EYE ON WASHINGTON

Timely, topical insights on a variety of payroll and reporting issues.

Detailed Look at State, Local and Federal Updates

Topics covered in this issue:

State/Territory/District

Reminder - Alabama Overtime Tax Exemption Law Expires on June 30, 2025

Under current law, Alabama exempts amounts paid to non-exempt employees as overtime compensation in accordance with the U.S. Fair Labor Standards Act (FLSA) from state income tax. This tax exemption is in effect through June 30, 2025.

Next Steps:

Effective July 1, 2025, employers must again withhold state income tax from FLSA overtime wages paid to all non-exempt employees.

California Pay Data Reports Due May 14

The California Civil Rights Division (CRD) has released new and updated resources for the 2024 pay data reporting period for employers with 100 or more employees. Employers must use the CRD's online pay data reporting portal to submit their annual reports. The portal is open. The reporting deadline for 2024 is **May 14, 2025**.

The Details:

Background:

A private employer that has 100 or more employees, with at least one California employee, must submit a pay data report covering the prior calendar year to the state on or before the second Wednesday of May each year, regardless of whether they are required to submit an EEO-1 report.

A private employer that has 100 or more employees, with at least one California employee, hired through labor contractors within the prior calendar year must also submit a separate pay data report to the state covering those employees. The private employer must also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor must supply all necessary pay data to the private employer.

New and Updated Resources:

The CRD published a new **handbook for employers** that provides instructions for submitting and certifying annual reports to the CRD, including the types of data requested and relevant deadlines.

Instructions for **Excel templates** and **CSV examples** (e.g., template instructions) are also available. The CRD has also updated templates for the 2024 reporting period. Employers shouldn't use Excel templates or .CSV examples from prior years; the portal will reject submissions based on outdated versions of the templates.

The CRD has updated its answers to **frequently asked questions** for the 2024 reporting period.

Changes to the Race and Ethnicity Categories:

In 2024, the federal Office of Management and Budget (OMB) published revised race and ethnicity data standards. As a result, the CRD has updated minimum categories, terminology, and definitions for race/ethnicity categories based on the OMB's updates.

These revisions include:

- Adding Middle Eastern or North African (MENA) as a minimum reporting category separate from the White category.
- Removing "Other" from the "Native Hawaiian or Other Pacific Islander" category name.
- Using "Multiracial and/or Multiethnic" terminology rather than "Two or More Races."

For more information on the new set of race and/or ethnicity categories, see FAQs "**How should employers report employees' race and ethnicity?**" and **the handbook**.

Next Steps:

If you are a covered employer:

- Read the new and updated **resources**.
- Build the **report in the portal** using the **updated templates**.
- Certify the final report and submit it through the online portal by **May 14, 2025**.

Michigan Amends Minimum Wage, Paid Sick Leave Rules Again

Michigan has enacted two pieces of legislation that amend the state's minimum wage and paid sick leave requirements further. The laws (**Senate Bill 8** and **House Bill 4002**) took effect immediately on **February 21, 2025.**

The Details:

Background:

As a result of a Michigan Supreme Court decision, Michigan's minimum wage increased to $12.48 per hour on February 21, 2025, and was scheduled to increase further on February 21, 2026 and again on February 21, 2027. Michigan's paid sick leave requirements were also set to expand significantly on February 21, 2025.

Additionally, the minimum cash wage for tipped employees was set to increase to 48 percent of general minimum wage on February 21, 2025, and the tip credit was scheduled to be phased out completely by February 21, 2029.

New Changes to Minimum Wage and Tip Credit:

Now, under Senate Bill 8, the state's minimum wage, currently $12.48, will instead increase to:

- $13.73 per hour on *January 1, 2026*; and
- $15.00 per hour on *January 1, 2027*.

Thereafter, the minimum wage will be adjusted for inflation annually.

Senate Bill 8 also nullifies the phase out of the tip credit. Instead, the minimum wage for tipped employees will be 38 percent of the state minimum wage from February 21, 2025 through December 31, 2025. The minimum cash wage for tipped employees will then increase each year until it reaches 50 percent of the state minimum wage on January 1, 2031.

New Changes to Paid Sick Leave:

Effective February 21, 2025, the state's paid sick leave rules are amended as follows.

Employer Coverage:

The state's paid sick leave requirement covers any person, firm, business, educational institution, corporation, limited liability company, government entity, or other entity that employs one or more individuals. The U.S. government is excluded from coverage.

Grace Period for Small Businesses:

The law gives small businesses (as defined below) until October 1, 2025 to comply with requirements and:

- Allow an employee to accrue paid sick leave in accordance with the law.
- Frontload paid sick leave as an alternative to the accrual of paid sick leave.
- Calculate and track an employee's accrual of paid sick leave.

If a small business didn't employ an employee on or before February 21, 2022, the small employer isn't required to comply with House Bill 4002 until three years after the date that the employer first employs an employee.

Small Business Defined:

The law defines a small business as one for which 10 or fewer individuals work for compensation during a given week. In determining the number of individuals, all individuals working on a full-time, part-time, or temporary basis must be counted, including individuals made available to work through a temporary services or staffing agency or similar entity. An employer isn't a small business if it maintained more than 10 employees on its payroll during any 20 or more calendar workweeks in either the current or immediately preceding calendar year.

Employee Coverage:

With limited exceptions, the law covers any individual who is employed by a covered employer. The law doesn't cover:

- An individual employed by the U.S. government.
- An individual who works in accordance with a policy of an employer if both of the following conditions are met:
  - The policy allows the individual to schedule the individual's own working hours.
  - The policy prohibits the employer from taking adverse personnel action against the individual if the individual does not schedule a minimum number of working hours.
- An unpaid trainee or unpaid intern.
- An individual who is employed in accordance with the Youth Employment Standards Act.

Accrual:

Under House Bill 4002, employees are entitled to accrue one hour of paid sick leave for every 30 hours worked, excluding hours used as paid time off. Paid sick leave begins to accrue on February 21, 2025, or upon commencement of the employee's employment, whichever is later.

Note: An employee who is exempt from overtime is assumed to work 40 hours in each workweek unless the employee's normal workweek is less than 40 hours, in which case paid sick leave accrues based on that normal workweek.

Use:

An employee may use accrued paid sick leave as it is accrued, except that an employer may require an employee hired after February 21, 2025 to wait until 120 calendar days after commencing employment before using paid sick leave.

Paid sick leave may be used in one-hour increments or the smallest increment that the employer uses to account for absences of use of other time.

Employees of a small businesses are limited to using 40 hours of paid sick leave in a year, unless the employer selects a higher limit. Other employees are limited to using to 72 hours of paid sick leave in a year, unless the employer selects a higher limit.

Rate of Pay:

Employers must pay each employee using paid sick leave at a pay rate equal to the greater of either the normal hourly wage or base wage for that employee or the minimum wage. The law doesn't require an employer to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities in the calculation of an employee's normal hourly wage or base wage.

Carryover:

Unused paid sick leave must be carried over from year-to-year, subject to a cap of 40 hours for employees of small businesses and a cap of 72 hours for other employees.

If the employer frontloads paid sick leave at the beginning of the year (see below), carryover isn't required.

Frontloading:

As an alternative to the accrual of paid sick leave, employers may provide employees with their full paid sick leave entitlement (40 hours/72 hours) at the beginning of a year for immediate use.

To do so for part-time employees, the employer must also:

- Provide the part-time employee with a written notice of how many hours the part-time employee is expected to work for a year at the time of hire.
- Ensure that the amount of paid sick leave provided to the part-time employee at the beginning of the year is, at a minimum, proportional to the paid sick leave that the part-time employee would accrue if the part-time employee worked all of the hours expected as provided in the written notice.

If the part-time employee works more hours than what is expected as provided in the written notice, the employer must provide the part-time employee with additional paid sick leave in accordance with the accrual requirements above.

Reasons for Sick Leave:

Employees may use the leave for the following purposes.

- The employee's or family member's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health condition; or preventative medical care.
- If the employee or the employee's family member is a victim of domestic violence or sexual assault, for medical care or psychological or other counseling for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due to domestic violence or sexual assault, to obtain legal services, or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.
- For meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child.
- For closure of the employee's place of business by order of a public official due to a public health emergency, for an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or employee's family

member's presence in the community would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

Under the law, a family member is defined as:

- A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands *in loco parentis*
- A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood *in loco parentis* when the employee was a minor child
- An individual to whom the employee is legally married under the laws of any state or a domestic partner
- A grandparent
- A grandchild
- A biological, foster, or adopted sibling
- An individual related by blood to the employee
- An individual whose close association with the employee is the equivalent of a family relationship

Employee Notice and Documentation Requirements:

If the employee's need to use paid sick leave is foreseeable, an employer may require advance notice, not to exceed seven days before the date the paid sick leave is to begin.

If the employee's need for the paid sick leave isn't foreseeable, an employer may require the employee to give notice in either of the following manners:

- As soon as practical.
- In accordance with the employer's policy related to requesting or using sick time or leave if both of the following are met:
  - On the date of the employee's hire, February 21, 2025, or on the date that the employer's policy takes effect, whichever is latest, the employer provides the employee with a written copy of the policy that includes procedures for how the employee must provide notice.
  - The employer's notice requirement allows the employee to provide notice after the employee is aware of the need for the paid sick leave.

An employer that requires notice for sick time that isn't foreseeable is prohibited from denying an employee's use of paid sick leave if either of the following conditions applies:

- The employer did not provide a written policy to the employee as required.
- The employer made a change to the written policy and didn't provide notice of the change to the employee within five days after the change.

For paid sick leave of more than three consecutive days, an employer may require reasonable documentation that the paid sick leave has been used for a permitted purpose. If an employer chooses to require documentation for paid sick leave, the employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation. If the employee does have health insurance, the employer is responsible for paying any costs charged to the employee by the healthcare provider for providing the specific documentation required by the employer.

The employee must provide the documentation to the employer no more than 15 days after the employer's request, but the employer is prohibited from delaying the commencement of paid sick leave on the basis that the employer has not yet received documentation.

Under the law, documentation signed by a healthcare professional indicating that paid sick leave is necessary is reasonable documentation. In cases of domestic violence or sexual assault, any of the following types of documentation selected by the employee are considered reasonable documentation:

- A police report indicating that the employee or the employee's family member was a victim of domestic violence or sexual assault.

- A signed statement from a victim and witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization.
- A court document indicating that the employee or employee's family member is involved in legal action related to domestic violence or sexual assault.

An employer is prohibited from requiring that the documentation explain the nature of the illness or the details of the violence.

Use of Existing Policies:

An employer may comply with the law by providing employees with paid time off in no less than the same amounts of time off as provided in House Bill 4002 that may be used for the same purposes described above.

Recordkeeping/Pay Statement Requirements:

Covered employers must retain records documenting the hours worked and paid sick leave taken by employees for at least three years. There are no pay statement requirements.

Employer Notice/Poster Requirements:

Covered employers must provide written notice about the law to each employee at the time of hiring or within 30 days of February 21, 2025, whichever is later. The notice must include all of the following:

- The amount of paid sick leave required to be provided to an employee under the law.
- The employer's choice of how to calculate a year (under the law, "year" means a regular and consecutive 12-month period, as determined by an employer).
- The terms under which paid sick leave may be used.
- That retaliatory personnel action taken by the employer against an employee for requesting or using paid sick leave for which the employee is eligible is prohibited.
- The employee's right to file a complaint with the Department of Labor and Economic Opportunity for any violation the law.

The notice must be in English, Spanish, and any language that is the first language spoken by at least 10 percent of the employer's workforce, if the Department of Labor and Economic Opportunity has translated the notice into that language. Distributing a copy of the poster referenced below to employees (with the employee's "year" information completed) satisfies the written notice requirement.

Covered employers must also display a **poster** at their place of business, in a conspicuous place that is accessible to employees, that contains the required elements. The poster displayed must be in English, Spanish, and any language that is the first language spoken by at least 10 percent of the employer's workforce, if the Department of Labor and Economic Opportunity has translated the notice into that language.

Payout of Leave Upon Termination:

The law doesn't require an employer to provide financial or other reimbursement to an employee for accrued paid sick leave that was not used upon the employee's termination, resignation, retirement, or other separation from employment.

Reinstatement of Leave Upon Rehire:

If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee retains all paid sick leave that was accrued at the prior division, entity, or location and may use all accrued paid sick leave.

If an employee separates from employment and is rehired by the same employer no more than two months after the separation, the employer must reinstate previously accrued, unused paid sick leave and must allow the reinstated employee to use that paid sick leave and accrue additional paid sick leave upon reinstatement. This provision doesn't apply if an employer pays an employee the value of the employee's unused accrued paid sick leave at the time of a transfer or separation.

If a different employer succeeds or takes the place of an existing employer, the successor employer assumes the responsibility for the paid sick leave rights that employees who remain employed by the successor employer accrued under the original employer. Those employees are entitled to use paid sick leave previously accrued on the terms provided in the law. This provision doesn't apply if an employer pays an employee the value of the employee's unused accrued paid sick leave at the time of a succession.

Next Steps:

Michigan employers should ensure compliance with the amended minimum wage and paid sick leave requirements and distribute and post updated notices.

Michigan Requires New Poster for Veterans Services

Michigan has enacted a law that requires employers to display a notice about resources available to veterans. The new poster requirement takes effect **April 2, 2025**.

The Details:

All employers with at least one full-time employee must display the notice in a conspicuous place accessible to employees. The notice must include all of the following services that are available to veterans:

- The telephone number and website for the Michigan Department of Military and Veterans Affairs
- Mental health and substance abuse services
- Education, workforce, or job training resources
- Tax benefits
- Obtaining a veteran designation on a driver's license issued under section 310 of the Michigan vehicle code, or on an official state personal identification card
- Eligibility for unemployment benefits under state or federal law
- Legal services
- The telephone number and website for the United States Department of Veterans Affairs
- The telephone number for the United States Department of Veterans Affairs' veterans crisis line

Under the law, the Michigan Department of Labor and Economic Opportunity (MDLEO) must create a model poster and **make it available on its website**.

Next Steps:

Michigan employers should ensure they display the required notice by **April 2, 2025**.

Nevada to Eliminate Subminimum Wages

Nevada enacted legislation (Assembly Bill 259), which phases out the ability for employers to pay a subminimum wage to employees with disabilities in the state. The goal of the law is to eliminate the use of the subminimum wage in Nevada by **January 1, 2028**.

The Details:

As background, Nevada state law allows employers, after receiving a certificate from the state, to pay a subminimum wage to workers who have disabilities.

Requirements for Providers of Jobs and Day Training Services:

As of **January 1, 2025,** a provider of jobs and day training services (provider) is prohibited from entering into a contract or an arrangement that pays subminimum wages to employees with disabilities.

Additionally, on or before January 1 of each year, a provider that is authorized to pay less than the state minimum wage must submit to the Aging and Disability Services Division of the Department of Health and Human Services (the Division) their plan to:

- Transition individuals earning subminimum wages to earning at least the state minimum wage by January 1, 2028; or
- Support covered workers in obtaining competitive integrated employment, supported employment or community activities related to the individual's goals.

The plan must be:

- Informed by evidence-based practices and models for providing effective employment and align with any applicable federal laws and regulations; and
- Accompanied by a report that contains measurable benchmarks for each individual earning less than the state minimum wage under a valid certificate to show their progress toward the requirements for providers under the law.

Note: The Division may require a plan to be revised and resubmitted when the plan does not meet the requirements and goals under the law. See **the text of the law** for further details.

Meeting Representatives:

Under the law, an individual with an intellectual disability or a developmental disability who is earning less than the state minimum wage under a valid certificate may choose a person (such as their case manager, parent or legal guardian) to advocate on their behalf at any meeting concerning employment with their employer or a member of the staff of the provider of jobs and day training services.

See **the text of the law** for further details.

Next Steps:

Nevada employers should watch for developments in phasing out the subminimum wage for employees with disabilities.

Updated: New York State Takes Action to Prevent Violence in Retail

New York State enacted legislation (Assembly Bill A8947C), which added workplace violence prevention requirements for employers. New York has also enacted legislation (Senate Bill S740), to help clarify these requirements. The laws' workplace violence prevention policy and training requirements take effect on June 2, 2025 and the silence response button (SRB) requirements take effect on **January 1, 2027**.

The Details:

The **Retail Worker Safety Act** (the Act) requires employers with 10 or more retail employees to implement a **workplace violence prevention policy** and provide training and notice on workplace violence prevention to employees. The Act also requires SRBs for employees of employers with 500 or more retail employees.

Note: The Act defines a retail employee as an individual who works at a store that sells consumer commodities at retail and is not primarily engaged in selling food for consumption on the premises. A workplace is defined as a location away from an employee's home (permanent or temporary) where an employee performs a work-related duty in the course of employment by their employer.

Policy Requirements:

Effective June 2, 2025, employers with 10 or more retail employees must:

- Adopt either the state's model workplace violence prevention plan (to be updated by the state every four years beginning in 2027) or a custom policy that meets or exceeds the state model's minimum requirements.

The New York model policy will:

- Clearly state that it is unlawful to retaliate against an individual who: 1) complains of workplace violence or the presence of factors or situations in the workplace that might place a retail employee at risk of workplace violence; or 2) testifies or assists in a proceeding under the law.
- Outline factors or situations that might put retail employees at risk of workplace violence, such as working alone, in small numbers, late at night or early morning hours; exchanging money with the public; or uncontrolled access to a workplace.
- List ways for employers to help prevent incidents of workplace violence, such as creating and implementing reporting systems for incidents of workplace violence.
- Have federal and state statutory provision information (including a statement that there may be applicable local laws) regarding violence against retail employees and the remedies available to such victims.

Training Requirements:

Employers must:

- Train on workplace violence prevention using the state's model training program or a custom program that meets or exceeds the state's model training program.
- Provide the training to all retail employees upon hire and annually thereafter.
- The training program must be interactive and include:
  - Information on the Act's requirements;
  - Training on previous security problems;
  - Emergency procedures, de-escalation tactics, and active shooter drills;
  - Examples of ways retail employees can help protect themselves when faced with workplace violence from customers or other co-workers;
  - Instruction on security alarms, silent response buttons, and other related emergency devices; and
  - Information that addresses supervisor conduct and responsibilities, including ways to address workplace-specific emergency procedures.

Note: Employers with fewer than 50 employees are now only required to provide the workplace violence prevention training upon hire, and every other year (instead of annually).

Employer Notice Requirements:

Beginning June 2, 2025, covered employers must provide every employee upon hire and annually at each workplace violence prevention training thereafter:

- A copy of the written workplace violence prevention plan;
- A notice in writing (in English and the employee's primary language) that contains the employer's retail workplace violence prevention policy and the information presented at the workplace violence prevention training program; and
- A site-specific list of emergency exits and meeting places in case of emergency.

Silent Response Buttons:

Under the law, **beginning January 1, 2027**, employers with 500 or more retail employees in New York (no longer nationwide) must provide each retail employee with a SRB to request immediate assistance from a security officer, manager or supervisor while the employee is working, in the case of an emergency.

Note: The SRB may be a device installed in an easily accessible location in the workplace or a wearable or phone-based button.

Next Steps:

- Covered employers should review and update workplace safety policies, procedures, and trainings to help ensure compliance with Assembly Bill A8947C and Senate Bill S740 by **June 2, 2025**.
- Employers with 500 or more retail employees in New York should ensure SRBs are provided by **January 1, 2027**.
- All covered employers should monitor the **New York Workplace Violence Prevention** site for updates and model policy templates.

Oregon Adds Quota Protections for Warehouse Workers

Oregon has enacted legislation (House Bill 4127), which adds notice and recordkeeping requirements surrounding production quotas for warehouse workers. House Bill 4127 took effect on **January 1, 2025**.

The Details:

Under the law, a covered employer is one that directly or indirectly (through an agent or other means such as through third-party services, temporary services, staffing agency or any other similar entity) employs or exercises control over the wages, hours or working conditions of:

- 100 or more non-exempt employees at a single **warehouse distribution center**; or
- 1,000 or more non-exempt employees at one or more **warehouse distribution centers** in Oregon.

Note: The law does not cover an employer with employees under a collective bargaining agreement that has performance evaluation metrics that may be reviewed and negotiated under the agreement and provides for rights to request records that are substantially equivalent to the rights under House Bill 4127.

The law defines a quota as a work standard that occurs during a defined period of time, where an employee (excluding a driver or courier to or from the warehouse distribution center) may suffer an adverse employment action when they fail to complete an assigned or required standard to:

- Perform at a specified productivity or speed;
- Perform a quantified number of tasks; or
- Handle or produce a quantified number of materials.

Employer Documentation Requirements:

The law requires a covered employer to provide each employee with written documentation that summarizes any applicable employee quota. The documentation must:

- Be in the language the employer regularly uses to communicate with the employee;
- Have the quantified number of tasks to be performed or materials to be produced or handled, within a defined time period; and
- Include a description of the potential consequences, including adverse employment actions, that an employee may face for failing to meet the quota.
- Be provided:
  - At the time of hire;

- Within two business days following a change to an applicable quota; and
- When an employer takes adverse action against the employee for failure to meet the quota.

Note: An employer may not take an adverse employment action against an employee who fails to meet a quota when the employee did not receive the required written documentation.

Employee Record Requests:

Under the law, an employee who believes they were disciplined for failing to meet a quota may request related records from their employer. A covered employer that uses a quota must provide these records free of charge and as soon as practical upon request of a current or former employee within 21 calendar days from the date of the request.

The written documentation must detail the following:

- The quantified number of tasks to be performed or materials to be produced or handled within a defined time period;
- A description of the potential consequences, including any adverse employment actions, that an employee may face as a result of their failure to meet the applicable quota; and
- Their work speed data for the 90 days immediately preceding their request (current employees) or their most recent separation from employment (former employees). A former employee may request their records within three years of separation from their employment.

Work speed data includes information that is collected or maintained by an employer for purposes of evaluating an employee's performance regarding meeting an applicable employee quota, including:

- The quantity of tasks performed, and quantity of items or materials handled or produced;
- The rate or speed at which the employee performs assigned tasks;
- Measurements or metrics of employee performance related to an applicable quota; and
- Time that is categorized as performing or not performing tasks.

Work speed data does not include data or information that does not relate to the performance of a quota, such as qualitative performance assessments, personnel records and **required itemized wage statements**.

Next Steps:

Covered employers with quotas for warehouse workers should **review the documentation and request requirements under the law** and train supervisors.

Vermont Creates State-Sponsored Retirement Savings Program

Vermont has enacted legislation (S.135), which creates a state-sponsored retirement savings program. Covered employers that do not offer a retirement plan must register or certify their exemption to the Vermont Saves program in a phased implementation beginning **July 1, 2025** through **July 1, 2026**.

The Details:

Vermont Saves is a state-sponsored retirement savings program that is voluntary for employees (employees may also choose to opt out of the program).

Note: Employers are prohibited from making contributions under the plan.

Phase-In Requirements:

Under S.135, beginning July 1, 2025, the State will phase-in implementation of the program, requiring employers with five or more W-2 employees to:

- Register for the program; or
- Certify their exemption from the program

The state has been reaching out to employers regarding the **registration/certification process requirements**. As part of this outreach activity, employers should have received their unique access code to register for **the program or certify exemption from the program** (if an employer already offers a 401(k) or other qualified retirement plan). Employers will also need their Federal Employer Identification Number (EIN) to register.

The registration deadline was March 1, 2025 and the registration requirement applies to businesses with five or more W-2 employees who have been in business for at least two years and do not offer a qualified retirement plan.

Employer Resources:

See the employer resources center for helpful resources, such as:

- A checklist
- An employer fact sheet
- An auto-enrollment fact sheet

Next Steps:

Vermont employers with five or more W-2 employees must register or certify their exemption. They must also offer the Vermont Saves retirement program by **July 1, 2026**.

Local

Los Angeles County, CA Adopts "Predictable Scheduling" Ordinance for Retail Industry

Los Angeles County, California has enacted an ordinance that will require large employers in the retail sector to follow certain scheduling practices. The ordinance takes effect **July 1, 2025**.

The Details:

The ordinance applies only to certain employers that have covered employees who work in the unincorporated areas of the county (check **the County's page** to determine whether a workplace is in unincorporated areas of the county).

Covered Employers:

The ordinance applies to any employer that meets all of the following three criteria:

1. Is classified as a retail business in the North American Industry Classification System (NAICS) within the retail trade categories and subcategories 44 through 45; or any business whose revenues are generated primarily from the sale to end users of tangible products that are primarily for personal, household, or family purposes, including, but not limited to, appliances, clothing, electronics, groceries, and household items; **and**
2. Directly, indirectly, or through an agent or any other person exercises control over the wages, hours, or working conditions of a covered employee; **and**
3. Employs 300 or more employees globally.

Counting Employees:

For the purposes of determining the number of employees, the following must be included:

- Any employee over whom the retail employer directly, or through an agent or any other person, including through the services of a contractor, temporary service, or staffing agency, exercises control over the wages, hours, or working conditions;
- Any employee of the retail employer's subsidiary, provided that the subsidiary qualifies as a retail business; and
- Any employee of any person operating a business pursuant to a franchise, provided that the franchisee's business is over 15,000 square feet and identified as a retail business (e.g. covered employees employed by franchisees meeting this definition must be counted together even if the franchisees are separately owned).

Covered Employees:

The ordinance applies to any employee who:

1. In a particular workweek performs at least two hours of work within the unincorporated areas of Los Angeles County for a covered employer; **and**
2. Qualifies as an employee entitled to payment of a minimum wage from any covered employer under the California minimum wage law; **and**
3. Is assigned a primary work location and duties that support retail operations, including, but not limited to, a retail store or warehouse.

Good Faith Estimate:

Before hiring an employee, a covered employer must provide the prospective employee with a written good faith estimate of the employee's work schedule.

A good faith estimate of the employee's work schedule for purposes of the ordinance means a reasonable, fact-based prediction of the work schedule. This prediction can be based on forecasts, prior hours worked by a similarly situated retail employee, or other relevant information.

The estimate must be provided in English, Spanish, and any other language spoken by at least 10 percent of the retail employees at a retail employer workplace or job site.

The estimate must include a copy of the Notice of Retail Employee's Workweek Rights discussed below (see the *Notice and Recordkeeping* section).

Employers must also provide a written good faith estimate of an employee's work schedule within ten days of an employee's request. This estimate must also be provided in English, Spanish, and any other language spoken by at least 10 percent of the retail employees at a retail employer workplace or job site.

If an employee's actual work hours substantially deviate from the good faith estimate, an employer must have a documented, legitimate business reason, which was unknown at the time the estimate was provided, to substantiate the deviation.

For the purposes of this provision, substantially deviate means when any of the following occur in six workweeks out of twelve consecutive workweeks, and the occurrence isn't due to documented retail employee-initiated or retail employee-approved changes:

- The number of actual hours worked differs by twenty percent (20 percent) or more from the expected hours in the estimate;
- The actual days of the week worked differ from the expected days of the week indicated in the estimate;
- The actual work location differs from the expected work location in the estimate; or
- At least one actual shift per week is outside of the potential shifts indicated in the estimate.

Right to Request Schedule Changes:

Covered employees have the right to request a preference for certain hours, times or locations of work. An employer may accept or decline the request, provided that the employer notifies the employee in writing of the reason for any denial.

Advance Notice of Schedule:

Covered employers must provide written notice of the employees' work schedule at least 14 calendar days before the start of the work period by any one of the following:

- Post the work schedule in a conspicuous and accessible location where employee notices are customarily posted and visible to all employees; or
- Transmit the work schedule by electronic means or another manner reasonably calculated to provide actual notice to each employee.

This notice must also be provided in English, Spanish, and any other language spoken by at least 10 percent of the retail employees at a retail employer workplace or job site.

Changes to the Work Schedule:

Covered employers must provide written notice of any employer-initiated changes to the work schedule that occur after the advance notice required. An employee has a right to decline any hours, shifts or work location changes not included in the work schedule. If an employee voluntarily consents to work hours or shift changes not included in the work schedule, the consent must be documented. The record of the employee's consent must show that the employer obtained it in advance of the change. General or ongoing consent is insufficient to meet this requirement.

Template Notices:

On or before July 1 of each year, the county will make available templates for employers to provide the good faith estimate of the employee's work schedule and forms to notify employees of schedule changes.

Safety Concerns Related to Posting or Transmitting the Work Schedule to Other Employees:

An employee who substantiates an ongoing concern for their or their family's personal safety, has a right to request that their work schedule not be posted or transmitted to other employees. A request not to post or transmit to other employees may be submitted in writing or verbally. The employer must immediately implement the request, except a work schedule may be shared with any employee with

a good faith business purpose for accessing a work schedule, such as an employee whose responsibilities include managing employee shifts. A retail employer must implement a request from an employee not to post or transmit their schedule until the employee withdraws their request verbally or in writing.

Right to Additional Hours:

Before hiring a new employee or using a contractor, temporary service or staffing agency to perform work, the employer must first offer the work to current employees if:

- One or more of the current employees is qualified to do the work as reasonably determined by the employer; and
- The additional work hours would not result in the payment of a premium (e.g. overtime) rate under state law.

An employer must make the offer to each current employee either in writing or by posting the offer in a conspicuous location in the workplace where notices to employees are customarily posted. The offer must be provided in English, Spanish, and any other language spoken by at least 10 percent of the retail employees at a retail employer workplace or job site.

The offer must be made at least 72 hours prior to hiring any new employee, using a contractor, temporary service or staffing agency. Upon receipt of the offer, an employee has 48 hours to accept the offer of additional hours in writing.

Upon receipt of the offer, an employee must have 48 hours to accept the offer of additional hours in writing. Upon the expiration of the 48-hour period, the employer may hire new employees or retain the services of a contractor, temporary service, or staffing agency to work any additional hours not accepted for work by current employees.

At any time during the 72-hour period, if the employer receives written confirmation from all its employees that they are not interested in accepting additional hours of work, the employer may immediately proceed with hiring new employees or retain a contractor, temporary service, or staffing agency. If more current employees accept the offer to work than hours are available, the employer must award the hours using a fair and equitable distribution method.

An employee who accepts additional hours pursuant to this provision isn't entitled to predictability pay (see below) for those additional hours, if it results in a schedule change from the work schedule.

Predictability Pay:

When an employee has agreed to a change in their work schedule after the advance notice period, the employer must compensate the employee with one additional hour of pay at their regular rate for each change to a scheduled date, time or location that:

- Doesn't result in a loss of time to the employee; or
- Does result in additional work time that exceeds 15 minutes.

An employer must compensate an employee at one-half of their regular rate of pay for the time the employee doesn't work for the following reasons if occurring after the advanced notice required:

- Subtracting hours from a shift before or after the employee reports for duty;
- Changing the start or end time of a shift resulting in a loss of more than 15 minutes;
- Changing the date of a shift;
- Cancelling a shift; or
- Scheduling the retail employee for an on-call shift for which the employee isn't called in.

Predictability pay isn't required if:

- An employee initiates the requested work schedule change.
- An employee accepts a schedule change initiated by an employer due to an absence of another scheduled employee. Note that the employer must communicate to the employee that acceptance of the hours is voluntary and the employee has a right to decline and must document the specific nature of the request and the employee's consent.

- An employee accepts an offer of additional hours as stated above.
- An employee's hours are reduced due to the employee's violation of any existing law or of the employer's lawful policies and procedures.
- The employer's operations are compromised pursuant to law.
- Extra hours worked require the payment of an overtime premium under California Labor Code Section 510.

Coverage for Missing Work Shift:

An employer may not require an employee to find coverage for a shift or partial shift if the employee is unable to work for reasons protected by law.

Rest Between Shifts:

Employers are prohibited from scheduling an employee to work a shift that starts less than ten hours from the employee's last shift without the employee's written consent. An employer must pay a premium of time and a half for each shift not separated by at least ten hours.

Notice and Recordkeeping:

Covered employers must post a notice published each year by the county, informing employees of their rights under the ordinance. This notice is known as the "Notice of Retail Employee's Workweek Rights in order for Retail Employers to comply with Section 8.102.120." The notice must be posted by covered employers in English, Spanish, and any other language spoken by at least 10 percent of the retail employees at a retail employer workplace or job site. For retail employees without regular access to the workplace or job site, the employer must provide a copy of the notice by electronic communication or U.S. Mail annually.

Covered employers must also retain all records required by the ordinance in a printable electronic format, for both current and former employees, for a period of three years. These records include:

- Work schedules for all covered employees;
- Copies of written offers to employees for additional work hours and written responses from employees;
- Written correspondence between the employer and employee regarding work schedule changes including, but not limited to, requests, approvals and denials, and requests not to post or transmit work schedules to other employees;
- Good faith estimates of hours provided to new and existing employees; and
- Payroll records pertaining to each covered employee that document the:
    - Name, address, occupation, dates of employment;
    - Rate(s) of pay, amount paid each pay period;
    - The hours worked for each covered employee;
    - The amount of predictability pay paid each pay period;
    - The amount of premium pay paid each pay period for shifts scheduled too close together; and
    - The formula by which each covered employee's wages are calculated.

Retaliation Prohibited:

Employers are prohibited from taking adverse action against any employee in retaliation for exercising rights protected under the ordinance. These rights include, but are not limited to, the right to file a complaint or inform any person about any alleged noncompliance with the ordinance; and the right to inform any person of their potential rights under the ordinance and to assist them in asserting such rights. Taking adverse action against a person within 90-days of the person's exercise of rights protected under the ordinance creates a rebuttable presumption of having done so in retaliation for the exercise of such rights.

Next Steps:

If you are a covered employer:

- Review **the ordinance** for additional detail.
- Be on the lookout for the templates to be issued by the county.
- Ensure compliance with the requirements of the ordinance by **July 1, 2025**.

New York City Amends Lactation Room Accommodation Requirements

New York City has enacted legislation (Int 0892-2024), which amends lactation room accommodation policy requirements. Int 0892-2024 takes effect on **May 11, 2025**.

The Details:

Background:

Existing laws (**Local Law 185** and **Local Law 186**) require New York City employers to implement and distribute to all employees upon hire a written lactation accommodation policy, which includes a statement that employees have a right to request a lactation room and the procedure to request a lactation room. Employers must also respond to requests within five business days.

Int 0892-2024:

Effective May 11, 2025, **Int 0892-2024** requires employers to distribute the policy at the commencement of employment (instead of upon hire) and make the policy readily available to employees through:

- A physical posting in an area accessible to employees in the workplace; and
- An electronic posting on the employer's intranet (if the employer has one).

Interplay with State Law:

New York State's **paid lactation break law** requires employers to include a statement in their policy that they will provide 30 minutes of paid break time and that employees may use existing paid break time or meal time for time in excess of 30 minutes to express breast milk.

Next Steps:

By **May 11, 2025**, New York City employers should:

- Follow the physical and electronic posting requirements; and
- Review and update policies with city and state laws, ensuring the state's required language on paid lactation breaks is included.

Minimum Wage

Minimum Wage Announcements: 2/21/25 – 3/20/25

The following states or localities have announced new minimum wage increases.

State or Locality	Minimum Wage Rate	Minimum Tipped Cash Wage	Effective Date(s)	New or Updated Poster Requirement?	Notes
Montgomery County, Maryland (51 or more EEs)	$17.65	$4.00	7/1/25	Yes	Once available found here
Montgomery County, Maryland (11 – 50 EEs)	$16.00	$4.00	7/1/25	Yes	Once available found here
Montgomery County, Maryland (10 or less EEs)	$15.50	$4.00	7/1/25	Yes	Once available found here

Download a PDF of a comprehensive listing of state and local minimum wage rates.

Federal

Haiti TPS Extension Reduced from 18 Months to 12 Months – Form I-9 Impacts

The Department of Homeland Security (DHS) recently announced that Haiti's Temporary Protected Status (TPS) designation will expire on August 3, 2025 rather than the previously scheduled expiration date of February 3, 2026.

Importantly, U.S. Citizenship and Immigration Services (USCIS) has also announced that it will not provide updated Employment Authorization Documents (EADs) with the new August. 3, 2025, expiration date. USCIS instructs employers to enter the amended expiration date of August 3, 2025 in the Additional Information field in Section 2 of the Form I-9, and initial and date the correction.

Next Steps:

Employers with employees impacted by this announcement should update Forms I-9 to reflect the new August 3, 2025 expiration date using the instructions above. Employees who are impacted would have presented an EAD listing Haiti as the employee's country of origin, the category as A12 or C19 (the categories for TPS) and with a February 3, 2026 expiration date.

These impacted employees must also be re-verified using an alternative, acceptable I-9 document by August 3, 2025. A list of acceptable documents is available at Form I-9 Acceptable Documents | USCIS.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP ***Eye on Washington*** Web page located at **www.adp.com/regulatorynews.**

If you have any questions regarding our services, please call 855-466-0790.

ADP, Inc.
One ADP Boulevard, Roseland, NJ 07068
adp.com

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