

***Highlights of New and Substantially Revised
State Labor and Employment Laws***

APRIL THROUGH JUNE 2007

The following are selected highlights of new and significant developments in state law from April through June 2007. For significant developments in federal law, please contact us or refer to our recent management alerts which can be found on our web site at www.ngelaw.com. Click on practice areas, then labor and employment, then publications. Visit our blog at www.ngeemploymentlaw.com to view the latest labor and employment law developments, commentary and trends.

New Federal Minimum Wage Increases To Go Into Effect

Effective July 24, 2007, the federal minimum wage for covered non-exempt employees will be \$5.85 per hour. The minimum wage increases to \$6.55 per hour effective July 24, 2008 and to \$7.25 per hour effective July 24, 2009. Many of the states listed below have also enacted minimum wage laws.

Updated federal minimum posters and compliance materials may be obtained from the U.S. Department of Labor's website at <http://www.wagehours.dol.gov> or by calling 1-866-487-9243.

Notable Changes In State Law

1. Alabama

No applicable updates

2. Alaska

No applicable updates

3. Arizona

A. Posters/Recordkeeping

The state's required Smokefree Arizona posters are now available in English and Spanish.

- Visit www.ica.state.az.us/docs/ or contact the state agency for updated poster information.

B. Leave

The Court Attendance Leave Law has been amended to require employees to provide employers with documentation when requesting leave. Applicable forms of documentation include forms provided to the employee by a law enforcement agency, a court order the employee is subject to and/or a copy of each scheduled proceeding the employee is required to attend. Employers may not discriminate against an employer for exercising this privilege. (ARIZ. REV. STAT. § 13-4439)

4. **Arkansas**

No applicable updates

5. **California**

No applicable updates

6. **Colorado**

A. Whistleblower Protection

Health care providers may not take any retaliatory action against a health care worker for making a good faith report to disclose patient safety information or quality of patient care. When internal reporting procedures are provided in writing to employees, healthcare workers are required to follow them before reporting or disclosing patient care issues to external sources. (COLO. REV. STAT. §8-2-123)

B. Fair Employment

Effective August 8, 2007, employers are prohibited from discriminating against an individual on the basis of sexual orientation which is defined as an individual's orientation toward heterosexuality, homosexuality, bisexuality or transgender status. Discrimination based on the employer's perception of an individual's sexual orientation is also prohibited. Employers may require compliance with a reasonable dress code as long as the dress code is applied consistently. (COLO. REV. STAT. §24-34-402)

C. Posters/Recordkeeping

The state has updated the English version of its wage poster.

- Visit <http://www.coworkforce.com/LAB/> or contact the state agency for updated poster information.

7. **Connecticut**

No applicable updates

8. **Delaware**

No applicable updates

9. **District of Columbia**

No applicable updates

10. **Florida**

No applicable updates

11. **Georgia**

No applicable updates

12. **Hawaii**

No applicable updates

13. **Idaho**

A. Leave

Reemployment rights and protections for employees who are members of the Idaho or army national guard, who are called to active duty for a period of 30 consecutive days or more, have been extended to Idaho employees who are members of the national guard of another state called to active duty by the governor of that state. Any member of the Idaho national guard who is ordered to duty by the governor, or any Idaho employee who is a member of the national guard of another state and who is called into active service by the governor of that state, and who at the time of a call to duty is employed by any employer other than the United States government, is entitled to reemployment. (IDAHO CODE ANN. §46-407)

B. Minimum Wage

Effective July 1, 2007, the state's minimum wage will conform to and track the federal minimum hourly rate. (IDAHO CODE ANN. §44-1501)

14. Illinois

No applicable updates

15. Indiana

A. Minimum Wage

The state has passed legislation which ties Indiana's minimum wage rate, including the training rate, with future increases in the federal rate. (IND. CODE §22-2-2-4)

B. Wage Payment

Effective April 25, 2007, employers must pay all wages earned to date not more than ten business days before the payment date. (IND. CODE §11-2-5-1)

16. Iowa

A. Posters/Recordkeeping

The state has updated its minimum wage law poster.

- Visit <http://www.iowaworkforce.org/files> or contact the state agency for updated poster information.

B. Fair Employment

Effective July 1, 2007, employers are prohibited from discriminating against an individual on the basis of sexual orientation (defined as actual or perceived heterosexuality, homosexuality, or bisexuality) or gender identity (defined as the person's gender identity, regardless of the person's assigned sex at birth). (IOWA CODE §216.2)

17. Kansas

A. Wage Payment

Employers in Kansas may now designate the method by which employees receive wages by using one or more of the following methods 1) US currency 2) check or draft which is negotiable in the community where employment is located 3) by electronic fund transfer (“EFT”) or deposit to an automated clearinghouse member financial institution account designated by the employee or 4) by payroll card. Employers who elect to pay wages as described in item 3 must provide an option for employees who do not designate a financial institution account for deposit. Employers who elect to pay wages using a payroll card must allow employees at least one means of fund access withdrawal per pay period at no cost to the employee for an amount up to and including the total amount of the employee’s net wages, as stated on the employee’s earnings statement.

At least 30 days prior to implementing a payroll program using EFT or payroll cards, employers must conduct training sessions and/or distribute informational materials regarding the use of a direct deposit or payroll card program and the program used by the employer. Employers may not charge employers initiation, loading or other participation fees to receive wages payable via EFT or payroll card but may recover the cost of replacing a lost, stolen or damaged payroll card. (KAN. STAT. ANN. §44-314)

18. Kentucky

A. Minimum Wage

The state minimum wage increased to \$5.85 per hour on March 22, 2007, and will increase to \$6.55 per hour on July 1, 2008 and to \$7.25 per hour on July 1, 2009. (KY. REV. ANN. §337.275(1))

19. Louisiana

No applicable updates

20. Maine

No applicable updates

21. Maryland

No applicable updates

22. Massachusetts

A. Posters/Recordkeeping

The state's required wage and hour law poster has been updated and is now also available in Spanish.

- Visit <http://www.mass.gov> or contact the state agency for updated poster information.

23. Michigan

No applicable updates

24. Minnesota

No applicable updates

25. Mississippi

No applicable updates

26. Missouri

No applicable updates

27. Montana

No applicable updates

28. Nebraska

A. Minimum Wage

The definition of "wages" has been amended to include commissions. Unless the employer and employee have specifically agreed otherwise through a contract effective at the commencement of employment or at least 90 days prior to separation, whichever is later, wages includes commissions on all orders delivered and all orders on file with the employer at the time of separation of employment less any orders returned or canceled. (NEB. REV. STAT. §48-1229)

29. Nevada

No applicable updates

30. New Hampshire

A. Minimum Wage

The state's minimum wage law has been amended to tie the minimum hourly wage to the federal increase which becomes effective July 24, 2007. In addition, the state's minimum wage will increase to \$6.50 on September 1, 2007 and to \$7.25 on September 8, 2008. (N.H. REV. STAT. ANN. §279:21)

31. New Jersey

A. Posters/Recordkeeping

The state has revised the English versions of its discrimination and family medical leave posters and has added Spanish versions of these posters.

- Visit <http://www.state.nj.us/njbiz> or contact the state agency for updated poster information.

32. New Mexico

A. Disability

The Lynn and Erin Compassionate Use Act, which allows for medical use of marijuana in a regulated system, became effective July 1, 2007. Participation in the program does not relieve an employee from criminal prosecution or civil penalty for possession or use of marijuana in the qualified patient's or primary caregiver's workplace. (N.M. STAT. §5-210)

33. New York

No applicable updates

34. North Carolina

A. Posters/Recordkeeping

The state has revised the English and Spanish versions of its workplace laws poster.

- Visit <http://www.nclabor.com/pubs.htm> or contact the state agency for updated poster information.

35. North Dakota

A. Fair Employment

The state's definition of discriminatory practice now includes a prohibition against discrimination based on an employee's lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer. (N.D. CENT. CODE §14-02.4.02(6))

B. Minimum Wage

The state's minimum wage rate will increase to \$5.85 per hour effective with the Federal minimum wage increase on July 24, 2007. The state's hourly wage will increase again to \$6.55 per hour on July 24, 2008 and to \$7.25 on July 24, 2009. (N.D. ADMIN. CODE 46-02-07-02.1)

36. Ohio

A. Posters/Recordkeeping

The state has revised its minimum wage poster.

- Visit <http://www.ohio.gov/hrd/laborlawposters.html> or contact the state agency for updated poster information.

37. Oklahoma

No applicable updates

38. Oregon

No applicable updates

39. Pennsylvania

No applicable updates

40. Rhode Island

No applicable updates

41. South Carolina

No applicable updates

42. South Dakota

A. Minimum Wage

The state's minimum wage will increase to \$5.85 per hour effective with the Federal minimum wage increase on July 24, 2007. The state's minimum wage will increase again to \$6.55 per hour on July 24, 2008 and to \$7.25 per hour on July 24, 2009. (S.D. CODIFIED LAWS § 60-11-3)

43. Tennessee

No applicable updates

44. Texas

No applicable updates

45. Utah

No applicable updates

46. Vermont

No applicable updates

47. Virginia

A. Leave

Effective July 1, 2007, employers must allow an employee who is a victim of a crime to leave work to be present at all criminal proceedings relating to a crime against the employee. The employee must provide the employer with a copy of the form provided to the employee by the appropriate law enforcement agency and, if applicable, with a copy of the notice of each scheduled criminal proceeding that is provided to the employee. Employers may limit the employee's leave if it creates an undue hardship to the employer's business. Employers are not required to compensate employees who take leave under this provision and may not discriminate in any way against an employee who leaves work to attend a criminal proceeding. (VA. CODE ANN. §40.1-18.7:2(D))

B. Minimum Wage

The Minimum Wage Act has been amended to include individuals who are 65 or older in the definition of 'employee'. (VA. CODE ANN. §40.1-28.9)

48. Washington

A. Fair Employment

Effective July 22, 2007, the state's law against discrimination will extend employment protection to include honorably discharged veterans or active or reserve members in any branch of the armed forces of the United States, including the national guard, coast guard or armed forces reserves. (WASH. REV. CODE §49.60.180)

49. West Virginia

No applicable updates

50. Wisconsin

No applicable updates

51. Wyoming

A. Fair Employment

Effective July 1, 2007, it is discriminatory to refuse to hire, to discharge, to promote or demote, or to discriminate in matters of compensation or the terms and conditions or privileges of employment against any person otherwise qualified because of pregnancy. (WYO. STAT. ANN. §27-9-105)

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