

Employers State Law Alert

Summarizing Significant New Employment Laws & Regs in All 50 States



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Keeping up with varying state laws on pay transparency

by Tammy Binford

Getting job postings right can be tough. They need to be descriptive without being overly wordy, and they must communicate what potential employees need to know about the job. That often includes at least some idea about what the position pays.

In a handful of states and cities, the pay element in a job posting isn't optional. State or local laws require employers to provide at least a range of how much a job pays.

EXAMINING PAY TRANSPARENCY LAWS

Pay transparency laws vary, but generally they require employers to share wage information with applicants,

employees, and even the public at some point early in the hiring process. In addition to information about wages, laws often require transparency about other forms of compensation, such as bonuses and commissions. Plus, the laws sometimes require transparency about how transfers and promotions affect pay.

No law at the federal level makes pay transparency demands, and less than half of the states have such laws. But even in states without them, employers may have obligations because some cities make transparency requirements. Also, employers in states without transparency laws may be required to share pay information to applicants from states that do have transparency laws.

Why do state and local governments make transparency requirements? The goal is to prevent pay inequities between men and women, as well as to prevent pay bias based on other characteristics, such as race, religion, and age.

LATEST STATE ACTION

Colorado is recognized as the first state to pass a state-wide transparency law, even though Maryland had a more limited law a year earlier. Colorado's law went into effect on January 1, 2021, and it requires job postings to disclose a salary range, as well as a description of bonuses, commissions, or other compensation and benefits. The

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law applies to employers with at least one employee working in Colorado.

Since the Colorado law took effect, 13 other states have passed their own laws. The latest states to join the trend are Massachusetts, New Jersey, and Vermont.

New Jersey's law went into effect on June 1. It covers employers with at least 10 employees over 20 calendar weeks and applies to employers that either conduct business or employ individuals in the state.

The law requires employers to include a good-faith salary range and a description of benefits and other compensation in all internal and external job postings. In addition, the law requires employers to make reasonable efforts to notify current employees about promotional opportunities before filling a job.

The **Vermont** law took effect July 1, and it applies to employers with at least five employees if at least one of the employees works in Vermont or if the employer advertises jobs primarily based in Vermont.

The law requires a good-faith salary or hourly wage range in written job advertisements. Also, for commission-based roles, employers must disclose that the job is commission-based, but they aren't required to disclose the specific commission structure or compensation details. For tipped positions, the law requires employers to disclose the base wage or wage range.

The **Massachusetts** law is set to take effect on October 29. It covers employers with at least 25 employees and requires employers to include a pay range on all job postings and promotion/transfer offers.

A LOOK AT OTHER STATES

Here's a look at the laws in the other states with transparency requirements, according to pay equity software provider PayAnalytics, which updated its list on June 30:

California: Employers with 15 or more employees with at least one working in California must provide a salary range in all job postings. Also, employers with at least one employee must disclose a salary range to current employees upon request.

Connecticut: Employers with at least one employee working in Connecticut must provide a wage range at an applicant's request or at the time an offer is made, whichever is earlier. Currently employed workers must be provided a wage range upon hiring, a change in position, or at the employee's request.

Hawaii: Employers with at least 50 employees must disclose salary and hourly wage ranges in external job listings.

Illinois: Employers with 15 or more employees must include pay scales and benefits in all job postings—even if the work is performed outside of Illinois—if the employee will report to an Illinois-based office. Also, promotion opportunities must be posted to current employees within two weeks of the job being posted externally.

Maryland: Employers doing business in Maryland are required to include wage ranges in internal and external job postings, along with information about benefits and other compensation. Also, employers can't discriminate against candidates who don't disclose wage history. The law—which went into effect on October 1, 2024—added new requirements to a more limited law that went into effect in 2020.

Minnesota: Employers with at least 30 employees must include a starting salary range or fixed pay rates in job postings. Postings also must include benefits and other compensation information.

Nevada: All employers in the state must provide the wage or salary range or rate to applicants who have completed an interview for the position. For current employees, employers must provide the wage or salary range for promotions or transfers if an employee has applied for the job, completed an interview, or been offered the job or if the employee has requested the information.

New York: Employers with at least four employees must disclose the compensation or a range in advertisements for a job, promotion, or transfer opportunity. Also, job descriptions must be provided if they exist.

Rhode Island: Employers with at least one employee in the state are required to provide applicants a wage range before discussing compensation. The law also requires employers to disclose the wage range for an employee's position both at the time of hire and when the employee moves into a new role or upon request.

Washington: Covered employers must disclose the wage scale or salary range and description of benefits in each job posting, including for jobs that can be done remotely from the state. Also, employers must disclose to current employees the wage scale or salary range for a promotion or transfer upon request. The law applies to employers with at least 15 employees if they have one or more Washington-based employees or if they engage in business in Washington or recruit for jobs that could be filled by a Washington-based employee.

STATUTES

Colorado

WAGES

Tipped employees

This law states that on and after January 1, 2026, a local government that has enacted a code or an ordinance imposing a minimum wage that exceeds the state minimum wage may increase the amount of the tip offset associated with the local minimum wage except that a local government shall not impose a tip offset in an amount that allows a tipped employee to earn less than the state minimum wage minus \$3.02.

Cite: 2025 CO HB1208 (2 pages)

Enacted: 6/3/2025

Effective: 7/1/2025

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WORKERS' COMPENSATION

Access to medical care

This law requires an employer or the employer's insurer to use the Division of Workers' Compensation's (Division) utilization standards when responding to a request for authorization from a treating physician, and, if they do not, the director of the Division may deem the services as authorized, reasonable, and necessary and require payment for the services by the employer or the employer's insurer. The law also provides injured workers control over the selection of their primary treating physician in workers' compensation cases, allowing them to choose from any level I or level II accredited physician through the Division subject to geographic limitations. The law creates the mechanism by which an injured worker may select the treating physician and requires the employer or insurer to choose the physician when an injured worker is unable or unwilling to select the treating physician.

Cite: 2025 CO HB1300 (14 pages)

Enacted: 6/4/2025

Effective: 1/1/2028

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Connecticut

UNEMPLOYMENT COMPENSATION

Wage reporting

Under current law, employers subject to the state's unemployment compensation laws must submit quarterly wage reports to the Department of Labor that include

certain information about paid employees. This law eliminates a provision that would have required these employers, beginning with the third quarter of 2026, to also include data on each employee's occupation, hours worked, and primary worksite's zip code.

Cite: 2025 CT SB1455, CT Pub. Ch. 25-62 (3 pages)

Enacted: 6/10/2025

Effective: 7/1/2025

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Iowa

DRUGS

Revises employer drug testing requirements

This law updates the state's private employer drug testing laws. It shifts the burden of proof for any lawsuit claiming a violation to employees or prospective employees. The law previously placed a burden on employers to prove compliance with the statute. It also clarifies the recovery of attorney's fees includes "reasonable" attorney's fees and costs. The law adds language allowing the employer to designate which positions are deemed "safety-sensitive" for the purpose of creating unannounced (random) drug testing pools. The law also adds a provision that would allow notice of positive test results to be offered to employees by in-person exchange or electronic notification. The statute previously required notice of a positive test result for an existing employee to be sent via certified mail, return receipt requested. The new law states that an employer may offer an employee the option to receive notice by those alternate means if the employee chooses.

Cite: 2025 IA HF767, IA Pub. Ch. 141 (4 pages)

Enacted: 6/6/2025

Effective: 7/1/2025

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UNEMPLOYMENT COMPENSATION

Modifies taxable wages and contribution rates

This law modifies the definition of "taxable wages" for purposes of unemployment insurance taxes on employers by excluding wages paid by Iowa employers to employees who work in another state if the other state extends reciprocity to Iowa for employment purposes. The law reduces the taxable wage base used to calculate unemployment insurance taxes for employers from 66.7% to 33.3% of the annualized statewide average wage. The law also modifies employer contribution rates, including changing the highest contribution rate from 9.0% to 5.4%. The law reduces the number of benefit ratio ranks from 21 to 9 and the number of contribution rate tables from

8 to 4. The benefit ratio rank of new non construction contributory employers is changed from 12 to 4 and the benefit ratio rank of new construction or landscaping contributory employers is changed from 21 to 9. The law modifies the computation of the reserve fund ratio and changes how the effective contribution rate table is determined.

Cite: 2025 IA SF607 (4 pages)

Enacted: 6/5/2025

Effective: 7/1/2025

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Louisiana

EMPLOYEE DISCRIMINATION

Military status

This law prohibits discrimination in employment based on military status. The law defines military status as a member of the uniformed forces of the United States or a reserve component as defined in federal law. The law also applies to dependents of military members where support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful intentional discrimination in employment.

Cite: 2025 LA SB66, LA Pub. Ch. 100 (9 pages)

Enacted: 6/8/2025

Effective: 8/1/2025

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WAGES

Revises payment of wages due upon discharge

Existing law provides that upon discharge of any laborer or other employee, an employer will pay the employee the amount then due, whether the employment is by the hour, day, week, or month, on or before the next regular payday or no later than 15 days following the date of discharge, whichever occurs first. This law retains existing law but adds that existing law does not apply to profits interest granted or issued by an entity taxed as a partnership for federal income tax purposes.

Cite: 2025 LA SB133, LA Pub. Ch.113 (1 page)

Enacted: 6/8/2025

Effective: 8/1/2025

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Maine

EMPLOYEE SAFETY

Report on sexual harassment in the workplace

This law requires the Department of Labor to submit a report, using available data, to the Joint Standing Committee on Labor detailing compliance and noncompliance by employers with sexual harassment policies in the workplace. The department shall include any available data on compliance or noncompliance by employers and any recommendations, including suggested legislation, for ways to strengthen employer compliance with sexual harassment policies and strengthen sexual harassment prevention efforts in the workplace. The report must be submitted no later than January 1, 2026.

Cite: 2025 ME HP1012, ME Pub. Ch. 90 (1 page)

Enacted: 6/24/2025

Effective: 9/24/2025

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UNEMPLOYMENT COMPENSATION

Professional Employer Organizations

This is an omnibus law that contains numerous changes, some of which are substantive in nature, and some are technical/errors and omissions. The law makes various changes to the state's unemployment compensation system. Among these changes it updates the employer charging methodology for employee leasing companies, also known as interchangeably Professional Employer Organizations (PEO), to ensure they report and pay contributions under the client company's contribution rate.

Cite: 2025 ME HP445, ME Pub. Ch. 235 (16 pages)

Enacted: 6/10/2025

Effective: 9/10/2025

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WAGES

Establishes minimum wage for agricultural workers

This law provides for a minimum hourly wage for agricultural employees. Beginning January 1, 2026, the minimum hourly wage for agricultural employees is \$14.65 per hour. The law requires the rate to increase on January 1 each year based on the increase in the cost of living. The law also provides for record keeping by employers, records retention and enforcement.

Cite: 2025 ME SP273, ME Pub. Ch. 232 (3 pages)

Enacted: 6/10/2025

Effective: 9/10/2025

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WAGES

Minimum pay for reporting to work

This law establishes minimum pay requirements for employees who report to work but are sent home early or have their scheduled hours reduced. The law applies to employers with 10 or more employees, who operate more than 120 days in a calendar year. It does not apply to public employers or seasonal industries. If an employee reports to work and is sent home early or has hours reduced, the employer must compensate them the lesser of two hours of pay at the employee's regular hourly rate, or the total amount the employee would have earned for their originally scheduled shift. If the employer makes a documented good faith effort to notify the employee in advance not to report to work, the employer is not liable for the reporting pay. The reporting pay requirement does not apply if the employee is unable to work due to adverse weather, natural disaster, civil emergency, illness or medical condition, or workplace injury.

Cite: 2025 ME SP282, ME Pub. Ch. 418 (2 pages)

Enacted: 6/25/2025

Effective: 9/24/2025

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WAGES

Wage assurance

This law amends the laws governing the Maine Wage Assurance Fund to increase the number of weeks for which payment may be made from 2 to 4. It also includes an equal amount of liquidated damages payable to the employee.

Cite: 2025 ME HP30, ME Pub. Ch. 692 (2 pages)

Enacted: 6/9/2025

Effective: 9/9/2025

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Nebraska

EMPLOYEE BENEFITS

Professional Employer Organizations

This law amends the Professional Employer Organization Registration Act to expand the regulations on health benefit plans offered by professional employer organizations. Specifically, language is added to require that self-funded plans use a third-party administrator licensed to conduct business in Nebraska, hold all plan assets, provide sound reserves for the health plan, provide written notice to each covered employee participating in

the self-funded plan that the plan is self-funded, and file an annual report with the Nebraska Department of Labor.

The law also creates a compliance hearing process enforceable by the Nebraska Department of Labor. The law removes the requirement that an employee welfare benefit plan be fully insured, by expanding the language to include both self-funded and fully insured health benefit plans.

Cite: 2025 NE LB293 (9 pages)

Enacted: 6/6/2025

Effective: 9/2/2025

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Nevada

EMPLOYMENT DISCRIMINATION

Discrimination based on antisemitism

This law requires the Nevada Equal Rights Commission, when conducting an investigation into an alleged unlawful discriminatory practice in housing, employment or public accommodations, to consider whether the practice was motivated by antisemitism. The law defines the term "antisemitism" to have the meaning ascribed to the working definition of antisemitism adopted by the International Holocaust Remembrance Alliance on May 26, 2016, and includes, without limitation, the contemporary examples of antisemitism published by the Alliance as guidance in connection with that definition on that date.

Cite: 2025 NV SB179, NV Pub. Ch. 495 (1 page)

Enacted: 6/10/2025

Effective: 10/1/2025

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OSHA

Air quality

This law requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to establish by regulation, measures that an employer must take to reduce the exposure of an employee to poor air quality from wildfire smoke where the air quality index is: (1) 150 or more but less than 200; and (2) 200 or more. The Administrator is also required to establish by regulation an air quality index level caused by wildfire smoke at which an employer is prohibited from allowing an employee to perform critical tasks outdoors. The law also requires each employer to establish a communications system that: (1) informs an employee when the employee is being exposed to certain poor air quality; and (2) allows any employee to report to the employer the presence of such poor air quality and

any symptom experienced by the employee that may be caused by such exposure. The Administrator must adopt regulations concerning the implementation of such a communication system and that prescribe standards for training that certain employers are required to provide to certain employees. The law prohibits the regulations adopted by the Administrator from imposing additional liability on an employer for the purposes of certain policies of insurance. The law does not apply to any employer that is an operator of a mine, employs commercial truck drivers, is a provider of emergency services, or has 10 or fewer employees.

Cite: 2025 NV SB260, NV Pub. Ch. 499 (4 pages)

Enacted: 6/10/2025

Effective: 6/10/2025, 1/1/2026

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OSHA

Employee treatment options

This law authorizes certain injured employees who have filed a claim for the occupational diseases of lung disease or heart disease to seek treatment or other services from a physician or chiropractic physician of his or her own choice, who meets certain other requirements, if the panel of treating physicians or chiropractic physicians maintained by the Administrator contains fewer than 12 physicians or chiropractic physicians in a discipline or specialization appropriate for the treatment of or the provision of other services related to the occupational disease of the injured employee who are accepting new patients and available to make an appointment within 30 days. The law also provides that the injured employee or certain other persons who pay for the treatment or services may seek full reimbursement for the costs of the treatment or services from the employer of the injured employee or certain other persons who are obligated to provide applicable coverage or benefits to the injured employee by providing a request for reimbursement, which includes certain specified contents. The law requires a person from whom reimbursement is sought to fully reimburse the requester not later than 30 days after receiving notice of the request for reimbursement. If the person fails to fully reimburse the requester within that time, the Administrator is required to order the person to pay to the requester an amount that is equal to two times the amount of the reimbursement which remains unpaid on the date on which the Administrator issues the order. The law authorizes certain notices and other documents required in such hearings and appeals to be provided by means of an electronic filing system that complies with the Nevada Electronic Filing and Conversion Rules adopted by the Nevada Supreme Court.

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Cite: 2025 NV SB376, NV Pub. Ch. 456 (24 pages)

Enacted: 6/10/2025

Effective: 10/1/2025

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New York



ANALYSIS

WAGE AND HOUR LAW

New York state increases jury duty pay

by Charles H. Kaplan, C.H. Kaplan Law PLLC

Because of an amendment to the New York Judiciary Law—which Governor Kathy Hochul signed into law on May 9, 2025—the daily pay rate for trial and grand jurors in New York state increased from \$40 to \$72, effective June 8, 2025.

NEW RATES

Now that the amended law is in effect, New York employers with 11 or more employees must pay them at least \$72 or their regular daily wage—whichever is less—for each of their first three days of service. If a juror's daily wage is less than \$72, the state will pay the difference between the juror's wage and the \$72 fee for the first three days of service.

The obligation of the employer to pay only applies if the juror is serving on jury duty on a regularly scheduled workday. If not, New York state pays the daily fee of \$72. New York state also pays the daily rate to employees of smaller employers. Further, New York state will pay jurors a fee of \$72 for each day of physical attendance after the first three days of service.

Jurors who are employed cannot be paid a jury fee for any day(s) on which they will receive regular wages unless their regular wage is less than \$72. In that case, New York state will pay the difference between the juror's wage and the \$72 fee.

THINGS EMPLOYERS SHOULD KEEP IN MIND

In addition, because of the federal Fair Labor Standards Act's (FLSA) salary basis rules, you should pay full salary to exempt employees for any workweek during which they are absent from work for one or more days because of jury duty service. However, you can offset from such salary the \$72 per day that an employee receives from New York state. You should discuss with counsel how best to proceed if an exempt employee is absent from work for an entire workweek because of jury duty service and does not perform any work during that week, such as reviewing, sending, or responding to business emails or text messages; checking business voicemail; or making or receiving business telephone calls.

You should also remember that the New York Judiciary Law provides for serious penalties against employers that subject “an employee to discharge or penalty on account of his absence from employment by reason of jury or subpoenaed witness service.”

Excerpted from New York Employment Law Letter

Charles H. Kaplan, Editor

C.H. Kaplan Law PLLC

Oregon

EMPLOYEE SAFETY

Assaults against employees

This law elevates specified occupational assaults in the fourth degree from Class A misdemeanors to Class C felonies when the assault is committed against an individual who is performing their official duties as part of their employment; and the assailant has two or more previous assault convictions for occupational assault in the first, second, third, or fourth degree. This tally includes equivalent crimes committed in another jurisdiction.

Cite: 2025 OR SB170, OR Pub. Ch. 327 (2 pages)

Effective: 6/16/2025

Enacted: 1/1/2026

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PUBLIC EMPLOYERS: LABOR UNIONS

Violations of collective bargaining laws

This law requires the Employment Relations Board (ERB) to impose specified civil penalties against a public employer for any repeat or subsequent violations of certain requirements of the Public Employees Collective Bargaining Act. It requires a public employer to make the authorized deductions and to remit payment to the labor organization within a time period that aligns with a payroll processing schedule established by the employer not to exceed 30 calendar days following the date of the deduction. The law adds a provision exempting application of the specified civil penalty for repeat or subsequent violations of certain requirements of the Public Employees Collective Bargaining Act if the public employer establishes the violation resulted from a natural disaster, a computer crime, or destruction by fire, flood, or other catastrophic event at the employer's place of business that significantly disrupted the public employer's operations relating to the violation.

Cite: 2025 OR HB2944, OR Pub. Ch. 270 (4 pages)

Enacted: 6/5/2025

Effective: 1/1/2026

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WAGES

Wage theft

This law establishes that an owner and the direct contractor that enter into a construction contract are jointly and severally liable in a civil action for unpaid wages. This includes fringe benefit contributions, and penalties, to an unrepresented employee of the direct contractor and subcontractor at tier. The law permits an unrepresented employee, authorized third party representative, or Attorney General to bring a civil action against an owner, direct contractor, or subcontractor for unpaid wages, including fringe benefits, interest and penalty wages, damages, attorney fees and costs. It requires a person to send written notice of alleged violation by first-class certified mail to the owner or direct contractor prior to commencing to a civil action. The notice must identify the alleged violation and nature of the claim and state that the owner or direct contractor has 21 calendar days from delivery date to cure violations. The law establishes 2-year statute of limitations for commencing civil action for unpaid wages or fringe benefits. It invalidates any agreement to waive, release, or indemnify an owner or direct contractor from liability. It prohibits an owner or direct contractor from claiming that a person is an independent contractor unless the person qualifies as an independent contractor under the law. The law establishes a rebuttable presumption that person performing work within the scope of the construction contract is an employee. The law permits owner or direct contractor to bring a civil action against a subcontractor for recovery of actual and liquidated damages for amount paid for unpaid wages, including fringe benefits, interest and penalty wages, damages, attorney fees and costs. The provisions regarding joint and severally liability for any unpaid wages to an unrepresented employee of any direct contractor and subcontractor for labor performed within the scope of a construction contract, do not apply to the construction, reconstruction, alteration, maintenance, moving or demolition of any building, structure or improvement, or to the excavation or other development of or improvement to land, that relates to real property used as the owner's principal residence or to real property consisting of five or fewer residential or commercial units on a single tract. The law requires a subcontractor to provide specific records and information to the owner and direct contractor, upon request.

It requires a subcontractor provide the information to an authorized third-party representative acting on behalf of an employee including the disclosure of an employee's personnel records.

It permits an owner or direct contractor to withhold payment to a subcontractor for failure to comply with a request for records and in the amount that the owner or

direct contractor has paid, on behalf of the subcontractor, in wages owed to the employees of the subcontractor.

The law applies to labor performed by workers on projects on or after January 1, 2026.

Cite: 2025 OR SB426, OR Pub. Ch. 287 (4 pages)

Enacted: 6/9/2025

Effective: 1/1/2026

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Rhode Island

EMPLOYMENT DISCRIMINATION

Adds menopause

This law revises the law relating to unlawful employment practices. It expands current law to include menopause and menopause related conditions in the law on fair employment practices pertaining to pregnancy and pregnancy related conditions.

Cite: 2025 RI HB6161, RI Pub. Ch. 225 (4 pages)

Enacted: 6/24/2025

Effective: 6/24/2025

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LABOR RELATIONS

Unfair labor practices

This law expands the definition of “employee,” and clarifies that the Labor Relations Board has the right to defer a pending unfair labor practice charge to allow for the grievance and arbitration process to move forward pursuant to the charging parties collective bargaining agreement.

Cite: 2025 RI SB124 (7 pages)

Enacted: 6/20/2025

Effective: 6/20/2025

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WAGES

Payments in lieu

This law prohibits a contractor or subcontractor from making a payment of the cash equivalent of any retirement or pension benefit directly to an employee in lieu of actually purchasing the retirement or pension benefit if the employee has been employed in excess of 90 days.

Cite: 2025 RI HB5505, RI Pub. Ch. 75 (6 pages)

Enacted: 6/17/2025

Effective: 7/17/2025

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WAGES

Revises minimum wage

This law sets the minimum wage for 2026 at \$16 per hour and for 2027 at \$17 per hour.

Cite: 2025 RI HB5029, RI Pub. Ch. 222 (3 pages)

Enacted: 6/24/2025

Effective: 6/24/2025

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Washington



ANALYSIS

JOB DESCRIPTIONS

Washington amends equal pay law to clarify employer requirements, liability

by Emily A. Bushaw, Perkins Coie

On May 20, 2025, Washington Governor Bob Ferguson signed into law Senate Bill (SB) 5408 to amend the state’s Equal Pay and Opportunities Act (EPOA). SB 5408 makes significant changes to the EPOA, including clarifying the potential statutory damages and easing compliance for employers by providing a limited notice-and-cure period for alleged violations. The amendments will go into effect on July 27, 2025.

BACKGROUND

Since January 1, 2023, the EPOA has required employers that do business in Washington state to include pay ranges and benefits information in their job postings. The EPOA also allows employees and applicants to sue for actual damages, statutory damages, and attorneys’ fees. Previously, employees and applicants could seek statutory damages of \$5,000 even if they suffered no actual damages and didn’t provide the employer with advance notice and an opportunity to cure a deficient posting.

This resulted in hundreds of lawsuits being filed under the EPOA since 2023. Many have been filed on behalf of purported “applicants” who appear to have little genuine interest in employment but submitted online applications only to trigger statutory damages and attorneys’ fees claims for technical violations. (Many of these lawsuits have been stayed pending the Washington Supreme Court’s decision in *Branson v. Washington Fine Wines*, which should resolve whether only a “bona fide” applicant can sue under the EPOA.)

SB 5408 maintains the requirement for employers to disclose pay ranges and benefits information in their job postings but enacts significant changes to the procedures and potential damages, including:

- **Notice-and-cure period.** For openings posted between July 27, 2025, and July 27, 2027, employers must be given the opportunity to correct a posting before an applicant can seek remedies for alleged EPOA violations. Any person may provide written notice to an employer alleging its posting doesn't comply with the statute's requirements. If the employer corrects the posting within five business days, then no damages or penalties may be assessed. Employers also must contact any applicable third-party posting entities to correct the job posting within the five-day cure period. This temporary grace period expires on July 27, 2027.
- **Unauthorized third-party posting.** SB 5408 clarifies that employers can't be held liable for third-party postings that are digitally replicated and published without the employer's consent.
- **Fixed-wage positions.** The amendment allows employers offering a fixed wage for a position to disclose the fixed-wage amount rather than a salary range or scale.
- **Remedies/damages.** The amendment removes language that allowed applicants to seek statutory damages of \$5,000 or actual damages, whichever was greater.

The following remedies took the place of this language:

For private civil actions. Prevailing applicants are entitled to statutory damages of no less than \$100 and no more than \$5,000 per violation, plus reasonable attorneys' fees. In determining the amount of statutory damages, courts will consider several factors, including the size of the employer, whether the violation was committed willfully, and whether it's a repeat violation. The amendment provides that courts may still order actual damages if they deem it appropriate.

Administrative enforcement. The Department of Labor and Industries (L&I) has authority to investigate and assess penalties for violations of the statute. L&I must first attempt to resolve a violation by conference or conciliation. If no agreement is reached, L&I may issue a citation and order the employer to pay each affected applicant statutory damages of no less than \$100 and no more than \$5,000 per violation.

Additionally, L&I may assess a civil penalty of up to \$500 for a first violation and up to \$1,000 for a repeat violation. L&I also has the authority to order "actual damages" or other appropriate relief.

Exclusive remedies. Applicants can pursue damages for administrative remedies or civil remedies but can't be awarded both.

Notably, the amendment doesn't expressly address whether an applicant must be a "bona fide" applicant (the question to be decided in *Branson*).

TAKEAWAYS

To take advantage of the notice-and-cure period, you should act quickly to correct job postings within five business days after receiving written notice from an applicant. Although the new law may ease some of the burden, the core job transparency requirements of the EPOA remain intact. You should continually refine your EPOA compliance strategy with the assistance of trusted counsel.

The scope of future EPOA job posting lawsuits remains uncertain while the Washington Supreme Court considers whether job applicants must be "bona fide" to bring a lawsuit. There's also potential for litigation to clarify aspects of the amendment, including what constitutes sufficient notice to trigger the cure period; whether the maximum statutory damages of \$5,000 applies per posting or per applicant; and if aspects of the amendment should apply to existing lawsuits, as only the section addressing the penalty range is expressly prospective.

Excerpted from Washington Employment Law Letter

Emily Bushaw and Heather Shook, Editors

Perkins Coie LLP



ANALYSIS

PREGNANCY

Washington passes law broadening pregnancy-related accommodations

by Emily A. Bushaw, Perkins Coie

Washington state recently passed a new law expanding pregnancy and postpartum workplace accommodation obligations to employers of all sizes and requiring lactation breaks to be paid. On May 20, 2025, Governor Bob Ferguson signed Engrossed Second Substitute Senate Bill 5217 (E2SSB 5217) into law, which will take effect January 1, 2027.

COVERED EMPLOYERS

E2SSB 5217 extends the requirement to provide pregnancy-related accommodations to all employers with one or more employees. Under the current law, only employers with 15 or more employees must provide such accommodations. Also, the bill clarifies that nonprofit sectarian and religious organizations aren't exempt and must also provide pregnancy-related accommodations.

COMPENSATION FOR LACTATION BREAKS

Under the new law, employers must pay employees their regular rate of pay for break time used to express breast milk during work hours and for travel time to access lactation locations.

This is a significant change from current Washington law, which requires employers to provide employees with reasonable break time to express milk for up to two years after their child is born but doesn't require that these breaks be paid. Federal law also doesn't mandate paid lactation breaks.

The bill prohibits employers from requiring employees to use their paid leave for lactation breaks or related travel time. Additionally, it requires that break times for expressing milk be provided separately from, and in addition to, regular meal and rest periods required by the Washington Industrial Welfare Act.

The compensation element supplements the current legal requirement that employers provide a private space other than a bathroom for the purpose of expressing milk if one is available at the workplace. If no such space exists, the employer must work with the employee to find a convenient location and schedule that meet the employee's needs.

EXPANDED DEFINITION OF REASONABLE ACCOMMODATION

The bill also broadens the definition of reasonable accommodation to include scheduling flexibility for postpartum medical visits. This is a new requirement, as current law only requires such scheduling flexibility for prenatal visits.

ENFORCEMENT

The bill transfers the responsibility for investigating and enforcing complaints of noncompliance from the Office of the Attorney General to the Department of Labor and Industries. It also establishes a private right of action. Noncompliant employers may face civil penalties, so if you have questions about the new law, contact experienced counsel.

Excerpted from Washington Employment Law Letter

Emily Bushaw and Heather Shook, Editors

Perkins Coie LLP

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REGULATIONS

Alaska

LICENSURE

Continuing education requirements

The Board of Marital and Family Therapy amended rules to clarify and streamline language, align regulations with statutory changes, update approved continuing education activities, and update definitions for applicants and licensees.

Cite: 12 AAC 19.110 - .990 (Online Public Notice System, 05/22/2025) (13 pages)

Adopted: 5/21/2025

Effective: 7/1/2025

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LICENSURE: HEALTHCARE PROFESSIONALS

Nurse practice standards

The Board of Nursing amended regulations for Licensed Practical Nurse Scope of Practice and Nurse Practice Standards, with rules for education standards, legal and ethical standards, standards for practice, continuing education requirements, and specialized nursing practice rules.

Cite: 12 AAC 44.316 (Online Public Notice System, 05/29/2025) (4 pages)

Adopted: 5/28/2025

Effective: 6/27/2025

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California

APPRENTICESHIPS

Pre-apprentice training

The Board of Barbering and Cosmetology amended rules for pre-apprentice training, adding rules for sanitation and disinfection procedures, online registration and interactive completion of a two-hour training, and submission requirements for individuals prior to enrollment in the apprenticeship program with an approved apprenticeship sponsor.

Cite: 16 CCR § 917 (CRNR 2025, No. 18-Z, 05/02/2025, page 586) (2 pages)

Adopted: 4/16/2025

Effective: 7/1/2025

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WORKERS' COMPENSATION**Medical treatment utilization schedule**

The Division of Workers' Compensation adopted and amended rules to make evidence-based updates to the medical treatment utilization schedule (MTUS) pursuant to Labor Code section 5307.27, adopting and incorporating by reference the Cannabis Guideline (ACOEM January 28, 2025) for the use of cannabis for chronic pain treatment.

Cite: 8 CCR §§ 9792.24.8, 9792.24.2 (CRNR 2025, No. 22-Z, 05/30/2025, page 700) (2 pages)

Adopted: 5/20/2025

Effective: 6/1/2025

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Illinois**LABOR****Amusement ride workers**

The Department of Labor amended and added rules related to the Amusement Ride and Attraction Safety Act, giving the Director increased discretion on when permit applications may be accepted and allows permit denials for applicants with histories of misrepresentation to the Department, requiring entities to have a First Aid and CPR certified employee on staff at all times of operation, eliminating an exemption for drug testing and background checks for volunteer carnival workers.

Cite: 56 Ill. Adm. Code 6000 (49 Ill. Reg. 6097, 05/09/2025) (83 pages)

Adopted: 5/9/2025

Effective: 4/25/2025

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Indiana**DISCIPLINARY ACTION****Fines and civil penalties for real estate licensees**

The Real Estate Commission adopted new rules to establish fines and civil penalties for licensees at fifty percent (50%) of the statutory maximum, subject to reduction or increase based on specified mitigating or aggravating factors.

Cite: 876 I.A.C. 5-4 (Indiana Register, 05/07/2025) (2 pages)

Adopted: 4/1/2025

Effective: 5/7/2025

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Iowa**LICENSURE****Continuing education for physician assistants**

The Inspections and Appeals Department amended continuing education rules for physician assistants pursuant to legislation, adding language allowing licensees to apply excess continuing education hours to the next renewal period up to 50 percent of the required hours.

Cite: 481 IAC 782.2(1) (IAB Vol. XLVII, No. 23, 05/14/2025, page 11721) (2 pages)

Adopted: 4/24/2025

Effective: 6/18/2025

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Kentucky**LICENSURE****Social work licensure compact**

The Board of Social Work adopted emergency regulations incorporating by reference the rules adopted by the Social Work Licensure Compact as required by state statute.

Cite: 201 KAR 23:012E (51 Ky.R. 11, 05/01/2025, page 1838) (2 pages)

Adopted: 4/14/2025

Effective: 4/14/2025

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Michigan**LICENSURE****Occupational code renewal**

The Department of Licensing and Regulatory Affairs amended rules under biennial license or registration renewal, identifying renewal dates for thirteen categories of occupational licenses, and authorizing the department to initially renew half of licenses for one year in order to provide equal numbers of renewals each fiscal year.

Cite: AC, R 339.1003 (2025 MR 8, 05/15/2025, page 331) (1 page)

Adopted: 4/21/2025

Effective: 4/21/2025

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New York



ANALYSIS

PERSONNEL POLICIES

New York state DOL publishes Retail Worker Safety Act model policy, training materials, FAQs

by Charles H. Kaplan, C.H. Kaplan Law PLLC

On June 2, 2025, key provisions of New York state's new Retail Worker Safety Act (RWSA) went into effect. On May 29, the New York State Department of Labor (NYSDOL) issued a model workplace violence prevention policy that meets the requirements of the Act. It also published a Model Retail Workplace Violence Prevention Training Text. Read on to learn more.

WHAT THE ACT DOES

The RWSA defines "retail employees" as workers in "a store that sells commodities at retail and which is not primarily engaged in the sale of food for consumption on the premises." The new statute requires all employers that employ 10 or more retail employees in New York state to implement strategies to reduce the risk of workplace violence to their employees and increase employee safety.

All employers covered by the Act must adopt a retail workplace violence policy and provide their employees with retail workplace violence prevention training. Other parts of the new Act, which require that large retail employers provide a silent response button to employees, will become effective on January 1, 2027, with regard to retailers with 500 or more employees throughout New York.

WORKER TRAINING

The Act requires employers to provide employees with the workplace violence prevention training in an interactive format and make a written copy of the training material available, as well.

The interactive training and the model training provided by the NYSDOL may be used by all covered employers, or you can choose to develop and use your own interactive training. However, the Model Retail Workplace Violence Prevention Training doesn't include store-specific information. Employers that use the model training will need to add site-specific or company-specific information to their training.

FAQs

In addition, the NYSDOL released a set of frequently asked questions (FAQs) concerning the RWSA. The FAQs contain separate sets of guidance for employers and employees regarding the Act.

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Excerpted from New York Employment Law Letter

Charles H. Kaplan, Editor

C.H. Kaplan Law PLLC

Oregon

WAGES

Prevailing wage rate determination

The Bureau of Labor and Industries amended rules to update the prevailing rates of wage as determined by the Commissioner of the Bureau and published in the Amendments to Oregon Determination 2025-01.

Cite: OAR 839-025-0700 (Oregon Bulletin, May 2025) (1 page)

Adopted: 4/4/2025

Effective: 4/5/2025

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South Carolina

OCCUPATIONAL SAFETY

Worker walkaround representative designation

The Office of Occupational Safety and Health amended its regulations regarding the Worker Walkaround Representative Designation Process to clarify that the representative(s) authorized by employees may be an employee of the employer or a third party; and that such third-party employee representative(s) may accompany the OSHA Safety Specialist when, in the judgment of the Safety Specialist, good cause has been shown why they are reasonably necessary to aid in the inspection.

Cite: S.C. Code Regs. 71-506 (49-5 sc reg 285, 05/23/2025) (2 pages)

Adopted: 5/23/2025

Effective: 5/23/2025

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Texas

LICENSURE

Disciplinary action

The Board of Occupational Therapy Examiners amended the Schedule of Sanctions regarding detrimental practice under disciplinary actions, updating the definition of "practiced occupational therapy in a manner detrimental to the public health and welfare," and clarifying conduct that constitutes grounds to take disciplinary action against license holders.

Cite: 40 TAC §374.1, §374.2 (50 TexReg 2981, 05/16/2025)
(5 pages)

Adopted: 5/2/2025

Effective: 6/1/2025

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LICENSURE

Reciprocity for engineers

The Board of Professional Engineers and Land Surveyors adopted an amendment to rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

Cite: 22 TAC §133.27 (50 TexReg 3246, 05/30/2025) (3 pages)

Adopted: 5/15/2025

Effective: 6/4/2025

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Utah

OCCUPATIONAL SAFETY

Federal standards

The Labor Commission amended rules to update rules for personal protective equipment in construction by incorporation of recently published federal regulations.

Cite: Utah Admin. Code r. 614-1 (25-09 utah bull 128, 05/01/2025) (16 pages)

Adopted: 3/1/2025

Effective: 6/9/2025

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Virginia

LICENSURE

Physical therapist licensure

The Board of Physical Therapy repealed the current requirement that applicants for licensure by endorsement provide evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another United States jurisdiction or Canada or 60 hours obtained within the past four years; removed the list of approved continuing education providers from the regulation; eliminated specified recordkeeping requirements concerning advertising; and repealed obsolete language.

Cite: 18VAC112-20 (41 va regs reg 2271, 05/19/2025) (5 pages)

Adopted: 5/19/2025

Effective: 6/18/2025

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Washington

HYGIENE

Hygiene facilities required in the construction industry

The Department of Labor and Industries amended rules to provide accommodations for construction workers who menstruate or express milk, requiring secure facilities, hygiene products, refrigeration for storage of milk, and flexible work schedules with sufficient break times.

Cite: WAC 296-155-140 (WSR 25-11-072) (4 pages)

Adopted: 5/20/2025

Effective: 7/1/2025

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SELF-INSURANCE

Self-insurance program

The Department of Labor and Industries amended rules under legislation that created the self-insurance reserve fund to hold self-insured employers' second injury fund assessments and other prefunded pension obligations, updating two sections governing the self-insurance program to align them with statutory changes.

Cite: WAC 296-15-171, WAC 296-15-225 (WSR 25-10-076) (3 pages)

Adopted: 5/6/2025

Effective: 7/1/2025

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WORKERS' COMPENSATION

Mental health providers

The Department of Labor and Industries amended rules to implement statutory changes defining "attending provider" and clarifying other provider functions for workers' compensation claims, and adding psychologists as attending providers for mental health only claims.

Cite: WAC 296-14-410, 4129, 6226, 6230, 6236; WAC 296-19A-140 (WSR 25-11-071) (35 pages)

Adopted: 5/20/2025

Effective: 7/1/2025

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Wisconsin

HEALTHCARE PROFESSIONALS

Optometry telehealth

The Optometry Examining Board amended and created new rules related to telehealth, establishing a uniform definition of telehealth for optometrists based

on legislation, specifying that optometrists are to hold a Wisconsin license or apply for a temporary credential in order to diagnose and treat patients located in Wisconsin, and specifying that optometrists are held to the same standards of conduct regardless of whether the services are provided in person or by telehealth.

Cite: Wis. Admin. Code §§ Opt 1, Opt 5 (Wis. Admin. Reg. No. 833A2, 05/12/2025) (5 pages)

Adopted: 5/6/2025

Effective: 7/1/2025

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HEALTHCARE PROFESSIONALS

Telemedicine and telehealth

The Medical Examining Board repealed and recreated rules relating to telemedicine and telehealth, revising the definition of “telemedicine,” removing a reference to the Physician Assistant Affiliated Credentialing Board, and removing rules for physician assistants because they are listed in other regulations.

Cite: Wis. Admin. Code § Med 24.02 (Wis. Admin. Reg. No. 833B, 05/27/2025) (3 pages)

Adopted: 4/18/2025

Effective: 6/1/2025

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