

# Local and State Employment Law Update: Sex Harassment and Discrimination, Salary Disclosure and Equal Pay

## Labor & Employment Law Update

on May 13, 2022

Below are some of the latest state updates –

### ARIZONA

Pursuant to H.B. 2146, employers must notify the Arizona Department of Homeland Security about any security breach involving personal information, if more than 1,000 state residents (including employees and applicants) are impacted by the breach. This becomes effective July 23, 2022.

### FLORIDA

The State of Florida has amended its fair employment practices law to place limits on mandatory employee training addressing certain concepts related to race, color, sex and national origin. HB 7 will take effect on July 1, 2022.

### MAINE

- The State of Maine has amended its fair employment practices law to prohibit discrimination based on hair texture or hairstyle under P 237 – L.D. 598. Effective July 19, 2022, race discrimination in employment and in schooling will include discrimination on the basis of traits associated with race, including hair texture, Afro hairstyles and “protective hairstyles” such as braids, twists and locks.
- The State of Maine has revised its leave provisions for victims of abuse. Under P. 551 – L.D. 1696, employers must allow leave to employees for *permitted reasons* when they or their family members fall victim to any act that would support an order of protection under Maine Revised Statutes, Title 19-A, section 4101, et seq.

### MARYLAND

The State of Maryland has enacted legislation establishing a family and medical leave insurance program funded by employee and employer contributions. The law applies to all employers with 15 or more employees if at least one employee

is located in Maryland and is funded . The legislation takes effect June 1, 2022, but the requirements of the law phase in over time. Starting October 1, 2023, employers and employees must begin making contributions. Beginning January 1, 2025, eligible employees may receive weekly wage-replacement benefits while on leave for their own serious health condition(s) or those of a family member, child birth, placement of a child through adoption, foster or kinship care, or qualifying exigencies that occur as a result of a family member's military deployment. The weekly benefits range from fifty dollars (\$50) to one-thousand dollars (\$1,000), for a maximum of twelve (12) weeks, annually. An additional 12 weeks may be provided under certain conditions.

#### MASSACHUSETTS

The Massachusetts Supreme Judicial Court has ruled that the three-part test for establishing a worker's status as an independent contractor (Mass. Gen. Laws ch. 149 § 148B) also applies to franchisor-franchisee relationships. Specifically, the test applies to the relationship between a franchisor and an individual franchisee performing a service for the franchisor. (*See Patel v. 7-Eleven, Inc.*, 489 Mass. 356, 183 N.E.3d. 398 (2022)).

#### MINNESOTA

The State of Minnesota has revised its Unemployment Poster to notify individuals of their right to apply for Unemployment Insurance benefits.

#### MISSISSIPPI

The Mississippi Equal Pay for Equal Work Act was created under HB 770 and takes effect on July 1, 2022. Among other things, the Act generally prohibits employers with five or more employees from engaging in gender pay gap practices.

#### NEVADA

As a reminder, Nevada issued a new Minimum Wage Notice to describe the amended statutory minimum wage rate. Rates take effect July 1, 2022, and will increase as set forth below until July 1, 2024.

Employers must display this notice prominently in the workplace.

#### NEW YORK

Beginning May 15, 2022, employers advertising jobs in New York City must include a good faith salary range (i.e., minimum and maximum salary—the range cannot be open ended) for all jobs, promotions, and transfer opportunities advertised. For example, "\$15 per hour and up" or "maximum \$50,000 per year" are not consistent with the new requirements. "Salary" includes the base wage or rate of pay, regardless of the frequency of payment. It does not include other

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forms of compensation/benefits offered, such as:

- Health, life, or other employer-provided insurance
- Paid or unpaid time off (e.g., paid sick or vacation days, leaves of absence, or sabbaticals).
- Availability of or contributions towards retirement or savings funds (e.g., 401 (k) plans or employer-funded pension plans)
- Severance pay
- Overtime pay
- Other forms of compensation (e.g., commissions, tips, bonuses, stock, or value of employer-provided meals or lodging)

The posted guidance offers information regarding Local Law 32 of 2022, enacted on January 15, 2022. It also provides that the Commission on Human Rights will accept and investigate complaints of discrimination filed by members of the public. The Law Enforcement Bureau will also initiate its own investigations based on testing, tips, and other sources of information. Employers and employment agencies found in violation of these new laws may be responsible for paying monetary damages to affected employees and civil penalties of up to \$250,000. Covered entities may also be required to amend advertisements and postings, etc.

#### TENNESSEE

Effective January 1, 2023, SB 1780 will lower the threshold for which private employers must verify new hire's work authorization status through E-Verify from 50 or more employees to 35. The remainder of the bill took effect on April 29, 2022, and requires the office of Employment Verification Assistance to offer E-Verify sign ups and work authorization status checks for employers with fewer than 35 employees, free of charge.

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