

# Compliance Updates 2018

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# The Fine Print

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# Agenda

## ■ Compliance Updates

- California- Lactation Accommodation
- California- Ban the Box
- California- Salary History Inquiry Prohibition
- California- New Parent Leave Act
- California- Expanding Sexual Harassment Prevention Training and Posting Requirements
- Delaware- Gender Pay Equity Law
- Illinois- Cook County Paid Sick Leave
- Nevada- Domestic Violence Leave Law
- New York- Paid Family Leave Benefits
- Oregon- Paid Sick Leave
- Vermont- Nondiscrimination Laws to Include Pregnancy
- Vermont- Paid Sick Leave
- Washington- Paid Sick Leave
- Washington- Tacoma Paid Sick Leave
- Washington- Seattle Paid Sick Leave

# California Updates

- **San Francisco Lactation Accommodation**

- Effective January 1, 2018.
- This act applies to all employers with employees in San Francisco.
- Requires employers to provide employees with a reasonable amount of break time to express breast milk.
- Sets specific requirements for lactation areas, employers policies, and recordkeeping.
- Employers must develop a written policy to be included in their handbook and maintain records of employee requests for lactation accommodations **for three years.**

- **Action Items**

- Ensure that a designated lactation area, which complies with the ordinance's specific standards, is made available.
- Review and revise, or develop if necessary, policies and procedures for a written lactation accommodation policy and to handle a lactation accommodation request.

# California Updates

- **Ban the Box**

- Effective January 1, 2018.
- This act applies to employers with five or more employees in California.
- Prohibits employers from inquiring about conviction history:
  - On the employment application.
  - Before a conditional offer of employment has been made.
- Once an offer has been made, an employer cannot deny an applicant a position until the employer performs an individualized assessment.
- If an applicant's history is disqualifying, an employer must provide the applicant with a notice, in writing, of the decision.

- **Action Items**

- Review and revise policies and procedures related to screening of applicants or employees.
- Provide training to staff, who are involved in the hiring process, to ensure awareness and compliance with these requirements.

# California Updates

- **Salary History Inquiry Ban**

- Effective January 1, 2018.
- This act applies to all employers in California.
- Prohibits employers from relying on salary history information as a factor in deciding whether to make an offer or in determining what salary level to offer.
- Prohibits employers from seeking salary history information orally, in writing, personally, or through an agent of the employer.
- Employers **are** required to provide pay scale information **to an applicant upon reasonable request**.

- **Action Items**

- Review and revise job applications and related forms to comply with new restrictions.
- Train recruiters and employees who interview or screen applicants regarding the impact of the new law.
- Research and develop pay scales for each position.

# California Updates

- **New Parent Leave Act**

- Effective January 1, 2018.
- This act applies to employers that employ 20-49 employees within 75 miles of each other in California.
- Requires covered employers to provide up to 12 weeks of unpaid leave for eligible employees **for baby bonding for child's birth, adoption, or foster care placement.**
- Employers must maintain and pay for the employee's continued group health plan coverage.
- Prohibits employers from retaliating or discriminating against an employee for taking leave under the Act.

- **Action Items**

- Review and revise any leave of absence policy or procedure to ensure compliance.
- Train human resources staff, managers, and supervisors about the requirements of the Act, including the anti-retaliation and anti-discrimination provisions.

# California Updates

- **Sexual Harassment Prevention Training**
  - Effective January 1, 2018.
  - This act applies to employers with 50 or more employees in California.
  - Expands the required harassment training for supervisors to include:
    - Gender Identity
    - Gender Expression
    - Sexual Orientation
  - Requires that employers display an additional poster in the workplace regarding transgender rights.
  - Poster must be displayed in a prominent and accessible location.
- **Action Items**
  - Review and revise harassment training materials.
  - Ensure all supervisors have up-to-date training pursuant to the new law.



# Delaware Gender Pay Equity Law

- Applies to all employers with recruiting employees in Delaware
  - Effective as of December 1, 2017
- Prohibits an employer from screening job applicants based on their compensation history and from seeking such information from the applicant or from a current or former employer. The law defines “compensation” to include:
  - Salary
  - Benefits
  - Any other form of compensation

# Delaware Gender Pay Equity Law

- Action Items:
  - Verify that applications do not require applicants to disclose information now prohibited by law.
  - Ensure all employees involved in the hiring process are not performing any searches through publicly available information for a prospective employee's compensation history.
  - Train all employees conducting interviews to avoid questions about an applicant's compensation history as defined by the law.
  - Modify policies, processes, and separation documents to remove any agreement to disclose the compensation history about a current or former employee to an inquiring potential employer or when sought as part of a reference check.

# Cook County, Illinois, Paid Sick Leave

- Went into effect July 1, 2017.
- Applies to all employers with **at least one place of business and one** employee working in Cook County municipalities that have not opted out.
- Employers are required to provide up to 40 hours of paid sick leave per year.
- **Leave can be used for: (i) an employee's or his/her family member's injury or illness, or treatment or recuperation from illness or injury; (ii) time off due to closure of the business or the employee's child's school or place of care due to a public official's order or a health emergency; or (iii) time off if the employee or a family member is the victim of domestic violence, sexual violence or stalking.**
- **"Family member" can be** a child, spouse or domestic partner, parent, parent of a spouse or domestic partner, sibling, grandparent, grandchild, blood relative, or any person whose close association with the employee is equivalent of a family member.
- Must carryover at least half of unused accrued time, **up to 20 hours.**

# Cook County, Illinois Paid Sick Leave

- Action Items:
  - Check the municipalities where your employees are located to determine if they have opted out of the ordinance.
  - Review and revise, if necessary, paid sick time or paid time off (PTO) policies and procedures to meet the law's requirements, including carryover, cap, and all other provisions.
  - Determine whether to use an accrual or frontload method, or to comply through the use of a Paid Time Off (PTO) policy.
  - Review attendance and other disciplinary policies to avoid potential interference and retaliation claims.

# Nevada Domestic Violence Leave Law

- Applies to all employers with employees in Nevada.
- Effective January 1, 2018.
- Allows employees to take leave for:
  - Diagnosis, care, or treatment of a health condition related to domestic violence.
  - To obtain counseling or assistance related to domestic violence committed against the employee or family or household member of the employee;
  - To participate in court proceedings related to an act of domestic violence;
  - To establish a safety plan, including any action to increase the safety of the employee, or the family or household member of the employee, from a future act which constitutes domestic violence.
- Employees are eligible for a maximum of 160 hours in a 12-month period.
- Employers must maintain records of domestic violence leave for two years.

# Nevada Domestic Violence Leave Law

- **Reasonable Accommodations**

Potential accommodations may include:

- Transfers or reassignments;
- Modified schedules;
- New work telephone numbers; or
- Any other reasonable accommodations that do not create undue hardships and that are necessary to ensure the safety of the employee and the workplace.

- **Action Items**

- Review and revise current policies and procedures for employee leave to include the new leave, emphasizing employee confidentiality.
- Review and revise, if necessary, anti-retaliation policies.
- Train managers, HR, and appropriate personnel on the new leave and any updated workplace safety procedures.

# New York Paid Family Leave

- Effective January 1, 2018.
- Purpose:
  - Paid leave for parents to bond with new children (birth, adoption, foster placement).
  - Care for a family member with a serious health condition.
  - Relieve family pressures when someone is called into active military service.
- Benefits gradually increase each year, starting at eight weeks leave, until reaches 12 weeks in 2021.
- Funded through **deductions from employee.**

# New York Paid Family Leave

- Action Items:
  - Review existing paid time off policies for compliance with minimum requirements.
  - Employer must provide written notice to employees.



# Oregon Paid Sick Leave

- **Oregon** has enacted amendments to its paid sick leave law to further define the term employer and to allow employers to limit the amount of paid sick time an employee may accrue each year.
  - Effective January 1, 2018.
  - Clarifies the definition of an employer located in a city with a population exceeding 500,000.
  - Allows employers to place a cap on accrued paid and unpaid sick leave an employee may accrue per year.
  - Requires that employees who receive paid sick leave receive pay for sick time used at a rate equivalent to the employee's hourly, weekly or monthly wage or equal to the minimum wage, whichever is greater.
- **Action Items**
  - Review and revise, if necessary, leave policies, handbooks, forms, and procedures to conform to the law's requirements.
  - Train HR and managerial staff responsible for reviewing leave requests concerning the law's requirements.

# Vermont: Pregnancy is Now a Protected Class

- Applies to all employers with an employee in Vermont
- Effective January 1, 2018
  - Expands nondiscrimination laws to include pregnancy as a protected class.
  - Unlawful to deny reasonable accommodation for an employee's pregnancy-related condition unless an accommodation would impose an undue hardship.
- Action Items:
  - Review and revise, if necessary, policies and procedures related to pregnancy accommodations.
  - Train HR, payroll, and supervisory staff involved in reviewing leave requests on the amended law's requirements.

# Vermont Paid Sick Leave

- Effective January 1, 2018
- Vermont's Paid Sick Leave law extends to employers with **five or fewer employees who are employed for an average of at least 30 hours per week.**
- Leave is not limited to “sick time.” The leave may also be used for “safe time” purposes connected to domestic violence, sexual assault, and stalking, or public health and safety reasons.
- Employees accrue a minimum of one hour of earned sick time for every 52 hours worked.
- Employers must allow employees to accrue and use at least 24 hours (or three days) of earned sick time in a 12-month period (**starting January 1, 2019, accrual increases to 40 hours in a 12-month period**).

# Vermont Paid Sick Leave

- Action Items

- Review and revise paid time off, anti-retaliation, and other policies and procedures to ensure compliance with the new law.
- Train supervisory and managerial employees, as well as HR and payroll contacts on the law's requirements.
- Review and revise paid time off, anti-retaliation, and other policies and procedures to ensure compliance with the law(s).

# Washington Paid Sick Leave

- **Washington State paid sick leave** was approved by voters in November 2016.
  - Effective January 1, 2018.
  - Applies to all employers with employees in Washington state.
  - There is no limit on the amount of paid sick leave hours an employee may accrue or use in one year, though carry-over of hours to the following year is capped at 40 hours.
  - Allows employers to have a policy requiring verification for absences exceeding three days.
  - Frontloading is allowed, but **such frontloading must meet or exceed the law's requirements for accrual, use and carryover**
- **Action Items**
  - Washington employers must ensure their paid sick leave policies are in line with the state law requirements.
  - Train HR and payroll on the recordkeeping, notice, and verification requirements as well as the accrual of and payment for sick leave.
  - Update any policy or handbook provisions related to leave as necessary.

# Seattle Paid Sick Leave

- **The City of Seattle** amended its Paid Sick and Safe Time (PSST) Ordinance to align with the state's paid sick leave law.
  - Effective January 14, 2018.
  - Lowers covered employer threshold to those with one or more employees.
  - Annual usage caps have been removed.
  - Decreases new employee usage of accrued time to the 90<sup>th</sup> day after hire.
- **Action Items**
  - Review and revise, if necessary, leave policies, handbooks, forms, and procedures to conform to the law's requirements.
  - Train HR and supervisory/managerial staff responsible for reviewing leave requests concerning the law's requirements.

# Tacoma Paid Sick Leave

- **The City of Tacoma** amended its paid sick leave law to align with the state's paid sick leave law.
  - Effective January 1, 2018.
  - Removes the annual accrual cap.
  - Annual usage caps have been removed.
  - Increases the amount of accrued leave that may be carried over.
  - Decreases new employee usage of accrued time to 90<sup>th</sup> day after hire.
- **Action Items**
  - Review and revise, if necessary, leave policies, handbooks, forms, and procedures to conform to the law's requirements.
  - Train HR and supervisory/managerial staff responsible for reviewing leave requests concerning the law's requirements.

# About TriNet

TriNet provides small and midsize businesses with a full-service HR solution so they can free themselves from the complexities of HR and focus on their goals. As their trusted HR business partner, TriNet assumes many of the responsibilities of being an employer and helps these companies contain HR costs, minimize employer-related risks and relieve the administrative burden of HR. TriNet offers bundled HR products tailored by industry and strategic HR services, resulting in a comprehensive and empowering solution.

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