



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

## Topics covered in this issue:

### Benefits:

- Massachusetts Announces 2022 Parking and Transportation Limits

### Leave:

- Colorado Clarifies Rules on Unused PTO
- Washington Updates Family & Medical Leave and LTC Premiums For 2022

### Payroll:

- California Raises Minimum Pay Requirements for Certain Exemptions for 2022
- Colorado Finalizes New Pay, Poster Rules for 2022
- Virginia Updates Wage Payment Issues Field Operations Manual
- Recent Minimum Wage Change Announcements

### Time & Labor:

- Alabama Requires Exemptions From COVID-19 Vaccine Mandates
- Illinois Clarifies State Law Doesn't Bar Employer Vaccine/Testing Mandates
- Iowa Requires Waivers From Employer COVID-19 Vaccine Mandates
- New York Expands Whistleblower Protections
- West Virginia Requires Exemption Process for COVID-19 Vaccination Requirements



## Benefits

### Massachusetts Announces 2022 Parking and Transportation Limits

On November 16, 2021, Massachusetts released Technical Release Number 21-12 (TR 21-12), which provides the maximum amounts of parking and transit limits that are excluded from state income tax per month for tax year 2022.

#### Background:

The federal "Protecting Americans from Tax Hikes Act of 2015" (PATH Act) created parity between parking and transportation limits and provided for an increase to the limits based on inflation. Massachusetts did not adopt the increase in the federal monthly exclusion.

The federal amounts for 2022 are \$280 per month for employer-provided parking, and \$280 per month for the combined value of transit pass and commuter highway vehicle benefits.

TR 21-12 stipulates that for the tax year beginning in 2022, the Massachusetts monthly exclusion amounts are \$285 per month for employer-provided parking, and \$150 per month for the combined value of transit pass and commuter highway vehicle transportation benefits.

Consequently, in relation to qualified parking expenses, \$280 per month is excluded from federal taxable income and \$285 per month is excluded from Massachusetts state taxable income. However, although qualified transportation expenses are tax-excluded for employees up to \$280 per month for federal taxation in 2022, the maximum amount of transportation expenses that is allowed to be tax-excluded in 2022 is \$150 per month in relation to Massachusetts state taxation.

For a copy of TR 20-16, click on the link provided below.

<https://www.mass.gov/technical-information-release/tir-21-12-massachusetts-exclusion-amounts-for-employer-provided-parking-transit-pass-and-commuter-highway-vehicle-benefits-for-taxable-years-beginning-in-2022>



## Colorado Clarifies Rules on Unused PTO

The Colorado Department of Labor and Employment (CDLE) has issued a final rule clarifying that employers are prohibited from requiring employees to forfeit any accrued paid time off (PTO) that they may choose to use for vacation and other needs. The final rule takes effect **January 1, 2022**.

### Background:

In 2019, the CDLE adopted rules that made clear that a policy or practice that forces an employee to forfeit accrued, unused vacation is prohibited. On June 14, 2021, the Colorado Supreme Court also affirmed that state law prohibits the forfeiture of any accrued vacation pay.

The rules and decision didn't expressly address situations in which employers bundle vacation with other types of leave into a single PTO policy that employees can use for multiple purposes.

### Final Rule:

The final rule clarifies that "vacation pay" is defined as pay for leave, regardless of its label, that is usable at the employee's discretion (as long as the employee meets procedural requirements such as notice and approval of particular dates), rather than leave usable only upon occurrence of a qualifying event (for example, a medical need, caretaking requirement, bereavement, or a holiday). Therefore, if an employer provides PTO that doesn't require a qualifying event for use (most PTO policies), state law prohibits the forfeiture of any accrued PTO.

### Other Changes:

The final rule also addresses issues relating to calculating rate of pay, determining the number of hours and record keeping requirements for paid leave under the state's Healthy Families and Workplaces Act. See the [final rule](#) for details.

### Compliance Recommendations:

Colorado employers should review policies and practices to ensure compliance with the [final rule](#).

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## Washington Updates Family & Medical Leave and LTC Premiums for 2022

The state of Washington has announced that premiums for its Paid Family and Medical Leave Insurance Program will increase and that employers must start collecting premiums for the Washington Cares program. The premium requirements will begin on January 1, 2022.

### Background:

Washington enacted a paid family and medical leave program and a state-run long-term-care benefits program (WA Cares), which require contributions funded via payroll deductions from either employers, employees, or both. Every quarter, employers in Washington must complete and file a report and remit Paid Family and Medical Leave premiums.

### Maximum Paid Family and Medical Leave Contributions:

The premium rate for paid family leave coverage will increase to **0.6 percent** of an employee's gross wages, not including tips, and up to \$147,000 (the Social Security cap), on **January 1, 2022**.

- Employers with 50 or more employees are responsible for **26.78 percent** of the total contribution. Employees are responsible for 73.22 percent of the total contribution.
- Employers with less than 50 employees are not required to pay the employer portion of the premium. However, small employers that choose to pay the employer contribution are eligible for state grants.

## Washington Cares Long-Term-Care Premiums:

Employers in Washington must also collect from, or pay on behalf of, their employees the WA Cares long-term-care premiums, starting **January 1, 2022**. The premium rate is equal to **0.58 percent** of an employee's gross wages, and it does not have a Social Security cap.

**Note:** The Washington Economic Security Department is updating the Paid Leave reporting system so employers can report for both programs at the same time.

## Compliance Recommendations:

Washington employers should withhold the adjusted Paid Family and Medical Leave and WA Cares premiums as applicable. The state has posted [additional resources](#) to further assist employers. If you are an ADP client, contact your dedicated service professional with any questions.



## Payroll

### California Raises Minimum Pay Requirements for Certain Exemptions for 2022

The California Department of Industrial Relations has announced an increase to the pay rates that computer software employees and physicians must receive in order to be exempt from overtime. Additionally, the minimum salary required for administrative, professional and executive overtime exemptions will also increase. These new rates take effect on **January 1, 2022**.

#### Background:

##### Computer software employees and physicians:

Under the California Labor Code Sections 515.5 and 515.6, computer software employees and physicians are exempt from the state's overtime requirements if they meet specific duties requirements and earn a minimum pay rate. These pay thresholds are adjusted annually for inflation.

##### Administrative, executive and professional employees:

California also has exemptions for bona fide administrative, professional and executive employees. To be exempt from overtime, these employees must meet certain state salary and duties tests. They must be paid a salary of at least twice the state minimum hourly wage based on full-time employment of 40 hours per week. Since the state's minimum hourly wage will increase on January 1, 2022, the minimum salary thresholds for these exemptions will also increase.

##### Computer Software Employees: <https://www.dir.ca.gov/OPRL/ComputerSoftware.htm>

Computer software employees may be paid on an hourly or a salary basis in order to qualify for exemption from California's overtime requirements. Beginning January 1, 2022, these employees must earn at least:

- **\$50** per hour (for all hours worked); or
- A monthly salary of **\$8,679.16**; and
- An annual salary of **\$104,149.81**.

##### Physicians: <https://www.dir.ca.gov/OPRL/Physicians.htm>

To qualify for exemption from the state's overtime requirements in 2022, licensed physicians and surgeons are required to earn an hourly wage of at least \$91.07.

##### Administrative, Professional and Executive Employees:

For the administrative, professional and executive exemptions, employers with 26 or more employees must pay a salary of at least \$1,200 per week beginning January 1, 2022. Employers with fewer than 26 employees must pay a minimum salary of at least \$1,120 to these exempt employees.

## **Compliance Recommendations:**

California employers with exempt employees should ensure that they meet the applicable salary and duties tests. Otherwise, these employees must be classified as non-exempt and are entitled to overtime.

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## **Colorado Finalizes New Pay, Poster Rules for 2022**

The Colorado Department of Labor and Employment has released rules that finalize an increase to the minimum wage and the minimum salary required for exemption from overtime, add a new exemption from overtime for highly compensated employees, and establish new poster rules for employers. The changes are included in Colorado Overtime and Minimum Pay Standards (COMPS) Order #38 and the 2022 Publication and Yearly Calculation of Adjusted Labor Compensation (PAY CALC) Order and take effect **January 1, 2022**.

### **Background:**

Colorado has its own minimum wage, which adjusts for inflation each year. Colorado also has its own minimum salary requirement for exemption from overtime, which has scheduled increases for 2022, 2023 and 2024 and will adjust for inflation thereafter. In the past, the annual changes to the state's minimum wage/salary requirements were included in the COMPS Order. Going forward, they will be included in the PAY CALC Order instead.

### **Minimum Wage for 2022:**

Effective January 1, 2022, the state's minimum wage will increase from \$12.32 per hour to \$12.56 per hour. The state's minimum direct cash wage for tipped employees will increase from \$9.30 per hour to \$9.54. If a tipped employee's cash wages and tips fail to meet or exceed \$12.56 per hour in 2022, employers must make up the difference.

### **Minimum Salary Required for Exemption:**

Effective January 1, 2022, the minimum salary required to qualify for the executive/supervisor, administrative and professional exemptions from overtime under state law will increase to \$865.38 per week. The employee must also satisfy applicable duties tests.

Under the state's exemption for highly technical computer employees, the employee may be paid by salary (at least \$865.38 per week in 2022) or by the hour (at least \$28.92 per hour in 2022).

**Note:** In Colorado, an exempt employee's salary generally must also be sufficient to satisfy the minimum wage for all hours worked in a workweek. Employers may want to consult legal counsel about how this rule may impact them.

### **New State Exemption for Highly Compensated Employees:**

COMPS Order #38 adds a new exemption from overtime for "highly compensated employees" that, like the other exemptions, includes both a duties test and a salary test. Under the duties test, an exempt highly compensated employee is one who customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee; and whose primary duty is office or nonmanual work. To qualify for this state exemption in 2022, employees must receive total annual compensation of at least \$101,250 (at least \$865.38 must be paid on a weekly salary basis).

**Note:** The state's total compensation requirement for this exemption in 2022 is lower than the one required by federal rules, even though the state's weekly salary requirement is higher. Under federal rules, the total annual compensation requirement for the "highly compensated employees" exemption is \$107,432 per year (at least \$684 must be paid on a weekly salary basis). Employers should consult legal counsel to discuss the impact of this and other differences between the state and federal exemption.

### **New Notice Rules:**

Under existing rules, employers must display an up-to-date COMPS Order poster in the workplace. Employers that publish or distribute a handbook, manual, or written or posted policies must also include a copy of the COMPS Order (or poster) with the handbook, manual, or policies.

Under COMPS Order #38, the rules are revised to state that the required poster/notice must include the minimum wage/salary figures contained in the PAY CALC Order (since they are now published separately). COMPS Order #38 also indicates that employers will be deemed noncompliant with the notice requirements if they attempt to minimize the effect of the notice, such as by communicating positions contrary to, or discouraging the exercise of rights covered in, the notice.

**Other Changes:**

COMPS Order #38 also includes new rules on:

- Determining the regular rate of pay for the purposes of overtime when an employee has two or more rates of pay.
- The minimum wage, overtime, meal and rest breaks, and other protections for agricultural workers.

See [COMPS Order #38](#) for details.

**Compliance Recommendations:**

Colorado employers should ensure compliance with [COMPS Order #38](#) and the [2022 PAY CALC Order](#) and meet their poster/notice obligations by January 1, 2022.

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## Virginia Updates Wage Payment Issues Field Operations Manual

The Virginia Department of Labor and Industry (DLI) has updated its field operations manual for the Division of Labor and Employment Law regarding wage payment issues.

This updated document supersedes all previous versions and provides guidance on wage payment matters including pay periods, payment frequency, pay stubs, payment methods, overtime, deductions, discretionary bonuses, work time, worker classification, wage complaints and investigations.

For a copy of the updated document, click on the link provided below.

[https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc\\_DOLI\\_5539\\_v3.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5539_v3.pdf)

## Recent Minimum Wage Change Announcements

The following chart shows the minimum wage for nontipped and tipped employees and the next scheduled increase (if any) for each state, the District of Columbia, various U.S. territories/commonwealths and numerous local jurisdictions. Rates listed in black were enacted by federal, state, district, territory, or commonwealth law. Rates listed in red were enacted by city or county ordinance. It is important to note that minimum wages that may be paid to individuals under a certain age (e.g., youth wage), to employees during a "training" period, or to employees working for a nonprofit are not reflected. A link to the jurisdiction website has been provided that may contain additional minimum wage information such as the minimum wage poster required to be posted by an employer.

State / Local	Current Minimum Wage Per Hour	Current Tipped Employee Cash Wage Per Hour	Next Scheduled Increase Minimum Wage Per Hour	Next Scheduled Increase Tipped Employee Cash Wage Per Hour	Jurisdiction Website Link
Cupertino, CA	\$15.65	\$15.65	\$16.40 (1/1/22)	\$16.40 (1/1/22)	<a href="#">Cupertino</a>
El Cerrito, CA	\$15.61	\$15.61	\$16.37 (1/1/22)	\$16.37 (1/1/22)	<a href="#">El Cerrito</a>
Half Moon Bay, CA	\$15.00	\$15.00	\$15.56 (1/1/22)	\$15.56 (1/1/22)	<a href="#">Half Moon Bay</a>
Hayward, CA (26 or more EEs)	\$15.00	\$15.00	\$15.56 (1/1/22)	\$15.56 (1/1/22)	<a href="#">Hayward</a>
Hayward, CA (25 or less EEs)	\$14.00	\$14.00	\$14.52 (1/1/22)	\$14.52 (1/1/22)	
Los Altos, CA	\$15.65	\$15.65	\$16.40 (1/1/22)	\$16.40 (1/1/22)	<a href="#">Los Altos</a>
Mountain View, CA	\$16.30	\$16.30	\$17.10 (1/1/22)	\$17.10 (1/1/22)	<a href="#">Mountain View</a>
Novato, CA (100 or more EEs)	\$15.24	\$15.24	\$15.77 (1/1/22)	\$15.77 (1/1/22)	<a href="#">Novato</a>
Novato, CA (26-99 EEs)	\$15.00	\$15.00	\$15.53 (1/1/22)	\$15.53 (1/1/22)	
Novato, CA (25 or less EEs)	\$14.00	\$14.00	\$15.00 (1/1/22)	\$15.00 (1/1/22)	
Oakland, CA	\$14.36	\$14.36	\$15.06 (1/1/22)	\$15.06 (1/1/22)	<a href="#">Oakland</a>
Palo Alto, CA	\$15.65	\$15.65	\$16.45 (1/1/22)	\$16.45 (1/1/22)	<a href="#">Palo Alto</a>
Petaluma, CA	\$15.20	\$15.20	\$15.85 (1/1/22)	\$15.85 (1/1/22)	<a href="#">Petaluma</a>
Redwood City, CA	\$15.62	\$15.62	\$16.20 (1/1/22)	\$16.20 (1/1/22)	<a href="#">Redwood City</a>
Richmond, CA (if employer does not pay toward medical benefits)	\$15.21	\$15.21	\$15.54 (1/1/22)	\$15.54 (1/1/22)	<a href="#">Richmond</a>
Richmond, CA (if employer does pay toward medical benefits)	\$13.71	\$13.71	\$14.04 (1/1/22)	\$14.04 (1/1/22)	
San Carlos, CA	\$15.24	\$15.24	\$15.77 (1/1/22)	\$15.77 (1/1/22)	<a href="#">San Carlos</a>
San Diego, CA	\$14.00	\$14.00	\$15.00 (1/1/22)	\$15.00 (1/1/22)	<a href="#">San Diego</a>
San Jose, CA	\$15.45	\$15.45	\$16.20 (1/1/22)	\$16.20 (1/1/22)	<a href="#">San Jose</a>
San Mateo, CA	\$15.62	\$15.62	\$16.20 (1/1/22)	\$16.20 (1/1/22)	<a href="#">San Mateo</a>
Santa Clara, CA	\$15.65	\$15.65	\$16.40 (1/1/22)	\$16.40 (1/1/22)	<a href="#">Santa Clara</a>
Santa Rosa, CA	\$15.20	\$15.20	\$15.85 (1/1/22)	\$15.85 (1/1/22)	<a href="#">Santa Rosa</a>
South San Francisco, CA	\$15.25	\$15.25	\$15.80 (1/1/22)	\$15.80 (1/1/22)	<a href="#">South San Francisco</a>
Sunnyvale, CA	\$16.30	\$16.30	\$17.10 (1/1/22)	\$17.10 (1/1/22)	<a href="#">Sunnyvale</a>

State / Local	Current Minimum Wage Per Hour	Current Tipped Employee Cash Wage Per Hour	Next Scheduled Increase Minimum Wage Per Hour	Next Scheduled Increase Tipped Employee Cash Wage Per Hour	Jurisdiction Website Link
Montana	\$8.75	\$8.75	\$9.20 (1/1/22)	\$9.20 (1/1/22)	<a href="#">Montana</a>
Las Cruces, NM	\$10.50	\$4.20	\$11.50 (1/1/22)	\$4.60 (1/1/22)	<a href="#">Las Cruces</a>
Vermont	\$11.75	\$5.88	\$12.55 (1/1/22)	\$6.28 (1/1/22)	<a href="#">Vermont</a>
Seattle, WA (Employs more than 500 EEs)	\$16.69	\$16.69	\$17.27 (1/1/22)	\$17.27 (1/1/22)	<a href="#">Seattle</a>
Seattle, WA small employers (500 or fewer employees) who do not pay at least \$1.52/hour toward the employee's medical benefits and/or where the employee does not earn at least \$1.52/hour in tips	\$16.69	\$16.69	\$17.27 (1/1/22)	\$17.27 (1/1/22)	
Seattle, WA small employers who do pay at least \$1.52/hour toward the employee's medical benefits and/or where the employee does earn at least \$1.52/hour in tips	\$15.00	\$15.00	\$15.75 (1/1/22)	\$15.75 (1/1/22)	



## Time & labor

### Alabama Requires Exemptions From COVID-19 Vaccine Mandates

Alabama has enacted legislation (Senate Bill 9) that prohibits employers from requiring employees to receive COVID-19 vaccination without providing the employee an opportunity to seek an exemption for religious or medical reasons. Senate Bill 9 is effective immediately and expires on May 1, 2023.

#### Exemption Form Required:

Under Senate Bill 9, employers must provide an exemption from COVID-19 vaccination requirements to any employee who has completed and submitted the exemption form shown below. The form must be completed and signed by the employee and, if applicable, signed by a health-care provider. The form must read as follows:

Any individual in the State of Alabama who is subject to a requirement that he or she receive one or more COVID-19 vaccinations as a condition of employment may claim an exemption for medical reasons, because the vaccination conflicts with sincerely held religious beliefs, or both.

You may request either a medical or a religious exemption from the COVID-19 vaccination by completing this form and submitting the form to your employer.

In the event your employer denies this request, you have a right to file an appeal with the Department of Labor within seven (7) days. Your employer will provide you with information on how to file an appeal.

I am requesting exemption from the COVID-19 vaccine requirements for one of the following reasons: (check all that apply)

- My health-care provider has recommended to me that I refuse the COVID-19 vaccination based on my current health conditions and medications. (NOTE: You must include a licensed health-care provider's signature on this form to claim this exemption.)
- I have previously suffered a severe allergic reaction (e.g., anaphylaxis) related to vaccinations in the past.
- I have previously suffered a severe allergic reaction related to receiving polyethylene glycol or products containing polyethylene glycol.
- I have previously suffered a severe allergic reaction related to receiving polysorbate or products containing polysorbate.
- I have received monoclonal antibodies or convalescent plasma as part of a COVID-19 treatment in the past 90 days.
- I have a bleeding disorder or am taking a blood thinner.
- I am severely immunocompromised such that receiving the COVID-19 vaccination creates a risk to my health.
- I have been diagnosed with COVID-19 in the past 12 months.
- Receiving the COVID-19 vaccination conflicts with my sincerely held religious beliefs, practices, or observances.

I hereby swear or affirm that the information in this request is true and accurate. I understand that providing false or misleading information is grounds for discipline, up to and including termination from employment.

\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

(Note: The following must be completed ONLY if claiming the first medical exemption listed above.)

Certification by a licensed health-care provider as to the accuracy of information provided above:

\_\_\_\_\_  
Name of Health-Care Provider

\_\_\_\_\_  
Signature of Health-Care Provider

\_\_\_\_\_  
Date

**Providing the Form:**

Employers must make the form readily available to all employees to whom the law applies, along with directions for submitting the form.

**Evaluating the Request:**

When evaluating an employee's exemption request, the employer must liberally construe the employee's eligibility for an exemption in favor of the employee, consistent with applicable law.

Under the law, the submission of the completed form creates a presumption that the employee is entitled to the exemption.



### **Employee Protections:**

An employer who has denied an employee's request is prohibited from terminating the employee on the basis of failing to receive a vaccination for a period of 7 calendar days after the denial was issued by the employer, or if an appeal was made, until the administrative law judge or the court issues a final ruling in the employer's favor. During this period, the employer must compensate the employee at the same rate of pay the employee received prior to submitting an exemption form.

**Note:** The Alabama Department of Labor is responsible for establishing an emergency rule for the appeal process within 21 days. The employee must file the appeal no later than the latter of seven (7) calendar days following the denial of a request for an exemption or 3 business days following the adoption of the rule.

### **Compliance Recommendations:**

Alabama employers should consult legal counsel to discuss the impact of Senate Bill 9 on their vaccination policies and practices.

For a copy of Senate Bill 9, click on the link provided below.

<http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2021SS/PrintFiles/SB9-enr.pdf>

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## **Illinois Clarifies State Law Doesn't Bar Employer Vaccine/Testing Mandates**

Illinois has enacted legislation (Senate Bill 1169) that clarifies that the state's Health Care Right of Conscience Act (HCRCA) doesn't prohibit employers from requiring COVID-19 vaccination and/or testing. Senate Bill 1169 takes effect **June 1, 2022**.

### **Background:**

Enacted decades ago, the state's [HCRCA](#) generally prohibits discrimination against individuals because of their refusal to perform or receive healthcare services that are contrary to their conscience. Some employees were citing the law when objecting to employer COVID-19 requirements.

### **Senate Bill 1169:**

Senate Bill 1169 amends the HCRCA to make clear that the law doesn't prohibit employers from taking any measures or imposing any requirements that are intended to prevent contraction or transmission of COVID-19.

### **Compliance Recommendations:**

Illinois employers should consult legal counsel to discuss the impact of Senate Bill 1169 on their vaccination policies and practices.

For a copy of Senate Bill 1169, click on the link provided below.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0667>

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## **Iowa Requires Waivers From Employer COVID-19 Vaccine Mandates**

Iowa has enacted legislation (House File 902) that requires employers to grant waivers to their COVID-19 vaccination requirements under certain circumstances. House File 902 is effective immediately.

### **Waivers From COVID-19 Vaccination Mandates:**

House File 902 states that if employers require employees to receive the COVID-19 vaccine, they must waive the requirement if the employee submits either of the following:

- A statement that receiving the vaccine would be injurious to the health and well-being of the employee or an individual residing with the employee.
- A statement that receiving the vaccine would conflict with the tenets and practices of the employee's religion.

### **Unemployment Benefits:**

The law also establishes that an employee isn't disqualified from receiving unemployment benefits if they are terminated for refusing COVID-19 vaccination.

### **Compliance Recommendations:**

Iowa employers should consult legal counsel to discuss the impact of House File 902 on their vaccination policies and practices.

<https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=HF902>

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## **New York Expands Whistleblower Protections**

Governor Kathy Hochul has signed legislation (Senate Bill 4934A) that expands protections for whistleblowers. Senate Bill 4934A takes effect on January 26, 2022.

**Background:** New York Labor Law Section 740 prohibits employers from retaliating against employees who disclose, or threaten to disclose, an actual violation of a law that poses a substantial and specific danger to the public's health or safety.

### **Senate Bill 4934A:**

The amendment extends whistleblower protections in numerous ways:

#### Expanded Worker Coverage:

Senate Bill 4934A extends Section 740's whistleblower protections to include not only current employees, but also former employees and independent contractors.

#### Protected Activity Expanded:

The new law expands the scope of activity protected so that an employee can now report not only actual violations impacting public health and safety, but also any activity, practice or policy that the employee reasonably believes violates any law, order, ruling or decision, regardless of the subject matter. Employees are also now protected whether or not they were acting within the scope of their job duties.

In addition, under certain circumstances, employees may report alleged violations directly to a public body bypassing their employer when the employee reasonably believes that a supervisor is aware and won't correct the alleged violation or would conceal or destroy evidence.

#### Expanded Prohibited Retaliatory Action:

Senate Bill 4934A expands prohibited retaliatory action to include adversely impacting a former employee's current or future employment, including contacting immigration authorities or reporting the immigration status of employees or their family members. Previously, retaliatory action was limited to discharge, suspension, demotion or adversely impacting terms and conditions of employment.

#### Extended Time to Bring a Claim:

The new law extends the statute of limitations for filing a claim from one to two years.

#### Notice Requirements:

Employers must post a notice of the protections, rights, and obligations of employees in a conspicuous, easily accessible, and well-lit place, customarily visited by employees and job applicants.

#### Additional Penalties:

The amendment provides for additional penalties against employers found to have violated the law.

### **Compliance Recommendations:**

New York employers should post the required notice and review their policies and practices to ensure compliance with Senate Bill 4934A. Employers should also train supervisors on how to respond to reports of potential violations.

For a copy of Senate Bill 4934A, click on the link provided below.

<https://www.nysenate.gov/legislation/bills/2021/s4394/amendment/a>

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### **West Virginia Requires Exemption Process for COVID-19 Vaccination Requirements**

Governor Jim Justice has signed legislation (House Bill 335) that requires employers to provide an exemption process as an alternative to COVID-19 vaccination mandates. House Bill 335 takes effect on January 18, 2022.

#### **House Bill 335:**

West Virginia has enacted legislation that requires employers who mandate vaccination for an employee or candidate to provide an alternative exemption process. House Bill 335 requires employers to exempt those who present one of the following certifications:

- A medical certification signed by a physician or advanced practice registered nurse who has conducted an in-person examination stating:
  - o The COVID-19 immunization is contraindicated;
  - o A specific precaution to the mandated vaccine exists; or
  - o The individual has antibodies from exposure to the COVID-19 virus or has suffered and recovered from the COVID-19 virus.
- A notarized certification by the current or prospective employee stating that their religious beliefs prevent them from receiving COVID-19 immunization.

#### **Nonretaliation:**

Employers are prohibited from penalizing or discriminating against current or prospective employees for exercising their exemption rights under the law. This includes benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.

### **Compliance Recommendations:**

West Virginia employers should consult legal counsel to discuss the impact of House Bill 335 on their vaccination policies and practices.

If you are an ADP client, contact your dedicated service professional with any questions.

For a copy of House Bill 335, click on the link provided below.

[https://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=hb335%20intr.htm&yr=2021&sesstype=3X&i=335](https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=hb335%20intr.htm&yr=2021&sesstype=3X&i=335)

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## 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](http://www.adp.com/regulatorynews).

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