

January 15, 2014



Radha D. S.
Kulkarni, Esq.

Questions
on this topic?
CLICK HERE

2014 Rings in with Many Changes by State Legislatures

By Radha D. S. Kulkarni

While much of the country has been buried in snow and facing freezing temperatures, state legislatures have been anything but frozen in the New Year. As is typical, the start of a new year comes with a flurry of legislation scheduled to go into effect from busy state governments. This article will highlight a few of the changes to state employment laws, some of which may not have received much attention nationally.

While the federal government is debating the extension of unemployment benefits and considering an increase in minimum wage, fourteen states, Arizona, California, Colorado, Connecticut, Florida, Missouri, Montana, New Jersey, New York, Ohio, Oregon, Rhode Island, Vermont and Washington, have an increased minimum wage starting in 2014. [As we have previously written here](#), changes to a state's minimum wage law can impact a number of other state laws or statutory penalties based on the minimum wage, so employers with employees affected by these new minimum wages may see an impact beyond increased wage checks.

Colorado and Oregon revised their new-hire reporting practices to bring them into compliance with the federal requirements of Section 802 of the Claims Resolution Act of 2010. For nearly two decades, employers have been required to report information on new hires to state directories to, among other reasons, help enforce state child support laws. Under aforementioned Section 802, employers must now report as part of that mandatory reporting the

first day a newly hired employee performs services in exchange for a wage. Further, a "newly hired employee" is someone who has not previously been employed by the employer or is someone who previously worked for the employer but has not worked for the employer for a period of at least 60 consecutive days. Employers and human resources personnel should ensure that they comply with state new hire reporting requirements, which might have been recently revised for federal compliance.

Employers operating in New York also have [new obligations related to New York's child support system](#). Starting in April 2014, New York employers who currently have to withhold wages for child support will be required to notify the state when a child support debtor ceases to receive an income (such as when the debtor quits employment) and provide the debtor's last known address and, if known and applicable, to provide the name and address of the debtor's new employer.

On the worker's compensation front, [Missouri has some significant changes beginning in 2014](#). The state is instituting a temporary surcharge increase both to compensate for insolvency in its Second Injury Fund, which provides compensation to employees with pre-existing injuries or disabilities that are aggravated through work-related injuries, and to strengthen the Second Injury Fund overall. The Second Injury Fund is funded by a surcharge paid by employers but administered by the State.

Prior to the modification, the Second Injury Fund covered the fair, reasonable, and necessary expenses relating to the death and injury of employees of uninsured employers. However, beginning in 2014, the Second Injury Fund will not be available for those costs. If employees elect to pursue a worker's compensation claim outside of Missouri, they will no longer be able to recover from the Second Injury Fund. Additionally, the newly amended worker's compensation law requires that to recover from the Second Injury Fund, much like under worker's compensation cases, employees are to submit to reasonable medical examinations at the request of the Attorney General (in worker's compensation, it is at the request of, among other persons or entities, the employer, the employer's insurer, or certain state agencies). Another major change beginning in 2014 is that new claims for permanent partial disability will no longer be allowed. Permanent total disability claims will be allowed only for instances when there is: 1) a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability equaling at least 50 weeks of compensation according to the medical standards that are used in determining compensation; and 2) a subsequent work-related compensable injury that, in combination, creates a permanent total disability.

Also starting January 1, 2014, "occupational diseases" are exclusively covered by Missouri's worker's compensation law - meaning that employees will be forced to utilize the worker's compensation process when seeking benefits or damages for such injuries. An "occupational disease" under the worker's compensation law is defined as "an identifiable disease arising with or without human fault out of and in the course of employment," meaning that the definition covers conditions or illnesses caused by occupational exposure in the workplace. The definition also includes "injury due to repetitive motion" - such as carpal tunnel syndrome - as well as such conditions as trigger finger, loss of hearing due to industrial noise, and radiation disability. Also expressly included in the definition of "occupational disease" are paid peace officers of a police department who suffer psychological stress.

On the healthcare front, Delaware, Massachusetts, and Virginia have amended their respective state regulations and laws to ensure compliance with the Affordable Care Act. For example, Delaware's Insurance Code has been amended so that for individual, group, and blanket health insurance policies, insurance companies may not impose lifetime and annual limits on essential health benefits for policies that have policy years beginning on or after January 1, 2014. For insurance policies that began prior to January 1, 2014, minimum limits have been set for insurance companies to impose on essential health benefits. Other changes prohibit excessive waiting times and discrimination against health care providers and require guaranteed availability of coverage in certain situations.

The changes presented are only a sampling of the numerous changes occurring across the country. Because changes to state laws, especially in regards to reporting requirements, may go unheralded in the media and unnoticed by even the most diligent of employers, employers with questions on compliance should consult with legal counsel.

The 60-Second Memo® is a publication of Gonzalez Saggio & Harlan LLP and is intended to provide general information regarding legal issues and developments to our clients and other friends. It should not be construed as legal advice or a legal opinion on any specific facts or situations. For further information on your own situation, we encourage you to contact the author of the article or any other member of the firm. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer.



Copyright 2014 Gonzalez Saggio & Harlan LLP. All rights reserved.

Arizona | California | Florida | Georgia | Illinois | Indiana | Iowa | Massachusetts
New Jersey | New York | Ohio | Tennessee | Washington, D.C. | Wisconsin

www.gshlp.com