

2018 Roundup of Labor Law Poster Changes:

What the Latest Trends Mean for Your Business

December 2018



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Welcome!

Before we get started...

- Use the chat box on the left to ask questions
- Audio for today's webinar will come through your computer speakers. Please be sure your speakers are turned on and you have the volume turned up
- If you are signed on more than once, please locate the duplicate log-in and close it. This will create a better audio experience
- All attendees will receive a link to the presentation and slides in a follow up email

What You'll Learn...

- Overview of top federal and state posting changes and trends for 2018
- Rapidly growing city and county posting requirements
- Poster changes still pending as we enter 2019
- New laws requiring employers to distribute employee notices in addition to displaying posters
- Posting compliance for remote workers

General Posting Compliance



Posting Compliance Basics

- All employers must post federal, state and local (if applicable) postings
- Mandatory federal posters include:
 - EEOC
 - OSHA
 - FMLA
 - USERRA
 - FLSA
 - EPPA
- Up to 15 additional state-specific posters
- Up to 10 additional posters for city/county compliance
- Additional posters for government contractors and certain industries

Posting Changes on the Rise

- Approximately 150 state law poster changes per year (50% require immediate mandatory replacements)
- Government agencies don't notify you when changes occur
- Posting updates and requirements (including foreign language requirements and size/font/color mandates) can be buried in statutes, regulations, case law and agency website pages

Risks of Noncompliance

- Government posting fines
 - Federal fines recently increased to \$34,000+ per violation
 - State and local fines typically range from \$100-\$1,000 each
- Employee lawsuits
 - Failure to post can extend “statute of limitations”
 - Evidence of bad faith
 - FMLA interference of rights
- Posting compliance is your first line of defense in any lawsuit or agency investigation

Pending Federal Poster Changes

- “EEO Is the Law” posting still expected to change
 - Mandatory update expected based on 2015 law prohibiting discrimination based on sexual orientation and gender identity, and 2014 law expanding veteran protections
 - Not yet known whether new poster will be required for all employers or only federal contractors (temporary supplement was issued in 2015)
- Proposed legislation that could impact federal labor law posters in 2019
 - Workflex in the 21st Century Act
 - Family and Medical Insurance Leave Act (FAMILY Act)
 - Economic Security for New Parents Act
 - Federally mandated E-Verify

State Labor Law Compliance



State-Issued Labor Law Posters

- Up to 15 state-issued postings required per state, covering issues such as:
 - Workers' Compensation
 - Unemployment Insurance
 - State Minimum Wage Rates
 - Discrimination and Fair Employment
 - Family/Medical Leave Benefits
 - Smoking in the Workplace
- Employers must post both federal and state postings even if there's conflicting information

Total Postings and Different Issuing Agencies by State

State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)
Alabama	11	5
Alaska	14	5
Arizona	18	9
Arkansas	10	7
California	21	7
Colorado	13	5
Connecticut	17	8
Delaware	14	4
D.C.	17	7
Florida	11	8
Georgia	15	7
Hawaii	15	5
Idaho	10	6
Illinois	14	8
Indiana	15	9
Iowa	11	5
Kansas	11	6
Kentucky	13	6
Louisiana	20	5
Maine	14	6
Maryland	17	7
Massachusetts	13	7
Michigan	15	7
Minnesota	12	6
Mississippi	11	6
Missouri	12	5

State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)
Montana	11	5
Nebraska	10	5
Nevada	20	7
New Hampshire	15	6
New Jersey	21	6
New Mexico	13	7
New York	18	7
North Carolina	14	8
North Dakota	9	6
Ohio	11	7
Oklahoma	11	8
Oregon	15	8
Pennsylvania	14	6
Puerto Rico	11	4
Rhode Island	17	6
South Carolina	13	8
South Dakota	8	4
Tennessee	14	7
Texas	10	6
Utah	13	7
Vermont	18	4
Virginia	10	5
Washington	11	6
West Virginia	11	7
Wisconsin	16	5
Wyoming	10	4

Effective December 2018

2018 State Poster Changes: Minimum Wage

State	New Minimum Wage	Effective Date
Alaska	\$9.84	January 1, 2018
Arizona	\$10.50	January 1, 2018
Colorado	\$10.20	January 1, 2018
Florida	\$8.25	January 1, 2018
Maine	\$10.00	January 1, 2018
Minnesota	\$9.65 (annual gross revenues of \$500,000)	January 1, 2018
Missouri	\$7.85	January 1, 2018
Montana	\$8.30	January 1, 2018
New Jersey	\$8.60	January 1, 2018
New York	Variable rates based on location	December 31, 2017
Ohio	\$8.30	January 1, 2018
Oregon	Variable rates based on location	July 1, 2018
Rhode Island	\$10.10	January 1, 2018

- Other states had MW increases, but previous versions of posters remained compliant
- South Dakota and Washington also had increases but they don't require minimum wage postings

State Minimum Wage Increases for 2019: New Posters Released

The following states announced minimum wage increases and have already issued new posters:

State	New Minimum Wage	Effective Date
Alaska	\$9.89	January 1, 2019
Arizona	\$11.00	January 1, 2019
Arkansas	\$9.25	January 1, 2019
Delaware	\$8.75	January 1, 2019
Florida	\$8.46	January 1, 2019
Maine	\$11.00	January 1, 2019
Massachusetts	\$12.00	January 1, 2019
Minnesota	\$9.86 (annual gross revenues of \$500,000+)	January 1, 2019
Missouri	\$8.60	January 1, 2019
New Jersey	\$8.85	January 1, 2019
Ohio	\$8.55	January 1, 2019
Vermont	\$10.78	January 1, 2019

State Minimum Wage Increases for 2019: Posters Not Yet Released

These states announced minimum wage increases, but the new posters haven't been released yet:

State	New Minimum Wage	Effective Date
California	\$12.00 (employers with 26+ employees)	January 1, 2019
Colorado	\$11.10	January 1, 2019
Michigan	\$10.00	April 1, 2019 (estimate)
Montana	\$8.50	January 1, 2019
New York	Variable rates based on location	December 31, 2018
Oregon	Variable rates based on location	July 1, 2019
Rhode Island	\$10.50	January 1, 2019
South Dakota	\$9.10	January 1, 2019*
Washington	\$12.00	January 1, 2019*

** Note: There are currently no minimum wage posting requirements for South Dakota or Washington*

2018 State Poster Changes: Sexual Harassment

- Several states passed laws in 2018 aimed to reduce sexual harassment in the workplace:
- California – Updated poster issued January 2018
- Delaware – Updated poster issued November 2018
- Illinois – New poster issued November 2018
- Vermont – Updated poster issued September 2018

ILLINOIS DEPARTMENT OF Human Rights

YOU HAVE THE RIGHT TO BE FREE FROM JOB DISCRIMINATION AND SEXUAL HARASSMENT.

The Illinois Human Rights Act states that you have **the right to be free from unlawful discrimination and sexual harassment**. This means that employers may not treat people differently based on race, age, gender, pregnancy, disability, sexual orientation or any other protected class named in the Act. This applies to all employer actions, including hiring, promotion, discipline and discharge.

REASONABLE ACCOMMODATIONS
You also have the right to reasonable accommodations based on pregnancy and disability. This means you can ask for reasonable changes to your job if needed because you are pregnant or disabled.

RETALIATION
It is also unlawful for employers to treat people differently because they have reported discrimination, participated in an investigation, or helped others exercise their right to complain about discrimination.

REPORT DISCRIMINATION

To report discrimination, you may:

1. Contact your employer's human resources or personnel department.
2. Contact the Illinois Department of Human Rights (IDHR) to file a charge.
3. Call the Illinois Sexual Harassment and Discrimination Helpline at 1-877-236-7703 to talk to someone about your concerns.

Chicago:
James R. Thompson Center
100 West Randolph Street, Suite 10-100
Chicago, IL 60601
(312) 814-6200
(866) 740-3953 (TTY)
(312) 814-6251 (Fax)

Springfield:
535 W. Jefferson Street
1st Floor
Springfield, IL 62702
(217) 785-5100
(866) 740-3953 (TTY)
(217) 785-5106 (Fax)

Website: www.illinois.gov/dhr
Email: IDHR.Intake@illinois.gov

Employers shall make this poster available and display it where employees can readily see it.
This notice is available for download at: www.illinois.gov/dhr
Printed by the Authority of the State of Illinois - 9/18 - web version - IOC19-0181

2018 State Poster Changes: OSHA State Law

- The following states updated their state OSHA posters in 2018 to incorporate information about OSHA's new penalty amounts for various violations:
 - Alaska OSHA poster – Mandatory update 12/2018
 - Virginia OSHA poster – Mandatory update 8/2018
 - Wyoming OSHA poster – Mandatory update 5/2018
- The following states updated their OSHA posters in 2018 to incorporate new federal OSHA recordkeeping requirements for work-related accidents and fatalities:
 - Hawaii OSHA poster – Mandatory update 1/2018
 - South Carolina OSHA poster – Mandatory update 7/2018

Job Safety and Health Protection

THE VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) LAW, BY AUTHORITY OF TITLE 40.1 OF THE LABOR LAWS OF VIRGINIA, PROVIDES JOB SAFETY AND HEALTH PROTECTION FOR WORKERS. THE PURPOSE OF THE LAW IS TO ASSURE SAFE AND HEALTHFUL WORKING CONDITIONS THROUGHOUT THE STATE. THE VIRGINIA SAFETY AND HEALTH CODES BOARD PROMULGATES AND ADOPTS JOB SAFETY AND HEALTH STANDARDS, AND EMPLOYERS AND EMPLOYEES ARE REQUIRED TO COMPLY WITH THESE STANDARDS. THESE STANDARDS MAY BE FOUND AT THE FOLLOWING WEB ADDRESS: http://www.dol.virginia.gov/dol_regulations/dol_regulations.html. YOU MAY ALSO CONTACT THE DEPARTMENT OF LABOR AND INDUSTRY OFFICES LISTED BELOW TO RECEIVE PRINTED COPIES OF THE VIRGINIA UNIQUE STANDARDS AND OBTAIN THE NAMES OF PUBLISHERS OF THE FEDERAL, IDENTICAL STANDARDS.

Employers
Each employer shall furnish to each of his employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to his employees, and shall comply with occupational safety and health standards issued under the law.

Employees
Each employee shall comply with occupational safety and health standards, rules, regulations and orders issued under the law that apply to his own actions and conduct on the job.

Inspection
The law requires that a representative of the employee and a representative authorized by the employees be given an opportunity to accompany the VOSH inspector for the purpose of aiding the inspection.

Citation
Upon inspection VOSH believes an employer has violated the law, a citation alleging such violations will be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected. The VOSH citation must be prominently displayed at or near the place of alleged violation for three days or until the violation is corrected, whichever is later, to warn employees of dangers that may exist there.

Proposed Penalty
The law provides for mandatory penalties against private sector employers of up to \$12,471 for each serious violation and for optional penalties of up to \$12,471 for each other-than-serious violation. Penalties of up to \$12,471 per day may be imposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the law may be assessed penalties of up to \$124,709 for each such violation.

Complaint
Employees or their representatives have the right to file a complaint with the nearest VOSH office requesting an inspection if they believe unsafe or unhealthy conditions exist in their workplace. VOSH will withhold, on request, names of employees filing complaints. Complaints may be made at the Department of Labor and Industry addresses shown below.

Discrimination
It is illegal to retaliate against an employee for using any of their right under the law, including raising a safety or health concern with the employer or VOSH, or reporting a work-related injury or illness.

CASP
Complaints About State Plan Administration: Any person may complain to the Regional Administrator of OSHA (address below) concerning the Administration of the State Safety and Health Program.

State Coverage
The VOSH program shall apply to all public and private sector businesses in the State except for Federal agencies, businesses under the Atomic Energy Act, railroad rolling stock and tracks, certain Federal endeavors, and businesses covered by the Federal Maritime Commission.

Voluntary Activity
Voluntary efforts by the employer to assist the workplace in its compliance with the law are encouraged. Voluntary Safety and Health Consultation and Training Programs are available to employers. These services may be obtained by contacting the Virginia Department of Labor and Industry addresses shown below.

Recordkeeping
Employers now have a new system for recording workplace injuries and illnesses. OSHA's new recordkeeping form (Form 200) is designed to understand and use. Using a standard and uniform format, the recordkeeping form provides guidance for recording occupational injuries and illnesses and requires the following: specify dates, times, names, employees; 10 or more employees are exempt from record requirements. To see if your facility is exempt, visit the OSHA website at www.osha-slc.com/recordkeeping 20131008.html.

Accident Reporting
All fatalities must be reported to VOSH within eight (8) hours. All injuries or illnesses that result in an in-patient hospitalization, amputation or loss of an eye must be reported to VOSH within twenty-four (24) hours. Failure to report may result in significant monetary penalties.

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
Main Street Center
800 East Main Street, Suite 207
Richmond, Virginia 23219
VOSH (800) 571-0227
Fax (800) 271-0224
<http://www.dol.virginia.gov>

U.S. Department of Labor
OSHA Regional Administrator
The Civic Center, 275 1st Street
Philadelphia, PA 19106-3333
(215) 597-0889

Northern Virginia/Annapolis
9400 Boulevard Drive, Suite 126
Annapolis, VA 21410
(703) 380-0430

Central Virginia/Richmond
1270 East Parkway Road
Richmond, VA 23228
(804) 271-3104

Southern Virginia
6200 Center Drive
North Bay Center #11
Norfolk, VA 23502
(757) 455-0581

Western Virginia
2700 Coward Road
Suite 4
Martinsburg, VA 25401
(800) 368-0358

Allegation
The Johnson Center
401 East Main Street, Suite 114
Allegany, VA 24609
(202) 675-0420

Locations
2700 Coward Road
Suite 4
Martinsburg, VA 25401
(800) 368-0358

Virginia
P.O. Box 772
201 Low Highway
Warrenton, VA 24642
(800) 368-0358

C. Ray Dawson
Commissioner
VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
July 2017

2018 State Poster Changes: Pregnancy Discrimination

- Several states passed laws in 2018 targeting pregnancy discrimination and clarifying employer responsibilities to provide reasonable accommodations:
 - **New Jersey** – Updated poster issued April 2018
 - **South Carolina** – Updated poster issued July 2018
 - **Vermont** – New poster issued January 2018



2018 State Poster Changes: Paid Sick Leave

- Currently there are limited federal requirements for sick leave
 - Family and Medical Leave Act (1993) provides unpaid leave for up to 12 weeks for “serious health condition”
 - Executive Order 13706 (2017) provides up to 7 days per year of paid sick leave for certain employees of federal contractors
- States are passing their own laws requiring private employers to offer paid sick leave
 - Maryland – New poster issued February 2018
 - New Jersey – New poster issued October 2018
 - Rhode Island – New poster issued July 2018

City and County Poster Changes



City and County Posting Compliance

- Cities have the discretion to pass laws more generous to employees than state or federal law
- Postings cover a variety of employment laws similar to state posters, such as:
- Minimum wage
- Paid sick leave
- Prohibitions against discrimination
- Sexual harassment
- Employers must post city/county postings even if the city/county posting conflicts with state or federal law

STOP SEXUAL HARASSMENT ACT NOTICE

All employers are required to provide written notice of employees' rights under the Human Rights Law both in the form of a displayed poster and as an information sheet distributed to individual employees at the time of hire. This document satisfies the poster requirement.

The NYC Human Rights Law

The NYC Human Rights Law, one of the strongest anti-discrimination laws in the nation, protects all individuals against discrimination based on gender, which includes sexual harassment in the workplace, in housing, and in public accommodations like stores and restaurants. Violators can be held accountable with civil penalties of up to \$250,000 in the case of a willful violation. The Commission can also assess emotional distress damages and other remedies to the victim, require the violator to undergo training, and mandate other remedies such as community service.

Sexual Harassment Under the Law

Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

Some Examples of Sexual Harassment

- unwelcome or inappropriate touching of employees or customers
- threatening or engaging in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

Retaliation Is Prohibited Under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The NYC Human Rights Law prohibits employers from retaliating or discriminating "in any manner against any person" because that person opposed an unlawful discriminatory practice. Retaliation can manifest through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The NYC Human Rights Law protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

Report sexual harassment to the NYC Commission on Human Rights. Call 718-722-3131 or visit NYC.gov/HumanRights to learn how to file a complaint or report discrimination. You can file a complaint anonymously.

State and Federal Government Resources

Sexual harassment is also unlawful under state and federal law, where statutes of limitations vary. To file a complaint with the New York State Division of Human Rights, please visit the Division's website at www.dhr.ny.gov. To file a charge with the U.S. Equal Employment Opportunity Commission (EEOC), please visit the EEOC's website at www.eeoc.gov.

NYC Commission on Human Rights
BILL DE BLASIO Mayor
CARMEYN P. MALULIS Commissioner/Chair

Facebook Instagram Twitter YouTube @NYCCHR
NYC.gov/HumanRights

2018 City/County Poster Changes

State	City	Poster
Arizona	Flagstaff	Minimum Wage
California	Belmont	Minimum Wage
	Los Angeles	
	Mountain View	
	Oakland	
	Pasadena	
	Richmond	
	San Leandro	
	Sunnyvale	
	Santa Monica	
	San Jose	Minimum Wage and Opportunity to Work
	San Francisco	Minimum Wage, Salary History, Fair Chance, Employment Discrimination, Health Care Security and Paid Parental Leave
Illinois	Chicago	Minimum Wage
	Cook County	
Maine	Portland	Minimum Wage
Minnesota	Minneapolis	Paid Sick
New Mexico	Albuquerque	Minimum Wage
	Bernalillo County	
	Santa Fe	
New York	New York City	Pregnancy Accommodations, Temporary Changes to Work Schedule, Sexual Harassment
Washington	Seattle	Minimum Wage
	Tacoma	Minimum Wage, Paid Sick

Local Postings Already Released for 2019

State	City	Poster	Effective Date
California	Belmont	Minimum Wage	January 1, 2019
	Cupertino	Minimum Wage	January 1, 2019
	El Cerrito	Minimum Wage	January 1, 2019
	Mountain View	Minimum Wage	January 1, 2019
	Oakland	Minimum Wage	January 1, 2019
	Redwood City	Minimum Wage	January 1, 2019
	Richmond	Minimum Wage	January 1, 2019
	San Diego	Minimum Wage	January 1, 2019
	San Jose	Minimum Wage	January 1, 2019
	San Mateo	Minimum Wage	January 1, 2019
	Sunnyvale	Minimum Wage	January 1, 2018
New Mexico	Albuquerque	Minimum Wage	January 1, 2019
	Las Cruces	Minimum Wage	January 1, 2019
Washington	Seattle	Minimum Wage	January 1, 2019
	Tacoma	Minimum Wage	January 1, 2019

Pending City/County Poster Changes

Pending poster changes (not yet released) based on laws already enacted:

State	City	Poster	Effective Date
Arizona	Flagstaff	Minimum Wage	January 1, 2019
California	Alameda	Minimum Wage	July 1, 2019
	Los Altos	Minimum Wage	January 1, 2019
	Milpitas	Minimum Wage	July 1, 2019
	Santa Clara	Minimum Wage	January 1, 2019
New Mexico	Bernalillo County	Minimum Wage	January 1, 2019
New York	Westchester County	Earned Sick Leave	April 10, 2019
Texas	San Antonio	Paid Sick Leave	August 1, 2019

Federal Contractor Posting Compliance



Federal Contractor Postings

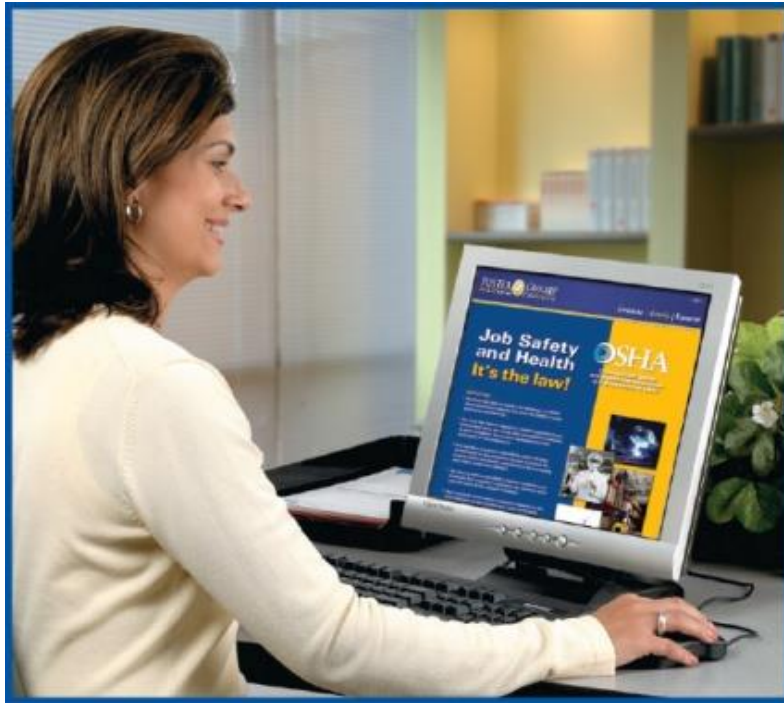
- The most common postings required for federal contractors are:
 1. Federal Contractor Minimum Wage (updated for January 1, 2019)
 2. Paid Sick Leave
 3. Right to Work/E-Verify
 4. “EEO is the Law” Supplement
 5. Pay Transparency Policy
 6. NLRA (required by EO 13496)
 7. Walsh-Healey Public/Service Contracts
 8. ARRA Whistleblower Rights
 9. DHS Fraud Hotline
 10. Notice to Workers with Disabilities
 11. Davis-Bacon Act
 12. DOT Federal Highway Construction
 13. DOD Whistleblower
 14. DOD Fraud Hotline

Federal Contractor Postings (cont.)

- Federal contractor postings change frequently
- Twelve mandatory changes since 2015
- One already announced for January 2019
- More posting changes pending for 2019
- Penalties for non-compliance can be severe, including steep fines up to suspension or cancellation of federal contracts



Compliance for Off-Site Workers



Remote Workers & Telecommuters

- By law, you must provide the mandatory federal and state notices to all employees
- For employees who report to your facility (with physical wall posters) fewer than 3-4 times per month, you must provide the postings in another format
- Electronic solution is ideal for employees who work from home, telecommuters, field salespeople and other remote workers provided with Internet access
- Best practice is to use a solution that pushes out mandatory updates via email alerts and tracks employee acknowledgments

Non-Traditional Worksites

- Many of today's worksites lack wall space for posting all the required federal, state and local postings
- Examples are mall kiosks, mobile service units, food trucks, valet stations, construction checkpoints, and other facilities without walls
- If electronic access is not provided, consider an alternative format such as a compact binder (NOT a substitute for regular, full-size postings for facilities with walls)



Thank you!

For more information, please contact

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