



Always Designing  
for People™

## Eye on Washington

# Detailed Look at State, Local and Federal Updates



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

### Topics covered in this issue:

#### State/Territory/District:

- Alabama Amends Law on Firearms in Employer Parking Lots
- Alabama Requires Certain Employers to Provide Leave to Adoptive Parents
- Arizona Expands Coverage of Sexual Harassment Law
- California Issues Emergency Rule for CalSavers
- California Amends COVID-19 Prevention Rules for Third Time
- Colorado Amends Workers' Comp Notice Requirements
- Delaware Enacts Paid Family Leave Program
- Georgia Restricts Local Labor Law Mandates
- Maryland Enacts Paid Family and Medical Leave Program
- Oklahoma Legislation Allows Payroll Cards for Wage Payment
- Oregon Law Establishes Overtime Threshold for Agricultural Workers
- South Carolina Restricts COVID-19 Vaccine Mandates
- South Carolina to End Remote Work Tax Withholding Temporary Rules
- Washington State Adds Bereavement Leave and Clarifies Postnatal Leave

#### Local

- Berkeley, CA Announces Increase to Minimum Wage
- Fremont, CA Minimum Wage to Increase on July 1, 2022
- Malibu, CA Minimum Wage to Increase on July 1, 2022
- Milpitas, CA Minimum Wage to Increase on July 1, 2022
- San Francisco Announces Increase to Minimum Wage
- Santa Monica, CA Minimum Wage to Increase on July 1, 2022

#### Federal

- Federal Contractors Must Certify AAP Compliance by End of June
- IRS Releases 2023 HSA and HDHP Limits
- Policy Allowing Remote Inspection of I-9 Documents Extended



## State/Territory/District

### Alabama Amends Law on Firearms in Employer Parking Lots

Alabama has enacted legislation (House Bill 272) that amends the conditions under which employees are entitled to keep firearms in their cars while in their employer's parking lot. House Bill 272 takes effect **January 1, 2023**.

#### The Details:

Effective January 1, 2023, House Bill 272 amends the conditions under which employees have the right to keep firearms in their vehicles in employer parking lots to:

- Reflect a new law that will allow individuals to carry certain concealed weapons without a permit, and
- Make other changes.

Under House Bill 272, the conditions under which employees have the right to keep firearms in their vehicles in employer parking lots differ based on whether they are pistols or firearms used for hunting:

- **Pistols:** Employers are prohibited from restricting or barring the transportation or storage of a lawfully possessed pistol or its ammunition in the employee's privately owned motor vehicle while parked or operated in a parking area, provided the employee satisfies all of the following conditions:
  - The motor vehicle is operated or parked in a location where it is otherwise permitted to be.
  - The pistol is either of the following:
    - o In a motor vehicle attended by the employee, kept from ordinary observation within the motor vehicle.
    - o In a motor vehicle unattended by the employee, kept from ordinary observation and locked within a compartment, container, or in the interior of the motor vehicle or in a compartment or container securely affixed to the motor vehicle.
- **Firearms Used for Hunting:** Employers are also prohibited from restricting or barring the transportation or storage of a lawfully possessed firearm legal for use for hunting in Alabama other than a pistol in an employee's privately owned motor vehicle while parked or operated in a parking area, provided the employee satisfies all of the following:

- o The employee possesses a valid Alabama hunting license;
- o The weapon is unloaded at all times on the property;
- o It is during a season in which hunting is permitted by Alabama law or regulation;
- o The employee has never been convicted of any crime of violence, nor of any crime set forth in Chapter 6 of Title 13A (offenses involving danger to the person), nor is subject to a Domestic Violence Order;
- o The employee has no documented prior workplace incidents involving the threat of physical injury or that resulted in physical injury.
- o The motor vehicle is operated or parked in a location where it is otherwise permitted to be.
- The firearm is either of the following:
  - o In a motor vehicle attended by the employee, kept from ordinary observation within the person's motor vehicle.
  - o In a motor vehicle unattended by the employee, kept from ordinary observation and locked within a compartment, container, or in the interior of the person's privately owned motor vehicle or in a compartment or container securely affixed to the motor vehicle.

**Note:** As is the case under existing law, employers may restrict or bar their employees from carrying firearms while on the employer's property or while engaged in the duties of their employment.

**Next Steps:**

- Review policies to determine if changes are necessary.
- Notify employees of any changes to policies.
- Train supervisors on the law governing guns in employer parking lots.

**Alabama Requires Certain Employers to Provide Leave to Adoptive Parents**

Alabama has enacted legislation (Senate Bill 31) that requires certain employers to provide leave to adoptive parents. Senate Bill 31 takes effect **July 1, 2022**.

**The Details:**

**Coverage**

*Employees*

To be eligible for the leave discussed below, the employee must:

- Be employed by the employer for at least 12 months;
- Have worked at least 1,250 hours with the employer during the previous 12-month period; and
- Work at a location where the employer employs at least 50 employees within 75 miles of that worksite.

*Employers*

To be covered by the law, the employer must have 50 or more employees in 20 or more workweeks in the current or previous calendar year.

**Basic Leave Entitlement**

Under Senate Bill 31, covered employers must provide at least 12 weeks of unpaid family leave, to run concurrently with any other leave provided under federal law, to an eligible employee for the birth and care of a child born to that employee during the first year after the child's birth, or for the care of a child adopted by the employee within one year of placing the child with the employee. Requests for additional family leave for adopting an ill child or a child with a disability must be considered on the same basis as comparable cases of complications accompanying the birth of a child of an employee.

If a covered employer provides paid leave to employees for the birth and care of a child, the employer must provide the equivalent paid leave or two-weeks paid leave, whichever is less, to an employee for the care of an adopted child during the first year after the placement. An employer is only required to provide paid leave benefits to one of two different eligible employees if both employees would be using the benefits for the care of the same child placed for adoption.

### **Employee Notice**

If possible, the employee must provide their employer at least 30 days notice of the need for adoption leave. If the date of placement requires leave to begin in less than 30 days, the employee must provide notice as soon as practical.

### **Next Steps:**

If you are a covered employer:

- Ensure compliance with Senate Bill 31.
- Amend policies and practices if necessary.
- Train supervisors on how to recognize and respond to leave requests.

---

## **Arizona Expands Coverage of Sexual Harassment Law**

Arizona has enacted legislation (House Bill 2679) that expands the state's law prohibiting sexual harassment to cover all employers. Previously, the anti-harassment law covered employers with 15 or more employees. House Bill 2679 takes effect 90 days after the legislature adjourns.

### **The Details:**

House Bill 2679 amends the state's nondiscrimination law to cover all employers with one or more employees in the current or preceding year to the extent that the employer or their agent is alleged to have:

- Committed any act of sexual harassment.
- Discriminated against an individual for opposing sexual harassment or filing a complaint, testifying, assisting or participating in an investigation, proceeding, or hearing arising from sexual harassment.

### **Next Steps:**

- Review policies and practices to ensure compliance with House Bill 2679.
- Train supervisors on how to prevent, recognize and respond to sexual harassment.

---

## **California Issues Emergency Rule for CalSavers**

The California Treasurer has published an emergency rule that defines key terms and clarifies employer responsibilities under the CalSavers Retirement Savings Program. The emergency rule took effect immediately.

### **The Details:**

#### **Background:**

**CalSavers** is a state-based payroll withholding savings program using Roth (post-tax) individual retirement accounts. All employers with five or more employees must either register with CalSavers or offer a qualifying retirement plan.

#### **Eligible Employer:**

Under the emergency rule, an employer is defined as an entity, whether for profit or not for profit, that is an employer under the California Unemployment Insurance Code.

The emergency rule defines an eligible employer as one that:

- Has five or more employees, as determined under the methodology described below, at least one of whom is an eligible employee;
- Doesn't maintain or contribute to a qualifying retirement plan; and
- Isn't the federal government, the state, any county, any municipal corporation, or any of the state's units.

Eligible employers have certain responsibilities regarding CalSavers (see below).

#### **Exempt Employer:**

By contrast, exempt employers aren't permitted to participate in CalSavers. The emergency rule defines an exempt employer as one that:

- Has fewer than five employees, as determined under the methodology described below, or has five or more employees, but doesn't employ any eligible employees;
- Maintains or contributes to a qualifying retirement plan; or
- Is the federal government, the state, any county, any municipal corporation, or any of the state's units.

Previously, the definition didn't expressly include employers with five or more employees but do not have any eligible employees.

#### **Eligible Employee:**

The emergency rule defines an employee as an individual who has the status of an employee under the California Unemployment Insurance Code and who receives a Form W-2 with California wages. An eligible employee is an employee of an eligible employer and is at least 18 years old.

**Note:** In the case of an eligible employer that is a sole proprietorship, partnership, or a limited liability company treated as a sole proprietorship or partnership for federal income tax reporting purposes, the definition of employee also includes a sole proprietor, partner, or member of a limited liability company.

#### **Methodology for Determining Number of Employees:**

To determine whether an employer is an eligible employer for a calendar year, the number of employees is the average number of employees during the previous calendar year, as reported to the Employment Development Department on Form DE 9C (Quarterly Contribution Return and Report of Wages) for the quarter ending December 31 and the preceding three quarters.

Employers that haven't submitted a Form DE 9C for a full calendar year are eligible employers if they have submitted at least one Form DE 9C the preceding quarter and otherwise meet the definition of an eligible employer.

Employers that haven't submitted a Form DE 9C for a full calendar year are subject to the registration deadline only after they have submitted a Form DE 9C for the quarter ending December 31 and the preceding three quarters.

#### **Registration Deadline:**

Eligible employers that have employed five or more employees for more than one continuous calendar year, based on the methodology described above, must register with the program no later than June 30, 2022.

**Note:** Employers with more than 50 employees had an earlier registration deadline.

An employer that later becomes an eligible employer due to having an average of five or more employees for a calendar year must register with the program no later than December 31 of the year in which the employer is notified by the program about their eligibility.

#### **Employer Responsibilities:**

Eligible employers must register with the program using one of the following methods:

- Via the program's website ([employer.CalSavers.com](http://employer.CalSavers.com));
- By phone (855-650-6916);
- By overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459); or
- By regular mail (CalSavers, P.O. Box 55759, Boston, MA 02205-5759).

To register, an eligible employer must provide the following information:

- Employer name, legal name, and "doing business as" name, if applicable;
- Federal Employer Identification Number or, if unavailable, the California Employer Payroll Tax Account Number;
- Employer mailing address;
- Employer physical address; and
- Name, title, phone number and email address of an individual designated by the employer as the primary contact for the program.

Within 30 days of registration (or within 30 days of the date of hire for employees hired after registration), eligible employers must provide the following information to the program for each eligible employee:

- Full legal name;
- Social Security Number or Individual Taxpayer Identification Number;
- Date of birth;
- Physical address;
- Phone number, if available; and
- Email address(es), if available.

**Note:** Eligible employees are entitled to a CalSavers information packet. The program is responsible for distributing the packet to the employee and will do so within 10 days of receipt of the employee's information.

Employers must remit to the program each employee's contribution each payroll period no later than the first payroll period following 30 days after notification by the program of an employee's enrollment. Employers must remit all withheld compensation to the program as soon as administratively practicable and cannot exceed seven business days from the date of deduction.

#### **Next Steps:**

- Read the emergency rule in full.
- Determine whether you are an eligible employer.
- If you are an eligible employer, ensure compliance with the emergency rule and meet applicable deadlines.

---

## **California Amends COVID-19 Prevention Rules for Third Time**

The California Division of Occupational Safety and Health (Cal/OSHA) has revised emergency rules for protecting workers from COVID-19. The emergency rules became effective on May 6, 2022, and will remain in effect through December 31, 2022.

#### **The Details:**

By way of background, Cal/OSHA first adopted COVID-19 prevention emergency temporary standards (ETS) in late 2020. Under the Cal/OSHA ETS, most employers must establish, implement and maintain an effective, written COVID-19 Prevention Program that contains specified elements. Cal/OSHA has now revised the ETS three times.

Here are some of the key changes in the third revision:

- **Face Coverings:** Face coverings are no longer required for unvaccinated employees in all indoor locations. Under the amended ETS, however, face coverings are mandatory when California Department of Public Health Guidance (CPDH) requires their use. Employers must now review and monitor CPDH [Guidance for the Use of Face Masks](#) to learn when face coverings are required.

**Note:** Employees are still entitled to request face coverings from their employer at no cost to the employee and can wear them at work, regardless of vaccination status.

- **Respirators:** Employers must provide respirators to employees who request them and work indoors for voluntary use regardless of vaccination status. Previously, this requirement only applied to unvaccinated employees.
- **Cleaning and Disinfecting:** The cleaning and disinfecting requirements have been deleted.
- **Testing:** Employers are now required to make COVID-19 testing available at no cost and during paid time to employees with COVID-19 symptoms regardless of vaccination status and regardless of whether there is a known exposure. Previously, this applied to unvaccinated employees only. The definition of an acceptable COVID-19 test was also changed with respect to self-administered and self-read tests. A video or observation of the entire test process is no longer necessary for such tests – just a date/timestamped photo of the test result will now be sufficient.

- **Exclusion:** The detailed prescriptive requirements for exclusion of employees after close contact have been deleted. Instead, employers must review [CPDH guidelines](#) for individuals who had close contact and implement quarantine and other measures in the workplace to prevent COVID-19 transmission in the workplace. The requirements for employees who test positive for COVID-19 have been updated to reflect the most recent CDPH isolation and quarantine guidelines. Regardless of vaccination status, positive employees can return to work after five days if the employee has a negative test, symptoms are improving, and they wear a face covering at work for an additional five days. Otherwise, most employees can return after 10 days.
- **Definitions:** "Close contact" and "infectious period" are now defined so that their meaning will change if CDPH changes its definition of the term in a regulation or order.

**Next Steps:**

- Read the [revised Cal/OSHA ETS](#) and [FAQ](#) in full.
- Ensure your written COVID-19 Prevention Program complies.

**Note:** Cal/OSHA is expected to publish an updated model COVID-19 Prevention Program soon, which will be available [here](#).

## Colorado Amends Workers' Comp Notice Requirements

Colorado has enacted legislation (House Bill 22-1112) that amends the rules governing when an employee must give notice to their employer of a workplace injury and makes changes to the notice that employers are required to display. House Bill 22-1112 is expected to take effect on or about August 9, 2022.

**The Details:**

**Employee Notice:**

Under House Bill 22-1112, an employee who sustains an injury resulting from a workplace accident must notify their employer in writing within 10 days. Prior to House Bill 22-1112, an employee only had four days to report the injury to their employer. As is the case under existing rules, if the employee fails to report the injury in writing by the deadline, they may lose a day of workers' compensation benefits for each day they fail to report.

An employer that receives such notice must affix the date and time of receipt on the notice and make a copy of it (with the date and time of receipt) available to the employee within seven days.

**Employer Notice:**

As is the case under existing rules, employers must display in the workplace a printed card that is at least 14 inches high and 11 inches wide about workers' compensation. Each letter of the text on the card must be at least 0.5 inches high. House Bill 22-1112 makes changes to the contents of this required notice. When the law takes effect, the printed card must contain the following language:

NOTICE IF YOU ARE INJURED ON THE JOB

YOU HAVE RIGHTS UNDER THE COLORADO WORKERS' COMPENSATION ACT. YOUR EMPLOYER IS REQUIRED BY LAW TO HAVE WORKERS' COMPENSATION INSURANCE. THE COST OF THE INSURANCE IS PAID ENTIRELY BY YOUR EMPLOYER. IF YOUR EMPLOYER DOES NOT HAVE WORKERS' COMPENSATION INSURANCE, YOU STILL HAVE RIGHTS UNDER THE LAW. IT IS AGAINST THE LAW FOR YOUR EMPLOYER TO HAVE A POLICY CONTRARY TO THE REPORTING REQUIREMENTS SET FORTH IN THE COLORADO WORKERS' COMPENSATION ACT. YOUR EMPLOYER IS INSURED THROUGH \_\_\_\_\_  
 \_\_\_\_\_. IF YOU ARE INJURED ON THE JOB, NOTIFY YOUR EMPLOYER AS SOON AS YOU ARE ABLE, AND REPORT YOUR INJURY TO YOUR EMPLOYER IN WRITING WITHIN 10 DAYS AFTER THE INJURY. IF YOU DO NOT REPORT YOUR INJURY PROMPTLY, YOU MAY STILL PURSUE A CLAIM. ADVISE YOUR EMPLOYER IF YOU NEED MEDICAL TREATMENT. IF YOU OBTAIN MEDICAL CARE, BE SURE TO REPORT TO YOUR EMPLOYER AND HEALTH-CARE PROVIDER HOW, WHEN, AND WHERE THE INJURY OCCURRED. YOU MAY FILE A WORKER'S CLAIM FOR COMPENSATION WITH THE DIVISION OF WORKERS' COMPENSATION. TO OBTAIN FORMS OR INFORMATION REGARDING THE WORKERS' COMPENSATION SYSTEM, THE CUSTOMER SERVICE CONTACT INFORMATION FOR THE DIVISION OF WORKERS' COMPENSATION IS \_\_\_\_\_.

If, at the time of injury, the employer failed to display this notice, the timeframe for the employee to report the injury won't start until the employer complies with the requirement.

### **Effective Date:**

House Bill 22-1112 takes effect on the day following the expiration of the 90-day period after final adjournment of the state legislature. The Colorado legislature is expected to adjourn around May 11, 2022, which would establish an effective date in early August.

### **Next Steps:**

- Review workers' compensation practices and notices to comply with House Bill 22-1112.
- Display the new notice by the effective date.
- Monitor the status of the Colorado legislature to determine exact effective date.

---

## **Delaware Enacts Paid Family Leave Program**

Delaware has enacted legislation (Senate Bill 1) that creates a paid family and medical leave program in the state. The program will be funded by payroll contributions to be paid by covered employers and employees beginning January 1, 2025. Employees may begin using such leave in 2026.

### **The Details:**

#### **Covered Employers:**

Employers with 10 to 24 employees are covered by the law's parental leave requirements (see the *Use of Leave* section below). Larger employers are covered by all the leave requirements.

Employers with fewer than 10 employees and employers that close for 30 consecutive days or more per year aren't covered by the law.

For the purposes of counting the number of employees, those who meet the requirements of a covered individual (see below) or are reasonably expected to meet the requirements of a covered individual during the previous 12 months must be included.

**Note:** Employers with fewer than 10 employees may voluntarily participate in paid parental leave by providing notice to the Department of Labor. If an employer does opt-in, the employer must do so for at least 3 years.

#### **Covered Employees:**

The law defines employees as those who primarily report for work within the state. To be considered a covered individual who is eligible to use leave, the employee must:

- Have been employed with the employer for at least 12 months; and
- Have at least 1,250 hours of service with the employer during the previous 12-month period.

#### **Use of Leave:**

Beginning January 1, 2026, eligible employees are entitled to use paid leave for the following durations and reasons:

- **Parental leave:** Up to 12 weeks in a year for the birth, adoption, or placement of a child through foster care, as well as caring for the child during the first year after birth or placement.
- **Family caregiver leave:** Up to six weeks in any 24-month period to care for a family member (spouse, child, or parent) with a serious health condition.
- **Medical leave:** Up to six weeks in any 24-month period for the employee's own serious health condition.
- **Military family leave:** Up to six weeks in any 24-month period because the employee has a qualifying exigency arising out of a family member's deployment as a service member.
- A covered individual is eligible for a maximum of 12 weeks of paid leave in a year.

**Note:** With notice to the Delaware Department of Labor and employees, an employer with fewer than 25 employees may elect to limit the exercise of parental leave during the first five years that benefits are payable (2026 to 2031). During that five-year period, the employer may provide no less than half of the employee's parental leave.

**Employee Notice:**

Employees must provide notice of their intent to use paid leave at least 30 days in advance when feasible. If advance notice isn't feasible, the employee must provide notice as soon as practical.

**Documentation and Certification:**

Under the law, covered employers must collect and retain information verifying parental leave status, a serious health condition, or a qualifying exigency when an employee submits a request for such leave.

The employer must require that an employee support a request for leave based on a serious health condition with a certification issued by the employee's or a family member's healthcare provider. In addition, the employer must require that an employee support a request for leave based on a serious health condition of a family member by documentation demonstrating the nature and extent of the relationship.

**Processing Requests for Leave:**

An employer must approve or deny an application for paid leave benefits under the law within five business days of receipt of a completed application that includes documentation necessary to review the claim. If the claim is denied, the employer must notify the covered individual of the reason for the denial. The employer must notify the Delaware Department of Labor within three business days of a claim being approved under the law.

**Job Protection:**

Upon returning from covered leave, the employee must be restored to the position held when the covered leave commenced, or to an equivalent position.

**Continuation of Benefits:**

During covered leave, the employer must maintain any healthcare benefits the employee had before taking the leave. The employee must continue to pay their share of the cost of their healthcare benefits, if any.

**Employer Notice and Poster:**

Employers must provide written notice about the law to each employee when they are hired and when they request covered leave. See the [text of the law](#) for details on what must be included in the notice. Employers must also display a poster in English, Spanish, and any other language that is the first language spoken by at least five percent of the employer's workforce, if such a poster has been provided by the Department of Labor.

**Contributions:**

Contributions will begin on January 1, 2025. For 2025 and 2026, the total contribution rate is 0.8 percent, with the breakdown as follows:

- 0.4 percent Medical Leave
- 0.08 percent Family Caregiver Leave
- 0.32 percent Parental Leave

For each component, employers may deduct up to 50 percent of the required contribution from each covered employee's wages.

**Private Plans:**

Employers with comparable paid leave benefits (private plans) may apply to the Delaware Department of Labor to opt out of the program in whole or in part. See the [text of the law](#) for details on the requirements for private plans to be approved.

**Next Steps:**

- Review leave policies and update if necessary.
- Watch for the poster that must be displayed.
- Once published, provide the sample notice as required.
- Prepare to begin making contributions on January 1, 2025.
- Train supervisors how to handle leave requests.
- Begin providing leave for the covered reasons by January 1, 2026.



---

## Georgia Restricts Local Labor Law Mandates

On May 5, 2022, Georgia enacted into law [Senate Bill 331](#) (SB 331), the "Protecting Georgia Businesses and Workers Act."

### The Details:

SB 331, effective May 5, 2022, restricts local governments from imposing additional regulations such as labor mandates for employers. Specifically, SB 331 states in part as follows:

"No local government entity may adopt, maintain, or enforce by charter, ordinance, regulation, rule, or resolution the hours or scheduling that an employer is required to provide employees or otherwise regulate employee output during work hours."

While SB 331 prohibits local government entities from regulating an employer's wage and hour requirements, the law states that a local government entity may set and regulate hours, scheduling and output for its own employees and for the provision of services, including those related to the supplementary powers given to local governments.

---

## Maryland Enacts Paid Family and Medical Leave Program

Maryland has enacted legislation (Senate Bill 225) that will provide job protection and wage-replacement benefits to employees who need time off from work for certain family and medical reasons beginning January 1, 2025. The wage-replacement benefits will be funded by a payroll tax that will be paid by covered employees and employers with 15 or more employees that will begin October 1, 2023.

### The Details:

#### Employer Coverage:

All employers with at least one employee in the state are covered by the law. Employers with 15 or more employees must make contributions (via a payroll tax) to the program. Smaller employers are exempt from contributing to the program.

#### Employee Coverage:

To be covered, an employee must work at least 680 hours over the 12-month period immediately preceding the date on which leave will begin. All covered employees must contribute to the program via a payroll tax.

#### Reasons for Leave:

Beginning January 1, 2025, covered employees are entitled to wage-replacement benefits from the state for the following reasons:

- To care for a child during the first year after its birth or placement through foster care, kinship care, or adoption;
- To care for a family member with a serious health condition (as defined in the law);
- For an employee's own serious health condition;
- To care for a service member who is the employee's next of kin; or
- Because the employee has a qualifying exigency arising out of a family member's deployment as a service member.

A covered family member is defined as the employee's:

- Child,
- Parent,
- Legal guardian/ward,
- Spouse,
- Grandparent,
- Grandchild, or
- Sibling.

### **Maximum Duration of Benefits:**

- Covered employees are entitled to receive up to 12 weeks of benefits during each 12-month period. However, an employee may receive an additional 12 weeks of benefits during the same 12-month period if:
- The employee received benefits due to caring for a child during the first year after its birth or placement, and then becomes eligible for benefits due to their own serious health condition; or
- The employee received benefits due to their own serious health condition and then becomes eligible for benefits due to caring for a child during the first year after its birth or placement.

### **Use:**

Employees must exhaust all of their employer-provided leave that isn't required by law before receiving benefits under the program. Employees may use the leave on an incremental basis, provided it is in blocks of at least four hours.

### **Employee Notice:**

If the need for leave is foreseeable, the employer may require the employee to provide written notice at least 30 days before the leave starts.

If the need for leave isn't foreseeable, the employer may require notice as soon as practical and in compliance with the employer's notice requirements for requesting other leave, provided such requirements don't interfere with the employee's ability to use the leave.

### **Employer Notice:**

Employers must provide written notice to employees about their rights under the law. The notice must be provided at the time of hire and annually thereafter. See the [text of the law](#) for details on what must be included in the notice. The law directs the Maryland Department of Labor to create a sample notice.

When an employee requests leave under the law, or the employer knows the employee's leave may be for a reason covered by the law, the employer must notify the employee about their eligibility to take such leave within five business days.

### **Job Protection and Health Benefits:**

With a few limited exceptions, the employer must restore the employee to the same or an equivalent position upon their return from such leave. During a period of leave for which benefits may be paid under the law, an employer may terminate an employee's employment only for cause.

See the [text of the law](#) for exceptions to the job restoration requirement.

An employer must continue health benefits in the same manner as [required under the federal Family and Medical Leave Act](#).

### **Next Steps:**

Review leave policies and update if necessary.

- Watch for the sample notice that must be provided to employees.
- Once published, provide the sample notice to new hires and existing employees.
- Prepare to begin making contributions on October 1, 2023.
- Train supervisors on how to handle leave requests.
- Begin providing leave for the covered reasons by January 1, 2025.

---

## **Oklahoma Legislation Allows Payroll Cards for Wage Payment**

Oklahoma has enacted [SB 1345](#) stipulating that payroll cards may be used for employee wage payments.

### **The Details:**

The new legislation, effective November 1, 2022, states in part as follows:

"Each employer in this state, in its discretion, may pay all wages due to an employee by deposit on the payday at a financial institution of the employee's choice or, if the employee does not consent or designate a financial institution, to a payroll card account."

Previously, a 2009 Oklahoma Attorney General opinion letter stated that employers may use payroll cards as a method of wage payment with an employee's voluntary consent.

#### **Next Steps:**

Effective November 1, 2022, Oklahoma employers are allowed by the employer's choice to pay employee wages via direct deposit. Should an employee not provide the necessary information to facilitate payment of wages via direct deposit, the employer may pay wages via payroll card.

---

## **Oregon Law Establishes Overtime Threshold for Agricultural Workers**

On April 15, 2022, Oregon Governor Kate Brown signed into law [House Bill 4002 \(HB 4002\)](#), which establishes the maximum hours an agricultural worker may work before overtime pay is required. Under current law, Oregon employers are not required to pay overtime to agricultural workers.

#### **The Details:**

Oregon law defines "agriculture" to include farming in all its branches including cultivating and tilling the soil; dairying; producing, growing, and harvesting agricultural or horticultural commodities; raising livestock, bees, fur-bearing animals, or poultry; and farming operations, including preparing for market, delivering products to storage or to market or to carriers for transportation to market. "Agriculture" generally does not include forest products and the harvesting of timber, but workers engaged in the planting, pruning, and harvesting of Christmas trees are considered to be agricultural employees who are not required to receive overtime compensation for hours worked beyond 40 in a week.

#### **House Bill 4002 mandates the following:**

- For calendar years 2023 and 2024, agricultural workers must be paid overtime at 1.5 times their regular rate of pay for hours worked in excess of 55 hours per week.
- For calendar years 2025 and 2026, agricultural workers must be paid overtime at 1.5 times their regular rate of pay for hours worked in excess of 48 hours per week.
- For calendar years 2027 and thereafter, agricultural workers must be paid overtime at 1.5 times their regular rate of pay for hours worked in excess of 40 hours per week.

**Note:** Individuals employed in the agricultural industry with primarily executive, administrative, or professional job duties are exempt from overtime-pay requirements for agricultural workers if they: perform predominantly intellectual, managerial, or creative tasks; exercise discretion and independent judgment; and earn a salary and are paid on a salary basis.

#### **Next Steps:**

With certain exceptions, Oregon employers must pay agricultural workers overtime as defined under Oregon law in accordance with the HB 4002.

---

## **South Carolina Restricts COVID-19 Vaccine Mandates**

South Carolina has enacted legislation (House Bill 3126) that requires private employers to provide exemptions for COVID-19 vaccination mandates, among other things. House Bill 3126 is effective immediately.

#### **The Details:**

House Bill 3126 allows private employers to encourage, promote, or administer COVID-19 vaccinations and offer incentives to employees who elect to be vaccinated, but it adds the following restrictions to COVID-19 vaccination mandates.

### **COVID-19 Vaccination Exemptions:**

Employers must provide an exemption from a COVID-19 vaccine or booster requirement for:

- Medical Reasons: Such as a presence of antibodies, prior positive COVID-19 test or pregnancy; or
- Religious Reasons: To claim this exemption, an employee must present to the employer a short, plain statement that they decline the immunization against COVID-19 because it violates a tenet of their deeply held religious beliefs.

### **Other Worker Protections:**

Under the law, a private employer cannot extend vaccine mandates to independent contractors, non-employee vendors, or other third parties that provide goods or services to them or coerce such parties into implementing a vaccine mandate, to maintain a business relationship.

### **Exceptions:**

The law may not apply to employers that are:

- Subject to a federal regulation with a provision that opposes the law; or
- In a contract with, or are seeking to enter a contract with, the federal government or a subcontract with a federal or prospective federal contractor.

Employers may submit an affidavit to the Department of Employment and Workforce that attests that their current (or pending) contract has (or will have) a valid, enforceable provision that is contrary to the law's vaccine mandates.

**Note:** An affidavit filed with the Department stays in effect until the employer revokes it.

### **Vaccination Status Discrimination:**

Under the law, employers cannot:

- Discriminate against or segregate on the basis of whether an individual has been vaccinated against or received a booster for COVID-19; or
- Attempt, or actually withhold, deny, deprive, intimidate, threaten, coerce, or punish an individual to interfere with their rights or privileges to vaccination nondiscrimination.

The law also provides that everyone, regardless of their vaccination status, is entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation that the state licenses or permits an establishment or an agent of the following establishments:

- An inn, hotel, motel, or establishment that provides lodging to transient guests, unless it is located within a building that contains five or fewer rooms for rent or hire and is occupied by the proprietor as a residence;
- A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or another facility principally engaged in selling food for consumption on the premise that includes, but is not limited to, a facility located on the premises of a retail establishment or a gas station;
- A hospital, clinic, or another medical facility that provides overnight accommodations;
- A retail or wholesale establishment;
- A motion picture house, theater, concert hall, billiard parlor, saloon, barroom, golf course, sports arena, stadium, or another place of amusement, exhibition, recreation, or entertainment; and
- An establishment that is physically located within the premises of an establishment covered by the law or within a premise that is physically located in any such covered establishment and holds itself out as serving patrons of the covered establishment.

**Note:** Private clubs or establishments that are not open to the general public are not covered.

### **Unemployment Benefits:**

An employee that is terminated, suspended or otherwise has their compensation reduced due to not receiving a COVID-19 vaccination or booster is eligible for unemployment benefits.

### **Next Steps:**

South Carolina employers should consult legal counsel to discuss the impact of House Bill 3126 on their vaccination policies and practices.

---

## **South Carolina to End Remote Work Tax Withholding Temporary Rules**

The South Carolina Department of Revenue (DOR) has [announced](#) that effective June 30, 2022, it will end the temporary relief regarding a business's establishment of nexus solely because an employee is temporarily working in a different work location due to COVID-19.

### **The Details:**

In a South Carolina DOR Information Letter No. 20-24 (dated 08/26/2020), the DOR provided temporary relief regarding a business's establishment of nexus because an employee was temporarily working in a different work location due to COVID-19. The DOR also provided guidance with respect to employer withholding requirements for these employees. Specifically, during the COVID-19 relief period, a South Carolina business's withholding requirements were not affected by the shift of employees working on the employer's premises in South Carolina to teleworking from outside of South Carolina. Accordingly, the wages of nonresident employees temporarily working remotely in another state instead of their South Carolina business location were still subject to South Carolina withholding.

Additionally, an out-of-state business with employees working from home in South Carolina was not subject to South Carolina's withholding requirement solely due to the shift of employees working on the employer's premises outside of South Carolina to teleworking from South Carolina. Accordingly, the wages of a South Carolina resident employee temporarily working remotely from South Carolina instead of their normal out-of-state business location were not subject to South Carolina withholding if the employer was withholding income taxes on behalf of the other state. The DOR did not use changes solely in an employee's temporary work location due to the remote work requirements arising from, or during, the COVID-19 relief period as a basis for establishing nexus or altering apportionment of income.

Effective June 30, 2022, the standard rule regarding South Carolina employer withholding as outlined below will apply:

Generally, South Carolina's withholding laws do not apply to wages of South Carolina residents working outside of South Carolina during some or all of the payroll period if:

- (1) the wages are subject to the withholding laws of the state in which they are earned; and
- (2) the employer is withholding income taxes on behalf of the other state.

If this provision applies, the employer is not required to withhold South Carolina income tax on the wages. The wages of nonresident employees working exclusively outside of South Carolina are not subject to South Carolina withholding, but nonresident employees working partially in South Carolina and partially outside of South Carolina are subject to South Carolina withholding only to the extent the wages are for services rendered in South Carolina.

### **Next Steps:**

Effective June 30, 2022, South Carolina must follow the employee wage withholding rules as outlined in [SC Ruling #22-3](#).

---

## **Washington State Adds Bereavement Leave and Clarifies Postnatal Leave**

Washington State has enacted legislation (Senate Bill 5649), which, among other things, adds bereavement leave for child loss and clarifies conditions for postnatal leave. Senate Bill 5649 takes effect on June 9, 2022.

### **Background:**

The State of Washington's Paid Family and Medical Leave program generally provides employees with up to:

- 12 weeks of paid family leave in a year;
- 12 weeks of paid medical leave in a year; or
- A total of 16 weeks of combined family and medical leave.

**Note:** Medical leave can be extended by two weeks if an employee has a serious health condition with a pregnancy that incapacitates them.

**The Details:**

**Bereavement Leave:**

Under the law, employees may use paid family leave during the seven days following the death of a child for whom the employee would have qualified for:

- Family leave to bond following the child's birth or adoption placement; or
- Medical leave for their child's birth.

**Postnatal Leave:**

The law clarifies the following for an employee's postnatal period:

- The six weeks after a child's birth is the postnatal period;
- Paid Family and Medical leave taken during the postnatal period will be designated as medical leave, unless the employee chooses to use their family leave; and
- An employee is not required to provide certification of a serious health condition for any paid leave taken during the postnatal period.

**Next Steps:**

Washington employers should review their leave policies and procedures, and train supervisors to ensure compliance with Senate Bill 5649 by June 9, 2022.



## Berkeley, CA Announces Increase to Minimum Wage

Berkeley, California has [announced](#) that its minimum wage will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase to \$16.99 per hour for all employees including tipped employees. The current minimum wage rate is \$16.32 per hour.

**Note:** California does not allow the use of a tip credit when paying tipped employees.

### Next Steps:

On July 1, 2022, employers in Berkeley must pay employees who perform work in the city at least \$16.99 per hour. In addition, employers must post "where employees can easily read" the minimum wage notice found [here](#).

---

## Fremont, CA Minimum Wage to Increase on July 1, 2022

Fremont, California has [announced](#) that the minimum wage for the City will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase to \$16.00 per hour for all employees. The current minimum wage rates are \$15.00 per hour for small employers (25 or fewer employees) and \$15.25 per hour for large employers (26 or more employees). On July 1, 2023, the minimum wage rate will increase for all employers based on an inflation adjustment.

### Next Steps:

As of July 1, 2022, Fremont, California employers must pay all employees who perform work within the geographic boundaries of Fremont at least \$16.00 per hour. In addition, Fremont employers must: (1) post the official City of Fremont Wage Bulletin in the top five languages spoken in the City in a conspicuous place at each work site; (2) at the time of hire, provide the employee with a written copy of the employer's name, address, and telephone number; (3) document all hours worked by employees; and (4) keep records for at least four years.

The English version may be found [here](#). Translated versions may be found at this same site in the near future.

---

## Malibu, CA Minimum Wage to Increase on July 1, 2022

Malibu, California, has [announced](#) that the minimum wage for the City will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase to \$15.96 per hour for all employees. The current minimum wage rate is \$15.00 per hour.

### Next Steps:

As of July 1, 2022, Malibu employers must pay all employees who perform work within the geographic boundaries of Malibu at least \$15.96 per hour. In addition, all employers in the Malibu city limits are required print out and display this [poster](#) explaining minimum wage as well as worker rights and protections. The poster must be placed in the same conspicuous and accessible location at all job sites where mandated federal and state labor postings are required to be displayed.

---

## Milpitas, CA Minimum Wage to Increase on July 1, 2022

The City of Milpitas, California, has [announced](#) that the minimum wage for the City will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase from \$15.65 per hour to \$16.40 per hour.

**Note:** California does not allow the use of a tip credit when paying tipped employees.

### Next Steps:

Employers in Milpitas, California, should as of July 1, 2022, pay their employees at least \$16.40 per hour. In addition, employers must post a notice in the workplace advising employees of the increased minimum wage. This notice may be found [here](#) once provided.

---

## San Francisco Announces Increase to Minimum Wage

San Francisco, California, has [announced](#) that its minimum wage will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase to \$16.99 per hour for all employees including tipped employees. The current minimum wage rate is \$16.32 per hour.

**Note:** A small number of "Government Supported Employees" are subject to a minimum wage rate currently set at \$14.44. That rate will increase to \$15.03 on July 1, 2022.

### Next Steps:

On July 1, 2022, employers in the City and County of San Francisco must pay employees who perform work in San Francisco at least \$16.99 per hour. In addition, employers must display a minimum wage notice at each workplace or jobsite. The poster should be printed on 8.5" x 14" paper. Once updated for the July 1, 2022 increase, the poster will be provided [here](#).

---

## Santa Monica, CA Minimum Wage to Increase on July 1, 2022

Santa Monica, California has [announced](#) that the minimum wage for the City will increase.

### The Details:

Effective July 1, 2022, the minimum wage will increase to \$15.96 per hour for all employees other than hotel workers. The current minimum wage rate is \$15.00 per hour.

**Note:** Santa Monica has a separate minimum wage for hotel workers which currently is \$17.64 per hour. This amount will be adjusted mid-May, effective July 1, 2022.

### Next Steps:

As of July 1, 2022, Santa Monica employers must pay all employees (other than hotel workers) who perform work within the geographic boundaries of Santa Monica at least \$15.96 per hour. In addition, Santa Monica employers must post Santa Monica's legal notices (including the minimum wage notice) in English and Spanish. Businesses must also post notices in any other language spoken by five percent or more of the employer's workforce.

Legal notices in English and Spanish are available for download at this [link](#).

Santa Monica employers may contact [wagehelp@dcba.lacounty.gov](mailto:wagehelp@dcba.lacounty.gov) to request the legal notices in an additional language.





## Federal Contractors Must Certify AAP Compliance by End of June

Federal service and supply contractors that are required to maintain an affirmative action program (AAP) have until June 30, 2022, to certify their AAP via the Contractor Portal recently launched by the Office of Federal Contract Compliance Programs (OFCCP).

### The Details:

The following federal service and supply contractors must register with and use the [Contractor Portal](#) to certify whether they are in AAP compliance:

- Those that hold a contract of \$50,000 or more and employ 50 or more employees, who must develop and maintain AAPs pursuant to Executive Order 11246 and Section 503 of the Rehabilitation Act of 1973.
- Those with at least 50 employees and a contract of \$150,000 or more, who must also develop an AAP pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

For current contractors, the certification is due by June 30, 2022. New contractors will have 120 days to develop their AAP and must register and certify compliance through the Contractor Portal within 90 days of developing their AAP. After the initial certification year, the OFCCP will set a date by which all existing contractors must renew their annual certification.

Contractors can register for the Contractor Portal by creating a [Login.gov](#) account using an email and a secure password. To register, contractors will be required to enter their Employer Identification Number (EIN) and EEO-1 Headquarter/Company Number and Establishment/Unit Number.

### Next Steps:

If you are a covered contractor, register with the Contractor Portal as soon as possible and certify your AAP status by June 30, 2022.

## IRS Releases 2023 HSA and HDHP Limits

The Internal Revenue Service (IRS) via [Revenue Procedure 2022-24](#) has released the inflation-adjusted contribution limitations for calendar year 2023 in relation to health savings accounts (HSAs) and high-deductible health plans (HDHPs).

These limits are indexed for inflation and released annually by June 1st for the following year, as required under the Tax Relief and Health Care Act of 2006.

### The Details:

2023 HSA and HDHP Coverages		
	Self-only HDHP	Family HDHP
<b>Annual HSA Contribution Limits</b>	<b>\$3,850*</b> (Up \$200 from 2022)	<b>\$7,750*</b> (Up \$450 from 2022)
<b>Annual HDHP Minimum Deductibles</b>	<b>\$1,500</b> (Up \$100 from 2022)	<b>\$3,000</b> (Up \$200 from 2022)
<b>HDHP Out-of-Pocket Limits<sup>1</sup></b>	<b>\$7,500</b> (Up \$450 from 2022)	<b>\$15,000</b> (Up \$900 from 2022)

<sup>1</sup> Includes deductibles, co-payments and other amounts, but not premiums

\* An individual who has reached the age of 55 by the end of the calendar year may contribute an additional \$1,000 per year.

## **Policy Allowing Remote Inspection of I-9 Documents Extended**

The Department of Homeland Security (DHS) has announced that employers will be allowed to inspect Form I-9 documents remotely in certain situations related to COVID-19 until October 31, 2022. Prior to the announcement, this temporary policy was set to expire on April 30, 2022.

### **The Details:**

The Form I-9 is used to verify a new hire's identity and work authorization. All employers must ensure that each employee properly completes the I-9 at the time of hire. The form is broken out into multiple sections:

<b>Section Name</b>	<b>Section Overview</b>	<b>Completion Deadline</b>
Section 1	Employee must attest that they are authorized to work in the United States.	The employee's first day of work for pay.
Section 2	Employee must present certain identity and work authorization documents. The employer must examine the document(s) to determine whether they reasonably appear to be genuine and relate to the employee. Employers must record the document number(s) here.	Within 3 business days.
Section 3	If an employee's employment authorization expires, they must present new or updated document(s) and the employer must examine and record the document number(s) here. Employers may also be required to complete this section when rehiring a former employee, depending on how much time has passed.	No later than the date employment authorization expires.
List of Acceptable Documents	List A documents establish both identity and employment authorization. List B documents establish identity only. List C documents establish employment authorization only.	This section does not need to be completed. It's for informational purposes only.

Generally, employers must inspect Section 2 documents in the employee's physical presence.

### **Temporary Policy for Remote I-9 Document Inspection:**

Under the temporary policy, if employees hired on or after April 1, 2021 work exclusively in a remote setting due to COVID-19-related precautions, they are temporarily exempt from the physical inspection requirements until they undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier. In situations in which the policy applies, employers must inspect the Section 2 documents remotely (such as, over video link, fax or email, etc.) and obtain, inspect and retain copies of the documents, within three business days for purposes of completing Section 2.

Once normal operations resume, all employees who were onboarded using remote verification, must report to their employer within **three business days** for in-person verification of identity and employment eligibility documentation for Form I-9. Once acceptable documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection to the Section 2 additional information field on the Form I-9, or to Section 3 as appropriate. Employers should enter "COVID-19" as the reason for the physical inspection delay.

Employers that use this option must provide written documentation of their remote onboarding and telework policy for each employee. This burden rests solely with the employer.

### **Next Steps:**

If you qualify for the temporary exemption:

- Make sure you comply with the rules outlined above.
- Monitor the [DHS website](#) for additional updates regarding the temporary policy.

---

## 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).

ADP is committed to assisting businesses with increased compliance requirements resulting from rapidly evolving legislation. Our goal is to help minimize your administrative burden across the entire spectrum of employment-related payroll, tax, HR and benefits, so that you can focus on running your business. This information is provided as a courtesy to assist in your understanding of the impact of certain regulatory requirements and should not be construed as tax or legal advice. Such information is by nature subject to revision and may not be the most current information available. ADP encourages readers to consult with appropriate legal and/or tax advisors. Please be advised that calls to and from ADP may be monitored or recorded.

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