

# One Year Later: The State of Labor Law Posting Compliance Under the Trump Administration



April 12, 2018

Presented by:

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# Labor Law Posting Compliance Today: The Basics

- Up to 21 postings required for federal/state compliance (6 federal, up to 15 per state)
- Up to 9 additional postings required by city/county laws
- Additional postings required for government contractors and certain industries
- No “one-stop shop” for free government posters
  - 170+ different federal/state agencies (up to 9 different agencies per state)
  - 22,000 local jurisdictions have authority to issue their own postings
- Posting changes are on the rise; 2017 was a record year with more than 85 mandatory state poster changes and 60+ mandatory city/county changes
- Federal government posting fines were recently increased to \$34,000+ per location; non-compliance can also increase liability in civil lawsuits

# Federal Deregulation May Add Complexity

- Even repealed laws can mean updates to policies, postings, training, etc.
- Increased state and local legislative activity
- Managing business locations in multiple jurisdictions with different laws
- Elevated risk of noncompliance

## State and Local Trends to Watch

- Minimum Wage
- Ban-the-Box
- Equal Pay, Wage Transparency & Salary History
- Paid Sick Time
- Predictable Scheduling & Opportunity to Work
- Anti-Discrimination (LGBT)
- Weapons in the Workplace

# Minimum Wage

- Federal minimum wage \$7.25/hour since July 2009
- Certain federal contractors must pay \$10.35/hour effective 1/1/18 (mandatory poster update)
- 29 states have higher minimum wage rates than federal law
- More than half the states and hundreds of cities have at least one bill pending that will impact minimum wage rates in 2018 and beyond
- Most states and cities/counties with minimum wage laws have additional posting requirements
- As an employer, you must pay the highest rate that applies, but display all required postings (even if the posters seem to conflict)

# Minimum Wage (State Laws)

State	New Minimum Wage	Effective Date	
Alaska	\$9.84	January 1, 2018	Mandatory Poster Update
Arizona	\$10.50	January 1, 2018	Mandatory Poster Update
California	\$11.00 (for employers with 26+ employees)	January 1, 2018	
Colorado	\$10.20	January 1, 2018	Mandatory Poster Update
District of Columbia	\$13.25	July 1, 2018	
Florida	\$8.25	January 1, 2018	Mandatory Poster Update
Hawaii	\$10.10	January 1, 2018	
Maine	\$10.00	January 1, 2018	Mandatory Poster Update
Maryland	\$10.10	July 1, 2018	
Michigan	\$9.25	January 1, 2018	
Minnesota	\$9.65 (annual gross revenues \$500K+)	January 1, 2018	Mandatory Poster Update
Missouri	\$7.85	January 1, 2018	Mandatory Poster Update
Montana	\$8.30	January 1, 2018	Mandatory Poster Update
New Jersey	\$8.60	January 1, 2018	Mandatory Poster Update
New York	Variable rates based on location	December 31, 2017	Mandatory Poster Update
Ohio	\$8.30 (annual gross revenues \$305K+)	January 1, 2018	Mandatory Poster Update
Oregon	Variable rates based on location	July 1, 2018	
Rhode Island	\$10.10	January 1, 2018	
South Dakota	\$8.85	January 1, 2018	
Vermont	\$10.50	January 1, 2018	
Washington	\$11.50	January 1, 2018	

# Minimum Wage (Local Laws)

City	New Minimum Wage	Effective Date	
<b>California</b>			
Cupertino	\$13.50	January 1, 2018	Mandatory Poster Update
El Cerrito	\$13.60	January 1, 2018	Mandatory Poster Update
Los Altos	\$13.50	January 1, 2018	Mandatory Poster Update
Mountain View	\$15.00	January 1, 2018	Mandatory Poster Update
Oakland	\$13.23	January 1, 2019	Mandatory Poster Update
Palo Alto	\$13.50	January 1, 2018	Mandatory Poster Update
Richmond	\$13.41	January 1, 2018	Mandatory Poster Update
San Jose	\$13.50	January 1, 2018	Mandatory Poster Update
San Mateo	\$13.50 (for profit employers)	January 1, 2018	Mandatory Poster Update
Santa Clara	\$13.00	January 1, 2018	Mandatory Poster Update
Sunnyvale	\$15.00	January 1, 2018	Mandatory Poster Update
<b>Minnesota</b>			
Minneapolis	\$10.00 (for employers with 100+ employees)	January 1, 2018	Mandatory Poster Update
<b>New Mexico</b>			
Albuquerque	\$8.95	January 1, 2018	Mandatory Poster Update
Bernalillo County	\$8.85	January 1, 2018	Mandatory Poster Update
<b>Washington</b>			
Seattle	\$15.00 (for employers with 501+ employees who provide medical benefits)	January 1, 2018	Mandatory Poster Update
Tacoma	\$12.00	January 1, 2018	Mandatory Poster Update

## Minimum Wage (2018 Local Increases)

The following have announced minimum wage increases for 2018, but posters have not yet been released:

- Belmont, CA
- Emeryville, CA
- Milpitas, CA
- Pasadena, CA
- San Francisco, CA
- Montgomery County, MD



# Ban-the-Box

- Ban-the-box refers to the question commonly included in job applications: “Have you ever been convicted of a crime?”
- Ban-the-box laws seek to protect individuals from being excluded from employment and other opportunities based on their criminal record
- Currently 31 states and more than 150 cities/counties have ban-the-box laws in place restricting pre-employment inquiries about criminal history
- Some laws restrict criminal background questions until after an interview; some require waiting until a conditional job offer is made

# Ban-the-Box (State Laws)

- There are currently 31 states that have ban-the box laws in place:

- |                |                    |                 |
|----------------|--------------------|-----------------|
| • Arizona      | • Louisiana        | • Ohio          |
| • California*  | • Maryland         | • Oklahoma      |
| • Colorado     | • Massachusetts *^ | • Oregon*       |
| • Connecticut* | • Minnesota*       | • Pennsylvania  |
| • Delaware     | • Missouri         | • Rhode Island* |
| • Georgia      | • Nebraska         | • Tennessee     |
| • Hawaii*^     | • Nevada           | • Utah          |
| • Illinois*    | • New Jersey*      | • Vermont*      |
| • Indiana      | • New Mexico       | • Virginia      |
| • Kentucky     | • New York         | • Washington*   |
|                |                    | • Wisconsin     |

\* Law extends to private employers

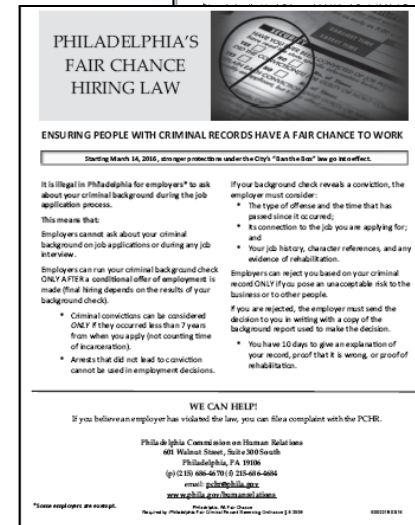
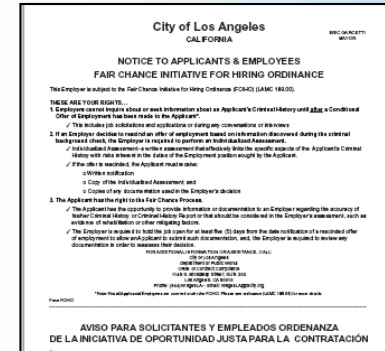
^ Mandatory posting requirement

# Ban-the-Box (Local Laws)

- More than 150 cities/counties have ban-the-box laws in place:

- CA: Los Angeles\*<sup>^</sup>, San Francisco\*<sup>^</sup>
- CO: Denver
- FL: Miami-Dade County, Broward County
- GA: Atlanta
- MD: Baltimore\*, Montgomery County\*, Prince George's County\*
- MO: Columbia\*, Kansas City\*
- NY: Buffalo\*, New York City\*, Rochester\*
- PA: Philadelphia\*<sup>^</sup>
- TX: Austin\*
- WA: Seattle\*<sup>^</sup>

\* Law extends to private employers  
<sup>^</sup> Mandatory posting requirement



# Equal Pay, Wage Transparency & Salary History

- States and cities are expanding Equal Pay protections already afforded by federal law
- “Wage Transparency” laws prohibit employers from discriminating or retaliating against employees for discussing their wages with coworkers
  - Pending legislation in Hawaii, Illinois, Nebraska, Oklahoma, Tennessee and Virginia and many cities/counties
- “Salary History” laws restrict employers from asking job applicants about salary history
  - California, Delaware, Massachusetts, Oregon, Puerto Rico, Philadelphia, NYC , Albany County, and San Francisco have laws in place for private employers
  - Pending legislation in Arizona, Maryland, New York, Rhode Island and Texas and many cities/counties
- Equal Pay mandatory postings in Georgia, Maryland, New Hampshire, Pennsylvania

# Paid Sick Time


- Currently, there are limited federal requirements for sick leave
  - Family and Medical Leave Act (1993) provides unpaid leave for up to 12 weeks for “serious health condition”
  - Executive Order 13706 (2017) provides up to 7 days per year of paid sick leave for certain employees of federal contractors  
*(new mandatory posting effective 1/1/17)*
- States and cities are passing their own laws requiring private employers to offer paid sick leave
  - Nine states and Washington D.C. currently have paid sick leave laws
  - More than 25 cities and counties have paid sick leave laws
  - Several states and cities have pending legislation

# Paid Sick Time (State Laws)

- Nine states and Washington D.C. currently have paid sick leave laws:

- Arizona \*
- California \*
- Connecticut \*
- District of Columbia \*
- Maryland \*
- Massachusetts \*
- Oregon \*
- Rhode Island
- Vermont \*
- Washington \*

\* Mandatory posting requirements



**BOLI**  
Bureau of Labor and Industries

**REQUIREMENTS OF OREGON'S SICK TIME LAW**

Effective January 1, 2015, employers that employ employees in the state of Oregon are required to implement sick time policies and provide sick time to employees. Employers are also required to provide employees with a notice of the law's provisions. This notice is intended to serve as the major provision of the law, but should not be relied upon as a full and complete summary of the law. The full text of the law and administrative rules adopted by the bureau are available at [www.oregon.gov/boli](http://www.oregon.gov/boli).

**How much sick time does the law require?** Employees begin accruing sick time on the first day of employment and accrue (1) hour of sick time for every 30 hours worked or 1.25 hours for every 30 hours of employment and time used. Employers may choose to simply give employees (1 hour or 1.25 hours of sick time) rather than track the number of sick time hours accrued. Employers may also use an accrual method, e.g., calendar year, fiscal year, employee anniversary date. Employees may carry over up to 40 hours of unused sick time from one year to the next, but may not use more than 40 hours of sick time in any one year.

**Paid time off (PTO) policies that include time off for other purposes (such as vacation) may be used in lieu of sick time if the policy is substantially equivalent to the requirements of the law.**

**Employees must use accrued sick time in hourly increments unless, to do so, the employer would require the employee to use sick time in increments of 15 minutes.**

**When must sick time be paid?** Employees with 30 or more employees (50 or more for federal contractors) must pay employees for sick time taken at the employee's regular rate of pay. All other employers must provide unpaid sick time.

**Notice and Verification:** In addition to providing a notice to employees of the requirements of the law, employers are required to provide quarterly verifications to employees of the amounts of accrued and unused sick time. Employees may require employers to provide notices, verifications and certifications for unpaid sick time under certain circumstances. For example, if the need for sick time is foreseeable, employees may require employers to provide up to 10-day notice of the need to use sick time. Refer to the law and rules for more information.


**Discrimination/Retaliation:** It is unlawful for an employer to deny, interfere with, restrain or fail to pay for sick time to which an employee is entitled, or retaliate in any way, discriminate against an employee because the employee has requested or taken sick time. Complaints may be filed with the Bureau of Labor and Industries.

**Collective Bargaining Agreements:** The sick time law does not apply to certain employees who are covered by a collective bargaining agreement, provided through a federal law and where benefits are provided by a joint multi-employer employee trust or benefit plan.

**Provisions of this notice to employees conflict with the requirements in the sick time law itself or the requirements of the law to employers.**

For more information, visit our website at [www.oregon.gov/boli](http://www.oregon.gov/boli), or contact us at 503-326-7200.

Revised July 2015, BOLI 12.14



Earl Paulsen, Co-Chairman

Division of Labor Standards Enforcement      Office of the Labor Commissioner

**THIS POSTER MUST BE DISPLAYED WHERE EMPLOYEES CAN EASILY READ IT**  
(Poster may be printed on 8 1/2" x 11" letter size paper)

**HEALTHY WORKPLACES/HEALTHY FAMILIES ACT OF 2014**  
**PAID SICK LEAVE**

**Entitlement:**

- An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the beginning of employment is entitled to paid sick leave.
- Paid sick leave accrues at the rate of one hour per every 30 hours worked, paid at the employee's regular wage rate. Accrual shall begin on the first day of employment or July 1, 2015, whichever is later.
- Accrued paid sick leave shall carry over to the following year of employment and may be capped at 48 hours or 6 days. However, subject to specified conditions, if an employer has a paid sick leave, paid leave or paid time off policy (PTO) that provides no less than 24 hours or three days of paid leave or paid time off, no accrual or carry over is required if the full amount of leave is received at the beginning of each year in accordance with the policy.

**Usage:**

- An employee may use accrued paid sick days beginning on the 90<sup>th</sup> day of employment.
- An employer shall provide paid sick days upon the oral or written request of an employee for themselves or a family member for the diagnosis, care or treatment of an existing health condition or preventive care, or specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking.
- An employer may limit the use of paid sick days to 24 hours or three days in each year of employment.

**Retaliation or discrimination against an employer who requests paid sick days or uses paid sick days or both is prohibited. An employee can file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.**

For additional information you may contact your employer or the local office of the Labor Commissioner. Locate the office by looking at the list of offices on our website [www.dir.ca.gov/dlse/PaidSickLeaveOffices.htm](http://www.dir.ca.gov/dlse/PaidSickLeaveOffices.htm), using the alphabetical listing of cities, locations, and communities. Staff is available in person and by telephone.

**DLSE Paid Sick Leave Posting**

California Paid Sick Leave  
Regulated by CA Labor Code

EDGAS 12.14

## Paid Sick Time (Local Laws)

- More than 25 cities and counties have paid sick leave requirements:
  - CA: Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, Santa Monica
  - IL: Chicago, Cook County
  - MD: Montgomery County
  - MN: Minneapolis, St. Paul
  - NJ: Bloomfield, East Orange, Elizabeth, Irvington, Jersey City, Montclair Morristown, Newark, New Brunswick, Passaic, Paterson, Plainfield, Trenton
  - PA: Philadelphia
  - TX: Austin
  - WA: Seattle, Spokane, Tacoma
- All of the above have mandatory posting requirements



# Predictable Scheduling & Opportunity to Work

- Predictable Scheduling Laws – require employers to provide employees with advance notice of their schedule and, in some instances, compensate employees for last-minute changes
  - Laws passed in Oregon, San Francisco, Emeryville, NYC and Seattle
  - Pending legislation in Arizona, Hawaii, New Hampshire, New Jersey, Virginia and Wisconsin
  - Expected to include posting requirements
- Opportunity to Work Laws – require employers to offer additional work hours to existing part-time employees before hiring new employees
  - Laws passed in San Jose (all industries) and San Francisco (industry-specific)
  - Both require mandatory postings



# Anti-Discrimination

- Federal law (Title VII of the Civil Rights Act of 1964) doesn't specifically prohibit discrimination on the basis of sexual orientation or gender identity
  - Executive Order 11246, as amended, now includes these protections but only for federal contractors (effective April 2015)
  - 7<sup>th</sup> Circuit recognized sexual orientation discrimination under federal law in landmark case on April 4, 2017
- About 20 states and more than 200 cities/counties have LGBT anti-discrimination laws in place; many more state and local laws pending
- Mandatory posting requirements in: California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New Mexico, New York, Rhode Island, Wisconsin

# Weapons in the Workplace

- Federal law generally does not regulate firearms at work
- More than 20 states have “parking lot” laws including: Arizona, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Ohio, Oklahoma, Tennessee, Texas, Utah, Wisconsin
- Several states require employers to post notices to prohibit guns at work:
  - Arkansas
  - District of Columbia
  - Illinois
  - Kansas
  - Minnesota
  - Mississippi
  - Missouri
  - Nebraska
  - South Carolina
  - Tennessee
  - Texas

# Weapons in the Workplace (continued)

Tennessee No-Weapons Poster:



Texas No-Weapons Posters:

**CONCEALED  
HANDGUNS PROHIBITED**  
PURSUANT TO SECTION 30.06,  
PENAL CODE (TRESPASS BY  
LICENSE HOLDER WITH A  
CONCEALED HANDGUN), A  
PERSON LICENSED UNDER  
SUBCHAPTER H, CHAPTER 411,  
GOVERNMENT CODE  
(HANDGUN LICENSING LAW),  
MAY NOT ENTER THIS PROPERTY  
WITH A CONCEALED HANDGUN

LICENCIAS PARA PORTAR ARMAS),  
NO PODRAN ENTRAR EN ESTA  
PROPIEDAD CON UN ARMA DE FUEGO  
QUE ES LLEVADO ABIERTAMENTE

**OPENLY CARRIED  
HANDGUNS PROHIBITED**  
PURSUANT TO SECTION 30.07,  
PENAL CODE (TRESPASS BY LICENSE  
HOLDER WITH AN OPENLY CARRIED  
HANDGUN), A PERSON LICENSED  
UNDER SUBCHAPTER H, CHAPTER  
411, GOVERNMENT CODE (HANDGUN  
LICENSING LAW), MAY NOT ENTER  
THIS PROPERTY WITH A HANDGUN  
THAT IS CARRIED OPENLY

PARA PORTAR ARMAS), NO DEBEN  
ENTRAR A ESTA PROPIEDAD  
PORTANDO UN ARMA DE FUEGO

ARMAS  
PROHIBIDAS  
CON 30.06 DEL  
CÓDIGO PENAL  
PARA LAS  
PERSONAS  
CON  
LICENCIAS  
DEL SUB-  
CAPÍTULO  
H, CÓDIGO  
DE GOBIERNO (L

# Tips to Manage Your Business

Here are some tips to help you navigate in this climate of change:

1. Conduct an internal audit of all employment practices to ensure compliance with federal, state and local regulations
2. Follow the provisions of each applicable law that are most generous to the employee
3. Address any areas that require policy adjustments
4. Consider uniform practices across locations (consistency vs. cost)
5. Display local postings in addition to mandatory federal and state postings, even if the information conflicts
6. Assign internal resources or use an outsourced partner for posting compliance to stay abreast of changing federal, state and local laws



For more information, please contact **Peter Fray**,  
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