

# A Look Ahead

---

## Labor Law Issues Likely to Affect Your Business in 2020

December 2019



# What We'll Cover

- Overview of top state and local employment law trends for 2020
- Rapidly growing city and county requirements
- Expanded employee notification requirements (beyond labor law posters)
- Tips to help you navigate through all of these changes

# State and Local Trends to Watch

- Minimum wage
- Equal pay, wage transparency and salary history
- Ban-the-box laws
- Paid sick time
- Predictable scheduling and opportunity to work
- Anti-discrimination
- Sexual harassment training

# Minimum Wage

- Federal minimum wage has been \$7.25/hour since July 2009
- For certain federal contractors, minimum wage is \$10.80/hour (as of January 1, 2020)
- 29 states have higher minimum wage rates than federal law
- More than half the states and hundreds of cities have pending legislation to increase minimum wage rates in 2020 and beyond
- Most states, cities and counties with minimum wage laws have posting requirements and/or handout requirements
- As an employer, you must pay the highest rate that applies, but display all required postings (even if the posters seem to conflict)

# 2020 MW Increases (State Laws)

State	New Minimum Wage	Effective Date	
Alaska	\$10.19	January 1, 2020	(Poster Update Pending)
Arizona	\$12.00	January 1, 2020	(Poster Updated)
Arkansas	\$10.00	January 1, 2020	(Previous Poster Acceptable)
California	\$13.00 (employers with 26+ employees)	January 1, 2020	(Previous Poster Acceptable)
Colorado	\$12.00	January 1, 2020	(Poster Update Pending)
Connecticut	\$12.00	September 1, 2020	(Previous Poster Acceptable)
District of Columbia	\$15.00	July 1, 2020	(Previous Poster Acceptable)
Florida	\$8.56	January 1, 2020	(Poster Updated)
Illinois	\$9.25 (\$10.00 July 1, 2020)	January 1, 2020	(Poster Update Pending)
Maine	\$12.00	January 1, 2020	(Poster Updated)
Maryland	\$11.00	January 1, 2020	(Previous Poster Acceptable)
Massachusetts	\$12.75	January 1, 2020	(Previous Poster Acceptable)
Michigan	\$9.65	January 1, 2020	(Previous Poster Acceptable)
Minnesota	\$10.00 (annual gross revenues of \$500,000+)	January 1, 2020	(Poster Updated)
Missouri	\$9.45	January 1, 2020	(Poster Updated)
Montana	\$8.65	January 1, 2020	(Poster Updated)
Nevada	\$9.00 (w/o benefits)	July 1, 2020	(Previous Poster Acceptable)
New Jersey	\$11.00 (employers with 6+ employees)	January 1, 2020	(Previous Poster Acceptable)
New Mexico	\$9.00	January 1, 2020	(Poster Update Pending)
New York	Variable rates based on location	December 31, 2019	(Poster Update Pending)
Ohio	\$8.70 (gross revenues \$319,000+)	January 1, 2020	(Poster Updated)
Oregon	Variable rates based on location	July 1, 2020	(Poster Update Pending)
South Dakota	\$9.30	January 1, 2020	(No Poster Update for 2020)
Vermont	\$10.96	January 1, 2020	(Poster Updated)
Washington	\$13.50	January 1, 2020	(No Poster Update for 2020)

# 2020 MW Increases (Local Laws)

State	City	New Minimum Wage	Effective Date
Arizona	Flagstaff	\$13.00	January 1, 2020
California	Belmont	\$15.00	January 1, 2020
	Cupertino	\$15.35	January 1, 2020
	Daly City	\$13.75	January 1, 2020
	El Cerrito	\$15.37	January 1, 2020
	Los Altos	\$15.40	January 1, 2020
	Mountain View	\$16.05	January 1, 2020
	Petaluma	\$15.00	January 1, 2020
	Redwood City	\$15.38	January 1, 2020
	San Diego	\$13.00	January 1, 2020
	San Jose	\$15.25	January 1, 2020
	San Mateo	\$15.38	January 1, 2020
	Sonoma (26+ employees)	\$13.50	January 1, 2020
	South San Francisco	\$15.00	January 1, 2020
	Sunnyvale	\$16.05	January 1, 2020
Minnesota	St. Paul (10,001+ employees)	\$12.50	January 1, 2020
New Mexico	Albuquerque (w/o benefits)	\$9.35	January 1, 2020
	Bernalillo County (w/o benefits)	\$9.20	January 1, 2020
	Las Cruces	\$10.25	January 1, 2020
Washington	Seattle (employers with 501+ employees)	\$16.39	January 1, 2020

**Note:** All increases listed above require mandatory posters; some also require mandatory handouts.

# Equal Pay, Wage Transparency and Salary History

- States and cities are expanding equal pay protections already afforded by federal law
- Relevant federal laws: Equal Pay Act of 1963 and the 2016 Pay Transparency Executive Order for federal contractors
- State and local laws are being passed to bridge the wage gap between men and women
- “Wage transparency” laws prohibit employers from discriminating or retaliating against employees for discussing their wages with coworkers

# Equal Pay, Wage Transparency and Salary History (cont.)

- “Salary history” laws restrict employers from asking job applicants about salary history, including private employers in:
  - California
  - Colorado (01/2021)
  - Connecticut
  - Delaware
  - Hawaii
  - Illinois
  - Maine
  - Massachusetts
  - New Jersey (01/2020)
  - New York (01/2020)
  - Oregon
  - Puerto Rico
  - Vermont
  - Washington



# Equal Pay, Wage Transparency and Salary History (cont.)

- New laws require employers to update job applications
- Alabama does not restrict the salary history question but employers cannot refuse to interview, hire, promote or employ an applicant for refusing to provide wage history
- Equal pay mandatory postings are required in Georgia, Illinois, Maryland, New Hampshire, Oregon and Pennsylvania; salary history poster is required in San Francisco

# Ban the Box

- Ban the box refers to the question commonly included in job applications: “Have you ever been convicted of a crime?”
- Ban-the-box laws seek to protect individuals from being excluded from employment and other opportunities based on their criminal record
- Currently, more than 35 states and 150 cities/counties have ban-the-box laws in place restricting pre-employment inquiries about criminal history
- Some laws restrict criminal background questions until after an interview; some require waiting until a conditional job offer is made

# Ban the Box (State Laws)

- There are currently 35 states that have complete ban-the-box laws in place:
  - Arizona
  - California\*
  - Colorado\*
  - Connecticut\*
  - Delaware
  - Georgia
  - Hawaii\*^
  - Illinois\*
  - Indiana
  - Kansas
  - Kentucky
  - Louisiana
  - Maine
  - Maryland
  - Massachusetts\*^
  - Michigan
  - Minnesota\*
  - Missouri
  - Nebraska
  - Nevada
  - New Jersey\*
  - New Mexico\*
  - New York
  - North Dakota
  - Ohio
  - Oklahoma
  - Oregon\*
  - Pennsylvania
  - Rhode Island\*^
  - Tennessee
  - Utah
  - Vermont\*
  - Virginia
  - Washington\*
  - Wisconsin

\* Law extends to private employers

^ Mandatory posting requirement

# Ban the Box (Local Laws)

- More than 150 cities/counties have ban-the-box laws in place:
  - CA: Los Angeles\*^, San Francisco\*^
  - CO: Denver
  - FL: Miami-Dade County, Broward County
  - GA: Albany, Atlanta, Augusta
  - IL: Chicago\*
  - MD: Baltimore\*, Montgomery County\*, Prince George's County\*
  - MO: Columbia\*, Kansas City\*
  - NY: Buffalo\*, New York City\*, Rochester\*, Westchester County\*
  - OR: Portland\*
  - PA: Philadelphia\*^
  - TX: Austin\*
  - WA: Seattle\*^, Spokane\*

\* Law extends to private employers

^ Mandatory posting requirement

# Paid Sick Time

- Currently, there are limited federal requirements for sick leave
  - Family and Medical Leave Act (1993) provides unpaid leave for up to 12 weeks for a “serious health condition”
  - Executive Order 13706 provides up to seven days per year of paid sick leave for certain employees of federal contractors
- States and cities are passing their own laws requiring private employers to offer paid sick leave
  - Eleven states and Washington D.C.
  - More than 15 cities and counties

# Paid Sick Time (State Laws)

- Eleven states and Washington D.C. currently have paid sick leave laws:

- Arizona
- California
- Connecticut
- District of Columbia
- Maryland
- Massachusetts
- Michigan
- New Jersey
- Oregon
- Rhode Island
- Vermont
- Washington

**BOLI**  
Bureau of Labor and Industries

**REQUIREMENTS OF OREGON'S SICK TIME LAW**

Effective January 1, 2016, employers that employ employees in the state of Oregon are required to implement sick time policies and provide sick time to employees. Employers are also required to provide employees with a notice of the law's provisions. This notice is intended to assist in the proper provision of the law, but should not be relied upon as a full and complete summary of the law. The full text of the law and administrative rules adopted by the bureau are available at [www.oregon.gov/boli](http://www.oregon.gov/boli).

**How much sick time does the law require?** Employees begin accruing sick time on their first day of employment and earn one (1) hour of sick time for every 30 hours worked or 1.575 hours. Employees may use accrued sick time on the 91<sup>st</sup> calendar day of employment in any year. Employees may choose to apply their accrued sick time to any calendar year. Employees may carry over up to 40 hours of accrued sick time from one calendar year to the next. Sick time may not be used for more than 10 hours of sick time in any calendar year. Paid time off (PTO) policies that include time off for other purposes (as excepted by the sick time law as long as the policy is substantially equivalent to the law).

**Employers must use accrued sick time in hourly increments unless, to the extent of the employer's policy, employees are allowed to use accrued sick time in increments of at least 15 minutes.**

**When must sick time be paid?** Employees with 20 or more employees (or more in Portland) in the state must pay employees for sick time taken at the employer's regular rate of pay. All other employers must provide unpaid sick time. The number of all employees employed by the employer in Oregon must be counted – including full-time, part-time and temporary employees.

**Notice and Verification:** In addition to providing notice to employees of the requirements of the law, employers are required to provide appropriate verification to employees of the amount of accrued and unused sick time. Employers may require employees to provide notice, verification and certifications for using sick time under certain circumstances. For example, if the need for sick time is foreseeable, employers may require employees to provide up to 10-day notice of the need to use sick time. Refer to the law and rule for more information.

**Discrimination/Retaliation Prohibited:** It is unlawful for an employer to deny, interfere with, threaten or fail to pay for sick time to which an employee is entitled, or retaliate in any way discriminatory against an employee because the employee has requested or taken sick time. Complaints may be filed with the Bureau of Labor and Industries.

**Collective Bargaining Agreements:** Exceptions: The sick time law does not apply to certain employees who are covered by a collective bargaining agreement, employed through a nonprofit and whose benefits are provided by a joint multi-employer employee trust or benefit plan.

Provision of this notice to employees complies with the requirement in the law to post the requirements of the law to each workplace. For more information, visit our website at [www.oregon.gov/boli](http://www.oregon.gov/boli) or contact our toll-free helpline at 1-800-333-3333.

Division of Labor Standards Enforcement      Office of the Labor Commissioner

**THIS POSTER MUST BE DISPLAYED WHERE EMPLOYEES CAN EASILY READ IT**  
(Poster may be printed on 8 1/2" x 11" letter size paper)

**HEALTHY WORKPLACES/HEALTHY FAMILIES ACT OF 2014  
PAID SICK LEAVE**

**Entitlement:**

- An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the beginning of employment is entitled to paid sick leave.
- Paid sick leave accrues at the rate of one hour per every 30 hours worked, paid at the employee's regular wage rate. Accrual shall begin on the first day of employment or July 1, 2015, whichever is later.
- Accrued paid sick leave shall carry over to the following year of employment and may be capped at 48 hours or 6 days. However, subject to specified conditions, if an employer has a paid sick leave, paid leave or paid time off policy (PTO) that provides no less than 24 hours or three days of paid leave or paid time off, no accrual or carry over is required if the full amount of leave is received at the beginning of each year in accordance with the policy.

**Usage:**

- An employee may use accrued paid sick days beginning on the 90<sup>th</sup> day of employment.
- An employer shall provide paid sick days upon the oral or written request of an employee for themselves or a family member for the diagnosis, care or treatment of an existing health condition or preventive care, or specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking.
- An employer may limit the use of paid sick days to 24 hours or three days in each year of employment.

**Retaliation or discrimination against an employee who requests paid sick days or uses paid sick days or both is prohibited. An employee can file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.**

For additional information you may contact your employer or the local office of the Labor Commissioner. Locate the office by looking at the list of offices on our website [www.dir.ca.gov/assn/assn/assn.htm](http://www.dir.ca.gov/assn/assn/assn.htm) using the alphabetical listing of cities, counties, and communities. Staff is available in person and by telephone.

DLE Paid Sick Leave Posting      Contents: Paid Sick Leave      Revised by CA Labor Law      8/24/15 1-4

# Paid Sick Time (Local Laws)

- More than 15 cities and counties have paid sick leave requirements
  - CA: Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, Santa Monica
  - IL: Chicago, Cook County
  - MD: Montgomery County
  - MN: Duluth, Minneapolis, St. Paul
  - NY: New York City, Westchester County
  - PA: Philadelphia
  - TX: Dallas, San Antonio
  - WA: Seattle, Tacoma

# Predictable Scheduling and Opportunity to Work

- **Predictable Scheduling Laws** – require employers to provide employees with advance notice of their schedule and, in some instances, compensate employees for last-minute changes
  - Laws passed in Oregon, San Francisco, Emeryville, New York City, Philadelphia, Seattle, and Chicago\*
- **Opportunity to Work Laws** – require employers to offer additional work hours to existing part-time employees before hiring new employees
  - Laws passed in San Jose (all industries) and San Francisco (industry-specific)
  - Both require mandatory postings

\*Takes effect July 1, 2020



# Anti-Discrimination

- Federal law doesn't specifically prohibit discrimination on the basis of sexual orientation or gender identity
  - The U.S. Supreme Court is set to rule on this issue to presumably resolve conflict between circuits
- More than 20 states and more than 200 cities/counties now have LGBT anti-discrimination laws in place
- Mandatory posting requirements in: California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Rhode Island and Wisconsin

# Sexual Harassment Training Laws

- Several new state/local laws have been passed recently to strengthen prohibitions against sexual harassment
- These laws require training and, in most cases, mandatory employee notifications (posters and written policies/handouts)
- Training is now required for private employers in:
  - California – employers with 5 or more employees
  - Connecticut – employers with 3 or more employees
  - Delaware – employers with 50 or more employees
  - Illinois – all employers (effective January 1, 2020)
  - Maine – employers with 15 or more employees
  - New York – all NY employers
  - New York City – employers with 15 or more employees

# Other Trends We Are Watching for 2020

- Paid time off for any reason
- Expansion of anti-discrimination laws relating to race and religion
- Smoking policies to include vaping and e-cigarettes
- Marijuana law changes

# Tips to Manage Your Business

1. Conduct an internal audit of all employment practices to ensure compliance with federal, state and local law
2. Follow the provisions of each applicable law that are most generous to the employee
3. Address any areas that require updates to written policies, job applications, and related HR practices
4. Consider uniform practices across locations (consistency vs. cost)
5. Display local postings in addition to mandatory federal and state postings, even if the information conflicts
6. Assign internal resources or use an outsourced partner for posting and employee notification compliance to stay abreast of changing federal, state and local laws

# Thank You!

For more information, please contact

**Peter Fray, Compliance  
Specialist**

954-970-5702

[pfray@hrdirect.com](mailto:pfray@hrdirect.com)