

BUSINESS AND EMPLOYMENT LAW UPDATES

Pomeroy Law P.C. Newsletter



New Year - New Laws!

BY ATTY. MAUREEN LOUISE POMEROY

As we start a new year, we also start another year of state and federal law changes. This article provides a brief summary of certain law changes that may impact businesses. As always, contact your attorney if you have any questions on the topics covered in this newsletter.

What's inside this issue:

FEDERAL, MASSACHUSETTS,
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LAW CHANGES

WHEN YOU NEED AN
ATTORNEY



POMEROY LAW P.C.

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FEDERAL LAW CHANGES

A variety of federal employment laws apply to many businesses, governmental entities and non-profit organizations. **The Family First Coronavirus Relief Act**, which was originally scheduled to expire on December 31, 2020, was extended, but only on a voluntary basis. This law provides up to two weeks of paid leave and up to 10 weeks of partially paid leave for childcare reasons for reasons related to the coronavirus. Employers may voluntarily continue to provide the leave under this law and obtain the payroll tax credits through March 31, 2021. Employees who already obtained such leave in 2020 are not eligible for additional leave under this particular law, but may be eligible for other types of protected leave under state or other federal laws. You may obtain more information regarding the extension and the tax credits by going to the Department of Labor's Website at <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#104> and the IRS's website at <https://www.irs.gov/coronavirus/new-employer-tax-credits>.



FEDERAL LAW CHANGES (CONTINUED)

While not a new law, the EEOC updated its frequently asked questions (FAQs) to address whether the Americans with Disabilities Act (ADA) and Title VII will allow employers to **mandate vaccines** in the workplace during the coronavirus (COVID-19) pandemic. Title VII and the ADA apply to employers with 15 or more employees. Massachusetts and New Hampshire have similar discrimination laws that apply to 6 or more employees. The EEOC's guidance indicates that, generally, employers may require employees to receive COVID-19 vaccines so long as certain steps are taken. In addition, an employer must engage in an interactive dialogue and consider providing reasonable accommodations to an employee's objection related to an ADA qualifying disability or reasonable religious beliefs.

There are many considerations employers must take into account and certain procedures that must be followed before establishing a policy to mandate vaccines.

All employers considering any such policy changes must seek legal advice. For more information on the EEOC's guidance, please visit this link:

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

As a reminder, in June of 2020 the U.S. Supreme Court ruled that Title VII of the Civil Rights Act of 1964 protects against **employment discrimination** on the basis of sexual orientation and gender identity. The Court concluded that when an employer terminates an employee because they are gay, lesbian or transgender the employer fires “that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undistinguishable role in the decision, exactly what Title VII forbids.” *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731, 1737 (June 15, 2020).

This Court's decision brings federal law in line with comparable state employment discrimination laws that have provided such protection against employment discrimination on the basis of sexual orientation and gender identity.

Employers with questions on how these federal law changes will impact their workplace or for more details on these legal issues, please contact my office or your employment attorney.

MASSACHUSETTS IN 2021

The **Paid Family Medical Leave** law went into effect on January 1, 2020, and provides employees up to 26 weeks of protected leave during a benefit year for a certain reasons, including up to 20 weeks for an employee's own serious health condition; 12 weeks for the birth, adoption or foster placement of a child; and 26 weeks for the care of a service member. On July 1, 2021, this law will allow employees to take up to 12 weeks of leave during benefit year to care for a family members serious health condition. Eligible employees will be paid a wage supplement by the state of up to \$850 per week. The amount will be determined by certain financial criteria. Employers may opt to offer a private plan to employees, but the law requires that such plans be approved by the Massachusetts Paid Family Medical Leave agency. A more detailed review of this law may be found in my last month's newsletter, which you can view at www.pomeroy-law.com.

Minimum wage is increasing again in Massachusetts! As you know, the legislature implemented a law that provided for phased increases in the

minimum hourly rate for Massachusetts employees over the last few years. The minimum wage rate, effective January 1, 2021, is \$13.50 per hour, and the service rate for waitstaff is now \$5.55 per hour.

For further details about Massachusetts' law changes of the minimum wage rate, please the Commonwealth's website at: <https://www.mass.gov/info-details/massachusetts-law-about-minimum-wage>.

Premium pay is decreasing for retail workers. Retail workers working on Sundays and certain holidays are eligible for 1.2 times their hourly rate (a reduction from 1.3 times their hourly rate). This reduction was part of the legislature's "Grand Bargain" that voters implemented in a 2018 law change for a phased increased the state's minimum hourly rate, and a reduction in the premium pay.

This premium pay rate will be reduced again to 1.1 times the hourly rate effective January 1, 2022 and it will be completely phased out as of January 1, 2023. This is a confusing area of law for many business owners, and anyone with questions should get legal assistance.



**NEW
REQUIREMENTS**

MAINE IN 2021

“**Juneteenth**” is now a state holiday in Massachusetts, and this law requires employers to pay holiday premium pay that day to retail workers (again 1.2 times their regular rate). This law also provides that employers cannot require certain employees to work this date. This holiday will fall on June 19th and commemorates the end of slavery in our country.

For further information on the Massachusetts’ holidays, please see the Commonwealth’s website at:
<https://www.sec.state.ma.us/cis/cishol/holiday.htm>.

NEW HAMPSHIRE IN 2021

Effective January 1st, the state’s **sexual assault laws** were expanded to include any sexual contact between a school employee and a student between the ages of 13-18 years old. Additionally, universities in New Hampshire are required to adopt written student policies that address dating and domestic violence, sexual assault and rape. This New Hampshire law will require universities to investigate and collaborate with law enforcement for prosecutions of such incidents.

Maureen Louise Pomeroy, Esq. of Pomeroy Law P.C. is an employment and business attorney with over 20 years experience assisting Massachusetts and New Hampshire businesses and non-profit organizations. For more information or to contact, please go to the website www.pomeroy-law.com or call 978-358-7550

Effective January 1, 2021, Maine enacted the **Earned Paid Leave** law and requires Maine employers of more than 10 employees to provide up to 40 hours of paid sick leave in a calendar year. The leave accrues one hour for every 40 hours worked. The time is accrued and will carry over into subsequent years, but the earned time is capped at 40 hours each calendar year. Maine employers must provide notification to the employees regarding this law and place posters within the workplace. This law impacts most employers in Maine and for more information, please see this link.

https://www.maine.gov/labor/labor_laws/earnedpaidleave/.

YOU NEED TO CONTACT AN ATTORNEY...

- To update your employee handbook policies due to these law changes
- To create new handbooks and confirm legal compliance with state and federal laws
- In order to understand how the law will impact your business and your legal responsibilities

UPCOMING SEMINAR ON MASSACHUSETTS PAID FAMILY MEDICAL LAW!

I will be co-hosting a seminar with Jill Panall of 21 OakHR on Wednesday, **February 3rd at 12 p.m.**, about the Massachusetts Paid Family Medical leave law. This will be an in-depth review of the law along with action items employers must take to ensure compliance and understand their responsibilities when employee file claims with the agency overseeing this state funded benefit. We will also take questions from attendees and offer documents to assist them in understanding this new law. To register, please go to <http://tiny.cc/FamilyLeaveFeb21>

