and deferrals

The Civil Rights Division of the Texas Workforce Commission amended rules relating to sexual harassment complaints filed against employers, amending the statute of limitations for filing sexual harassment discrimination complaints, and broadening the definition of "employer" as it relates to the filing of a sexual harassment discrimination complaint.

Cite: 40 TAC §§ 819.11, 819.12, 819.41, 819.73 (47 TexReg 8051, 12/02/2022) (8 pages)

Adopted: 11/15/2022

Effective: 12/5/2022

https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=819

Workforce Development

Vocational rehabilitation services

The Texas Workforce Commission adopted amendments to rules for vocational rehabilitation services, including program and purpose, eligibility, rates for medical services, customer participation, comparable benefits, and the Criss Cole Rehabilitation Center.

Cite: 40 TAC §§ 856.1, 856.3, 856.20, 856.40, 856.41, 856.45, 856.50, 856.52, 856.53, 856.56, 856.57, 856.59, 856.71, 856.84 (47 TexReg 8740, 12/23/2022) (17 pages)

Adopted: 12/6/2022

Effective: 12/26/2022

https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=856

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Washington

Workers' Compensation

Compensation rates

The Washington Department of Labor and Industries amended tables of classification base premium rates, experience rating plan parameters, and experience modification factor calculation limitations for the workers' compensation insurance program.

Cite: WAC 296-17-855, 875, 880, 885, 890, 89502, 89507, 89508, 920 (WSR 22-24-019, 11/30/2022) (57 pages)

Adopted: 11/30/2022

Effective: 1/1/2023

https://lawfilesext.leg.wa.gov/law/wsrpdf/2022/24/22-24-019.pdf

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