

# HR COMPLIANCE LIBRARY

## Ideas & Trends

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### STATE LAW ROUNDUP

## This issue dominated by employee wage laws as legislatures made plethora of changes in 2015

Nearly every state in the union made changes to their wage laws in one way or another in 2015. Between wage payment and minimum wage laws, there is enough state law material to fill this entire issue of *Ideas & Trends*. We will squeeze in coverage, however, of state medical marijuana law changes as well as miscellaneous legislative activity that may be of interest.

As for the medical marijuana law changes, three states—Georgia, Illinois, and Louisiana—made modifications to their medical marijuana laws last year. In Georgia, legislatures enacted “Haleigh’s Hope Act,” which permits use of medical cannabis (THS) oil to treat certain conditions.

Effective April 16, 2015, the law does not require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in any form. Employers may still have a written zero tolerance policy prohibiting the on-duty, and off-duty, use of marijuana. Employers may also prohibit any employee from having a detectable amount of marijuana in such employee’s system while at work (Act 20 (H. 1), L. 2015).

And in Illinois, the Compassionate Use of Medical Cannabis Pilot Program Act was amended to provide that nothing in the law may be construed to require an employer to reimburse a person for costs associated with the medical use of cannabis (P.A. 99-31 (S. 1571), L. 2015).

Finally, Louisiana enacted a law, known as The Alison Neustrom Act, providing for the therapeutic use of marijuana under specified conditions. The law, which does not directly address any workplace implications regarding the use of medical marijuana, dictates the issuance of rules and regulations not later than 2016 (Act 261 (S. 143), L. 2015).

These are just a few of the legal issues state legislatures took up in 2015. This summary is in two parts, with the previous issue of *Ideas & Trends* (Issue No. 777) having reported on veterans’ preference, social media privacy, employee misclassification, equal pay, and ban-the-box laws. The previous issue also covered state legislative activity related to employee leave, protections for breastfeeding employees, and employees’ right to a fair workplace. Please note that this summary is not exhaustive, and generally covers only laws of broad application in the specified subject areas. It is important to keep in mind that state executive orders, rules and regulations, administrative agency actions, and case law also determine where states stand on some issues. The following summary focuses almost exclusively on statutory activity. ■

## MINIMUM WAGE

**2015 saw changes to minimum wage laws in nearly every state**

**Alaska.** Alaska's minimum wage increased 13% from \$7.75 to \$8.75 per hour on February 24, 2015. The Alaska Constitution dictates that ballot measures take effect 90 days after passage. On November 4, 2014, nearly 70% of voters supported Ballot Measure 3 to raise the minimum wage. This ballot measure also will increase the minimum wage to \$9.75 per hour on January 1, 2016, and adjust the minimum wage each year thereafter for inflation. The ballot measure also requires evaluation and potential changes whenever the federal minimum wage is adjusted, as Alaska's minimum wage must remain at least \$1 above the federal minimum wage starting with the Feb. 24 effective date.

With some limited exceptions, Alaska's minimum wage applies to all employees in the private sector, whether working in a for-profit or not-for-profit business. It also applies to all hours worked in a pay period regardless of how the employee is paid: whether by time, by piece, by commission or otherwise. Tips do not count toward the minimum wage. Under Alaska law, public school bus driver wages must be not less than twice the minimum wage. Also, certain employees must be paid a salary rate not less than twice the minimum wage based on a 40-hour work week in order to maintain exempt status (*State of Alaska Department of Labor and Workforce Development, Press Release, February 24, 2015*).

**Arizona.** At a public meeting held on October 15, 2016, the Industrial Commission of Arizona calculated that the \$8.05 minimum wage for Arizona will not increase for calendar year 2016.

Arizona law directs that the minimum wage is to be increased each January 1 by the increase in the cost of living, calculated by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year based on the Consumer Price Index of All Urban Consumers, U.S. City Average for All Items, or its successor index, as published by the U.S. Department of Labor

or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents.

According to the Bureau of Labor Statistics, the CPI-U increased by 0.2 percent comparing August 2014 to August 2015. Applying the 0.2 percent increase to the 2015 Arizona minimum wage of \$8.05 results in an increase of 1.6 cents to \$8.07, which when rounded to the nearest multiple of five cents results in the amount remaining at \$8.05. Since the state wage continues to be higher than the federal minimum wage of \$7.25 per hour, the state minimum wage prevails.

Every employer covered under the Arizona Minimum Wage Act will be required to pay each employee wages of not less than \$8.05 per hour (*Industrial Commission of Arizona, Labor Department, Press Release; Industrial Commission of Arizona, 2016 Minimum Wage Resolution, October 15, 2015*).

**California.** The state enacted a law declaring that a cheerleader who is utilized by a California-based professional sports team directly or through a labor contractor during its exhibitions, events, or games, is an employee for purposes of the minimum wage law (Ch. 102 (A. 202), L. 2015, effective January 1, 2016).

**Overtime.** The Department of Industrial Relations issued memos on October 7 announcing adjustments in the overtime exemption for both computer software employees and for licensed physicians and surgeons for 2016.

The California Department of Industrial Relations (DIR) adjusted the computer software employee's minimum hourly rate of pay exemption from \$41.27 to \$41.85, the minimum monthly salary exemption from \$7,165.12 to \$7,265.43, and the minimum annual salary exemption from \$85,981.40 to \$87,185.14, effective January 1, 2016, reflecting a 1.4% increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers (August 2014 to August 2015).

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California Labor Code Section 515.5 provides that such employees are exempt from the overtime requirements of Section 510 if certain criteria are met, including that the employee's hourly rate of pay be not less than the statutorily specified rate, which is annually adjusted based on changes in the cost of living (*State of California Department of Industrial Relations, Office of the Director—Research Unit, Memorandum, from Maria Y. Robbins, Deputy Chief, Office of the Director, to Christine Baker, Director, DIR, on the subject of "Overtime Exemption for Computer Software Employees,"* October 7, 2015).

The Department of Industrial Relations adjusted the licensed physicians and surgeons employee's minimum hourly rate of pay exemption from \$75.19 to \$76.24, effective January 1, 2016, to reflect a 1.4% increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers from August 2014 to August 2015.

The Department of Industrial Relations adjusts the minimum hourly rate of pay exemption for licensed physicians and surgeons on October 1 of each year, to be effective the following January 1, based on the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers (*State of California Department of Industrial Relations, Office of the Director—Research Unit, Memorandum, from Maria Y. Robbins, Deputy Chief, Office of the Director, to Christine Baker, Director, DIR, on the subject of "Overtime Exemption for Licensed Physicians and Surgeons,"* October 7, 2015).

**Colorado.** The minimum wage in Colorado will increase from \$8.23 per hour to \$8.31 per hour, and the state minimum wage for tipped employees will increase from \$5.21 per hour to \$5.29 per hour, on January 1, 2016. Colorado Minimum Wage Order Number 32 (7 CCR 1103-1) adjusts the minimum wage rates pursuant to the provisions in Section 15 of Article XVIII of the Colorado Constitution. The wage order covers certain employers and employees in the following industries: retail and service; commercial support service; food and beverage; and health and medical. The state minimum wage also applies to those who receive the federal minimum wage.

**Connecticut.** If an employee is paid less than the minimum fair wage or less than the overtime wage, an employee may recover twice the full amount of damages associated with an employer's failure to pay wages unless the employer can demonstrate a good faith belief that it was complying with the law (P.A. 15-86 (S. 914), L. 2015, effective October 1, 2015).

**District of Columbia.** Effective July 1, 2015, the minimum wage in the District is \$10.50 per hour. The increase is part of a series of scheduled increases, which include an increase on July 1, 2016, to \$11.50 per hour. Beginning in 2017,

and annually after that, increases will be tied to inflation (DC Law 20-91 (Act 20-265; B20-459), L. 2013, effective March 11, 2014 (60 DCR 778)).

Effective January 1, 2015, the 2015 "Living Wage" for employees of contractors and subcontractors of the District of Columbia Government is \$13.80 per hour.

The "Wage Theft Prevention Amendment Act of 2014," effective February 26, 2015, enhances remedies, fines, and administrative penalties when an employer fails to pay earned wages; provides for suspension of business licenses of employers that are delinquent in paying wage judgments or agreements; clarifies administrative procedures and legal standards for adjudicating wage disputes; and requires that the employer provide written notice to each employee of the terms of their employment and maintain appropriate employment records. The measure also extends application of the Minimum Wage Act to include contractors and subcontractors (DC Law 20-157 (Act 20-426; B20-671), L. 2014 (61 DCR 10157)). Clarifying amendments make corrections to the Act (DC Law 21-2 (Act 21-38; B21-53), L. 2015 (62 DCR 9442); DC R 21-235 (PR21-376), effective from October 6, 2015).

**Florida.** The Florida minimum wage will remain at the current rate of \$8.05 per hour, effective January 1, 2016.

Florida law requires the Florida Department of Economic Opportunity to calculate a minimum wage rate each year. The annual calculation is based on the percentage increase in the federal Consumer Price Index for Urban Wage Earners and Clerical Workers in the South Region for the 12-month period prior to September 1, 2015.

Employers must pay the higher of the federal or state minimum hourly wage. Since the state minimum wage rate continues to be higher than the federal rate, the state minimum wage applies.

The calculation of the 2016 Florida minimum wage rate is done by applying the percentage change in the CPI-W (August 2014 (229.594) to August 2015 (228.011)) to the 2015 Florida minimum wage rate. The change amount is then added to the 2015 Florida minimum wage rate of \$8.05. The calculation for 2016 reflects a change of -0.06 cents (-0.69%), that when applied to the 2015 minimum wage of \$8.05 per hour would be \$7.99 per hour. Since the Florida minimum wage cannot decrease, the 2015 level will remain the minimum wage rate used in 2016.

Employers of tipped employees who meet eligibility requirements for the tip credit under the federal Fair Labor Standards Act may credit towards satisfaction of the minimum wage tips up to the amount of the allowable FLSA tip credit in 2003 of \$3.02 per hour. However, employers

must pay tipped employees a direct wage of \$5.03 per hour. The combined direct wage plus tips must equal at least the state minimum wage (*Florida Department of Economic Opportunity, Minimum Wage Notice*, October 15, 2015; Florida DEO, Bureau of Labor Market Statistics, 2016 Minimum Wage Calculations, September 30, 2015).

**Hawaii.** A hotel or restaurant that applies a service charge for the sale of food or beverage services, *as well as any hotel that applies a service charge for portage services*, must distribute the service charge directly to employees as tip income or clearly disclose to the purchaser of the services that the service charge is being used to pay for costs or expenses other than wages and tips of employees.

“Portage” is defined to mean the act of moving luggage, bags, or parcels between a guest room and a lobby, front desk, or any area with vehicular access at a hotel, hotel-condominium, or condominium-hotel (S. 1009, L. 2015, effective June 19, 2015).

**Illinois.** The Private Employment Agency Act was amended to provide that a private employment agency will be jointly liable with an employer for violation of the state minimum wage law (P.A. 99-422 (S. 1859), L. 2015, effective January 1, 2016).

**Overtime.** An employee may not work more than 40 hours in a workweek unless the employee receives compensation for the overtime hours worked at the rate of one and one-half times the employee’s regular rate. The law provides for certain exemptions from this requirement.

Effective January 1, 2016, a new exemption will be added for an employee who is a member of a bargaining unit recognized by the Illinois Labor Relations Board and whose union has contractually agreed to an alternate shift schedule as allowed by federal law (P.A. 99-17 (S. 38), L. 2015).

**Maryland.** The minimum wage in Maryland is now \$8.25 per hour, effective July 1, 2015. The increase is part of a series of scheduled increases, with future increases scheduled for July 1, 2016, to \$8.75 per hour; July 1, 2017, to \$9.25 per hour and finally on July 1, 2018, to \$10.10 per hour (Ch. 292 (H. 295), L. 2014).

**Michigan.** The Local Government Labor Regulatory Limitation Act prohibits local governmental bodies from adopting, enforcing or administering an ordinance, local policy or local resolution that would require a private employer to pay a minimum wage rate that is higher than the state minimum hourly wage or higher than the federal rate, unless the federal provisions would result in a lower minimum hourly wage provided under state law (Local governmental bodies and educational institutions are exempt from the definition of “employer” under the Act).

The Act also prohibits local governmental bodies from imposing other requirements on employers, such as regulating working hours, information on job application forms and labor relations, regulating or creating administrative or judicial remedies for wage, hour or benefit disputes, or requiring that employers provide fringe benefits, paid or unpaid leave or participate in apprenticeship training programs.

The local government restrictions would not prohibit enforcement of a written agreement voluntarily entered into and in effect prior to October 1, 2015. The law also does not prohibit local ordinances, policies or resolutions that provide for the terms and conditions of a voluntary agreement between the employer and a local governmental body in connection with providing services directly to the local government or in connection with the receipt of a grant, tax abatement or tax credit from the local governmental body (P.A. 105 (H. 4052), L. 2015).

**Minnesota.** The minimum wage in Minnesota is \$9.00 per hour, effective August 1, 2015. The rate applies to larger employers with an annual gross volume of sales made or business done of \$500,000 or more. Small employers with an annual gross volume of sales made or business done of less than \$500,000 must pay employees a minimum wage of at least \$7.25 per hour (the federal minimum hourly wage rate). Employers may pay a training wage rate of \$7.25 an hour to employees who are younger than 20 for the first 90 days of employment. The youth wage rate for employees younger than 18 must be at least \$7.25 an hour. Tip credits are not allowed. The minimum wage increase is part of a series of scheduled increases enacted by Ch. 66 (H. 2091), L. 2014. The state minimum wage will increase again on August 1, 2016, to \$9.50 per hour for employees of large employers, and to \$7.75 per hour for employees of small employers. Beginning in 2017, the minimum wage rate will be adjusted based on any increase in the cost of living.

If an employer is a hotel or motel, lodging establishment, or resort, the employer must pay an employee working under a contract with the employer that includes a provision by the employer of a food and lodging benefit, if the employee is working under authority of a summer work travel exchange visitor program (J) nonimmigrant visa, a minimum wage of at least \$7.50 per hour effective August 1, 2015. This rate increases to \$7.75 per hour on August 1, 2016.

**Missouri.** The minimum wage in Missouri will remain at the current rate of \$7.65 per hour on January 1, 2016.

Per state law, the minimum wage rate is calculated annually, based on the cost of living as measured by the previous year’s Consumer Price Index. The Missouri Department of Labor and Industrial Relations, Division of Labor Standards, announced there would be no change on November 12, 2015.

All businesses are required to pay, at a minimum, the \$7.65 per hour rate, except for employers engaged in retail or service businesses whose annual gross income is less than \$500,000. Employers not subject to the minimum wage law can pay employees wages of their choosing (*Missouri Department of Labor and Industrial Relations, Wage and Hour Notice*, November 12, 2015).

**Montana.** The minimum wage in Montana will remain unchanged at \$8.05 per hour on January 1, 2016.

Montana law requires a minimum wage adjustment annually based on changes in inflation as measured by the Consumer Price Index (CPI) from August of the preceding year to August of the year in which the calculation is made. An adjustment to the minimum wage is to be calculated no later than September 30 of each year based on any increase in the CPI, rounded to the nearest five cents.

Based on an increase in the CPI of 0.20% from August 2014 to August 2015, the calculation used for determining the minimum wage rate for 2016 is:  $\$8.05 \times .20\% = \$.02$ , rounded to \$0.00 (nearest five cents).

The Department of Labor and Industry announces each October 1 if there are any changes in the state's minimum wage. If there is a change, the change takes effect on January 1, which gives employers three months to modify budgets if necessary. Since there is no change, the minimum wage will remain at the 2015 rate of \$8.05 per hour for 2016 (*Montana Department of Labor and Industry, Commissioner's Office, Notice of Montana 2016 Minimum Wage Determination*, October 1, 2015; *Montana Department of Labor and Industry, Labor Standards Bureau, Wage and Hour Unit*, October 5, 2015).

The state's minimum wage law was also amended to add an exemption for employees of a seasonal nonprofit establishment that is an organized camp or religious or educational conference center (S. 270, L. 2015).

**Overtime.** State overtime requirements were amended to add an exemption for employees of an air carrier subject to the provisions of 45 U.S.C. 181, et seq., whose hours worked in excess of 40 hours in a workweek were not required by the air carrier but were arranged through a voluntary agreement among employees to trade scheduled work hours (S. 135, L. 2015, effective March 5, 2015).

Additionally, an exemption from the state's overtime requirements for outfitters assistant, which was scheduled to end on August 31, 2015, was extended to December 31, 2017 (S. 152, L. 2015).

An exemption from maximum hour and overtime requirements was added for employees of a seasonal nonprofit es-

tablishment that is an organized camp or religious or educational conference center.

Also, language in the law was amended to replace "defective" with "disordered," in an exemption for an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or disordered working an alternate work shift (80 hours/14-day period). The language change is part of a measure revising terminology relating to mental illness in the Codes (H. 382, L. 2015, and S. 270, L. 2015).

**Nevada.** The Office of the Labor Commissioner announced on March 31, 2015, that the state's minimum wage will remain unchanged from the previous year. The minimum wage for employees who receive qualified health benefits from their employers will remain at \$7.25 per hour, and the minimum wage for employees who do not receive health benefits will remain at \$8.25 per hour.

In addition, the state minimum wage law was amended to exclude the relationship between a principal and an independent contractor from certain provisions governing the payment of minimum wage to an employee. New law was enacted with regard to "independent contractor" status, to provide that a person is presumed to be an independent contractor if certain criteria are met (Ch. 325 (S. 224), L. 2015, effective June 2, 2015).

**Overtime.** The Office of the Labor Commissioner announced on March 31, 2015, that the rate for daily overtime will remain the same on July 1, 2015. Employees who receive qualified health benefits from their employer and earn less than \$10.875 per hour, and employees earning less than \$12.375 per hour who do not receive qualified health benefits must be paid overtime whenever they work more than eight hours in a 24-hour period. Nevada requires daily overtime in addition to the requirement of payment of overtime for working more than 40 hours in a workweek. Changes in the daily overtime rate are dependent on any increase in the minimum wage. Since the minimum wage effective as of July 1, 2015, did not change, the daily overtime rate will remain the same as well.

**New Hampshire.** The state minimum wage law was amended to end payment of a subminimum wage rate for persons with disabilities. Employers are now prohibited from employing a person with a disability at an hourly rate that is lower than the minimum wage (currently, \$7.25 per hour), with an exception for students in practical experience or training programs and family businesses. Also, a provision of the law allowing for special authorization to pay a subminimum wage for those in sheltered workshops was repealed (Ch. 40 (S. 47), L. 2015).

In addition, the minimum wage for tipped employees was amended to include as tipped employees those working in

ballrooms. Under the law, tipped employees of a restaurant, hotel, motel, inn or cabin, or ballroom who customarily and regularly receive more than \$30 a month in tips directly from the customers will receive a base wage from the employer of not less than 45 percent of the applicable minimum hourly wage. If an employee shows to the satisfaction of the labor commissioner that the actual amount of wages received at the end of the pay period did not equal the minimum wages for all hours worked, the employer must pay the employee the difference to guarantee the applicable minimum wage (Ch. 1 (S. 264), L. 2015).

**New Jersey.** The minimum wage in New Jersey will not increase in 2016, but will instead remain at the current \$8.38 per hour.

The state minimum wage is required to be adjusted by the New Jersey Department of Labor and Workforce Development each January 1 by any increase in the cost of living, based on changes in the Consumer Price Index for all wage earners and clerical workers (CPI-W, U.S. City Average), as released by the U.S. Department of Labor, Bureau of Labor Statistics, from August of the previous year to August of the current year.

The Department's Division of Economic and Demographic Research determined that the change from August 2014 (234.030) to August 2015 (233.366) represents a .664 (or minus 0.28%) drop in the CPI-W. Since the cost of living did not increase, there will be no adjustment to the New Jersey minimum hourly wage on January 1, 2016 (*State of New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance, Public Notice, 2016 Minimum Wage, September 21, 2015*).

**New Mexico.** A temporary exemption from the state's overtime requirements for airline workers who voluntarily trade work shifts was made permanent.

A 2013 law, S. 352, added a provision to permit airline employees to voluntarily trade shifts and to exempt them from the overtime requirement of payment of one and one-half times an employee's hourly rate of pay for each hour worked over 40 hours in a week of seven days, if the hours worked are: (1) worked by an employee of an air carrier providing scheduled passenger air transportation subject to Subchapter II of the federal Railway Labor Act or the air carrier's subsidiary that is subject to Subchapter II of the federal Railway Labor Act; (2) not required by the employer; and (3) arranged through a voluntary agreement among employees to trade scheduled work shifts, provided that the agreement (a) is in writing, (b) is signed by the employees involved in the agreement, (c) includes a requirement that an employee who trades a scheduled work shift is responsible for working the shift so agreed to as part of the employee's regular work schedule, and

(d) does not require an employee to work more than (i) 13 consecutive days, (ii) 16 hours in a single work day, (iii) 60 hours within a single work week, or (iv) can be required as provided in a collective bargaining agreement to which the employee is subject. The 2013 law would have repealed the exemption on July 1, 2015.

S. 70, L. 2015, enacted on April 2, 2015, removes the repeal to make the exemption permanent, effective June 19, 2015.

**New York.** Provisions of the New York Labor Law relating to penalties for violations and orders of the labor commissioner to recover wages due were amended, as well as the statute of limitations for filing a claim (deleting a provision that stated "The Commissioner's investigation shall cover the entire six-year statute of limitations period unless the commissioner otherwise notifies all affected employees.") (Ch. 2 (S. 1319), L. 2015, enacted February 23, 2015).

*Fast food workers.* Acting State Labor Commissioner Mario J. Musolino on September 10, 2015, signed a wage order accepting the 2015 Fast Food Wage Board's recommendations and designating increases in the minimum wage for workers in fast food establishments to reach \$15 per hour by December 31, 2018, in New York City, and by December 31, 2021, for the rest of the state.

Under the fast food wage order, the minimum wage for fast food workers in New York City will increase to \$10.50 on December 31, 2015, \$12.00 on December 31, 2016, \$13.50 on December 31, 2017, and \$15.00 on December 31, 2018. For the rest of the State of New York, the minimum wage for fast food workers will increase to \$9.75 on December 31, 2015, \$10.75 on December 31, 2016, \$11.75 on December 31, 2017, \$12.75 on December 31, 2018, \$13.75 on December 31, 2019, \$14.50 on December 31, 2020, and \$15.00 on July 1, 2021.

Fast food establishments in New York that are part of a chain with 30 or more locations nationally would be covered by the order, including franchises and integrated enterprises. The order is now subject to the regulatory process before it becomes final.

In conjunction with the signing of the wage order, also on September 10, New York Governor Andrew M. Cuomo proposed an all-industry minimum wage increase that would be phased in to mirror the fast food order, reaching \$15.00 per hour by December 31, 2018, in New York City, and by July 1, 2021, for the rest of the state. The Governor hopes to garner enough support for a bill proposing the increase to be introduced in the next legislation session (*New York State Office of the Governor, Press Release, September 10, 2015; Order of Acting Commissioner of Labor Mario J. Musolino on the Report and Recommendations of the 2015 Fast Food Wage Board, September 10, 2015*).

*State workers.* On November 10, 2015, Governor Andrew M. Cuomo announced that his administration is raising the minimum wage for state workers to \$15 an hour. According to Governor Cuomo, to date, no other state has enacted a \$15 public sector minimum wage. This action comes as the Governor is pushing to make New York the first state in the nation to implement a \$15 minimum wage across all industries, and follows the \$15 minimum wage increase for fast food workers approved by the Governor's administration earlier this year. This change will be reflected in the State's Budget Policy and Reporting Manual.

This increase, which was announced by the Governor at a rally for low-wage workers in New York City, will be implemented on the same phased-in schedule currently underway for fast food workers. That schedule is as follows:

- New York City: \$10.50, on December 31, 2015; \$12.00 on December 31, 2016; \$13.50 on December 31, 2017; \$15.00 on December 31, 2018.
- Statewide (excluding New York City): \$9.75 on December 31, 2015; \$10.75 on December 31, 2016; \$11.75 on December 31, 2017; \$12.75 on December 31, 2018; \$13.75 on December 31, 2019; \$14.50 on December 31, 2020; and \$15.00 on July 1, 2021 (New York State Office of the Governor, Press Release, November 10, 2015).

**Ohio.** The minimum wage in Ohio will not increase in 2016, but instead will remain at the current minimum wage rate of \$8.10 per hour for non-tipped employees and \$4.05 per hour for tipped employees, the Ohio Department of Commerce announced on September 25. The minimum wage applies to employees of businesses with annual gross receipts of more than \$297,000 per year.

For employees at smaller companies with annual gross receipts of \$297,000 or less per year after January 1, 2016, and for 14- and 15-year-olds, the state minimum wage is \$7.25 per hour. For these employees, the state wage is tied to the federal minimum wage of \$7.25 per hour.

The Constitutional Amendment passed by Ohio voters in November 2006 states that Ohio's minimum wage shall increase on January 1 of each year by the rate of inflation. The state minimum wage is tied to the federally determined Consumer Price Index (CPI-W) for urban wage earners and clerical workers for the 12-month period prior to September. This national CPI-W index declined 0.3 percent over the 12-month period from September 1, 2014, to August 31, 2015. The Constitutional Amendment states that the minimum wage level shall increase at the rate of inflation; therefore, a decrease in the CPI-W index means that the Ohio minimum wage will remain the same as in the previous year (*State of Ohio, Department of Commerce, News Release*, September 25, 2015).

**Oregon.** The minimum wage in Oregon will not increase in 2016.

Despite overall rising housing, child care and other household costs, the state minimum wage will remain the same at \$9.25 per hour in 2016, Oregon Labor Commissioner Brad Avakian announced on September 16.

Each year, Commissioner Avakian calculates the minimum wage by measuring the increase to the Consumer Price Index (CPI), a federal figure published by the United States Bureau of Labor Statistics to track prices for a fixed "market basket" of urban goods.

The annual wage adjustment is calculated each September for the following calendar year, based on any increase during the previous 12 months in the U.S. City Average Consumer Price Index for All Urban Consumers for All Items. Since the cost of living as measured August 2014 to August 2015 did not increase, the minimum wage for Oregon will not be adjusted and will remain at the current \$9.25 per hour (*State of Oregon Bureau of Labor and Industries (BOLI) Press Release*, September 16, 2015).

*Domestic workers (overtime).*—Effective January 1, 2016, domestic workers must be paid overtime at the rate of one and one-half times the worker's base rate for hours worked in excess of 40 hours in a workweek, or in excess of 44 hours in a workweek if the domestic worker lives in the home of the employer. In addition, workers must be provided with at least 24 consecutive hours of rest each workweek. If the worker agrees to work on an anticipated day of rest, the employer must pay the employee the overtime rate. Workers claiming to be aggrieved by an unlawful employment practice may file a civil action in circuit court (Ch. 457 (S. 552), L. 2015).

**Rhode Island.** Effective January 1, 2016, the minimum wage in Rhode Island will increase to \$9.60 per hour (Ch. 72 (H. 5074 (Sub. A)) and Ch. 73 (S. 194 (Sub. A)), L. 2015, enacted June 17, 2015).

For employers of tipped employees working in restaurants, hotels, and other industries (except taxicabs and limited public motor vehicles), the allowance for gratuities as part of the hourly wage rate must be an amount equal to the applicable minimum wage rate less \$2.89 per hour. The cash wage cannot be less than \$2.89 per hour.

The cash wage will increase by 50 cents on January 1, 2016, to an amount not less than \$3.39 per hour, and again on January 1, 2017, to an amount not less than \$3.89 per hour (Ch. 228 (H. 5364 (Sub. A)), L. 2015, effective July 10, 2015).

**South Dakota.** The minimum wage in South Dakota will increase to \$8.55 per hour effective January 1, 2016. The increase is based on a 0.2% increase in the cost of living,

rounded to the nearest five cents. The increase applies to all South Dakota employers, with some limited exceptions.

Employees must pay tipped employees a wage of no less than 50 percent of the prevailing state minimum wage. Effective January 1, 2016, this amount is \$4.28 per hour. Wages and tips combined must equal at least the minimum wage. Employers must keep a record of all tips received by employees.

South Dakota voters approved “Initiated Measure 18—Minimum Wage” in the November 4, 2014, General Election, to increase the state minimum wage from \$7.25 per hour to \$8.50 per hour effective January 1, 2015, and, after that, to annually adjust the minimum wage by any increase in the cost of living, as measured by the Consumer Price Index published by the U.S. Department of Labor. The amount of the increase is to be rounded to the nearest five cents. The minimum wage must not decrease.

The adjusted minimum wage is to be announced on the South Dakota Department of Labor and Regulation Internet Website no later than October 15 of each year.

*Youth minimum wage.* The minimum wage for non-tipped employees under the age of 18 is currently \$8.50 per hour, the same as the rate for adult employees. Although the 2015 South Dakota Legislature passed a bill (S. 177, L. 2015) proposing a youth minimum wage of \$7.50 per hour for non-tipped employees under the age of 18, this legislation has been referred to public vote to take place in November 2016. Therefore, until December 31, 2015, non-tipped employees under the age of 18 are entitled to continue receiving \$8.50 per hour, and on January 1, 2016, such employees are to receive \$8.55 per hour. Referred Law 20 is on the November 8, 2016, General Election ballot as a veto refer-

endum. If approved, the measure would uphold S. 177 to decrease the minimum wage for youth under the age of 18 to \$7.50 per hour and would provide that the youth rate is not linked to inflation.

*Training wage.* Employees under the age of 20 may be paid a reduced rate of \$4.25 per hour for the first 90 days of employment only. This rate remains unchanged in 2016 (South Dakota Department of Labor and Regulation, News Release, October 15, 2015; South Dakota Department of Labor and Regulation, Internet website, October 2015).

**Washington.** The state’s minimum wage will stay the same in 2016—\$9.47 per hour—because the national Consumer Price Index did not increase, the state Department of Labor and Industries announced on September 30.

The Department of Labor and Industries announces the state’s minimum wage each year in September as required under Initiative 688, which Washington voters approved in 1998. Under the law, the minimum wage cannot be decreased.

Washington’s minimum wage applies to workers in both agricultural and non-agricultural jobs. Youth ages 14-15 may be paid 85 percent of the adult wage, \$8.05 per hour (*Washington State Department of Labor and Industries News Release*, September 30, 2015).

Effective July 24, 2015, a person who is at least 16 years old but under 21 years old who plays for a junior ice hockey team that is a member of a regional, national or international league and that contracts with an arena owned, operated or managed by a public facilities district is exempt from the definition of an “employee,” and thus not subject to the state minimum wage law (Ch. 299 (S. 5893), L. 2015). ■

## WAGE PAYMENT

### State lawmakers implement stiffer penalties for nonpayment of wages

**Arkansas.** The law relating to wage payment and deductions covering state employees has been amended to clarify payroll deductions.

An authorized deduction for group hospital, medical and life insurance has been amended to read “group or individual hospital, medical, and life insurance deductions” (Act 1053 (S. 823), L. 2015, enacted April 4, 2015, and eff. July 22, 2015).

**California.** The California Labor Code Private Attorneys General Act of 2004 was amended to provide employers with a right to cure a violation of the wage information requirement that an employer provide its employees with the

inclusive dates of a pay period and the name and address of the legal entity that is the employer before an employee may bring a civil action under the Act. Employers must be fully compliant, with itemized wage statements provided to each aggrieved employee, before a violation would be considered cured. Also, the right to cure with respect to alleged violations would be limited to once in a 12-month period (Ch. 445 (A. 1506), L. 2015, eff. October 2, 2015).

**Connecticut.** Penalty provisions were amended to provide that if an employer fails to pay wages or fails to compensate an employee, or fails to compensate an employee in compliance with Sec. 31-76k, or where an employee or labor organization representing an employee institutes an action



to enforce an arbitration award requiring the employer to make the employee whole, the employee or labor organization shall recover in a civil action (1) twice the full amount of wages, with costs and any reasonable attorney's fees, or (2) the full amount of the minimum wage or compensation, with court costs and reasonable attorney's fees, if the employer establishes that the employer had a good faith belief that such underpayment of wages was in compliance with the law (P.A. 15-86 (S. 914), L. 2015, eff. October 1, 2015).

Also, new law was enacted to provide an employee with a right to discuss or disclose his or her wages or the wages of another employee that were voluntarily disclosed. Employees also have a right to inquire about the wages of another employee. Employees who exercise such rights are protected from discharge, discipline, discrimination, retaliation, or other penalty. The law also prohibits an employer from requiring an employee to sign a waiver or other document that would take away such rights (P.A. 15-916 (H. 6850), L. 2015, eff. July 1, 2015).

**District of Columbia.** The "Wage Theft Prevention Amendment Act of 2014," effective February 26, 2015, made changes to the wage payment and collection law to enhance remedies, fines and administrative penalties when an employer fails to pay earned wages. The Act also adds contractors and subcontractors as covered employers under the law, holding them jointly liable for violations (DC Law 20-157 (Act 20-426; B20-671), L. 2014, 61 DCR 10157). Amendments to the Act were made to clarify and make corrections to the Act (DC Law 21-2 (Act 21-38; B21-53), L. 2015 (62 DCR 9442); DC R 21-235 (PR21-376), eff. from October 6, 2015).

The "Wage Transparency act of 2014" gives employees of private employers a protected right to discuss and disclose wages (Act 531 (B20-757), L. 2014, eff. March 11, 2015 (62 DCR 9)).

**Florida.** Effective July 1, 2015, a labor pool must select one of the following methods of payment to compensate a day laborer for work performed: (1) cash; (2) commonly accepted negotiable instruments that are payable in cash, on demand at a financial institution, and without discount; (3) payroll debit card; or (4) electronic fund transfer (EFT), which must be made to a financial institution designated by the day laborer. Before a day laborer's first pay period, a labor pool must provide notice to the day laborer of the method of payment that will be used for payroll and the day laborer's options to elect a different method of payment, and authorize the day laborer to elect not to be paid by payroll debit card or EFT.

If a labor pool intends to pay a day laborer by payroll debit card, the labor pool must: (a) offer the day laborer the option to elect payment by EFT; and (b) before selecting pay-

roll debit card, provide the day laborer with a list, including the address, of a business that is close by that does not charge a fee to withdraw the contents of the payroll debit card. A labor pool must compensate day laborers at or above the minimum wage. Deductions, other than those authorized by federal or state law, may not bring the worker's pay below minimum wage for the hours worked.

At the time of each payment of wages, a labor pool must furnish each worker a written, itemized statement showing in detail each deduction made from such wages. A labor pool may deliver this statement electronically upon written request of the day laborer. In addition, a labor pool must provide each worker with an annual earnings summary within a reasonable period of time after the end of the preceding calendar year, but no later than February 1 (Ch. 20 (S. 456), L. 2015).

**Georgia.** The state's wage payment law was amended to allow for payment of wages by credit to a payroll card account, and to require that employers offer employees certain choices and information relating to the payment of wages (Act 85 (S. 88), L. 2015).

**Illinois.** The Private Employment Agency Act was amended to provide that a private employment agency will be jointly liable with an employer for violation of the Illinois Wage Payment and Collection Law (P.A. 99-422 (S. 1859), L. 2015, eff. January 1, 2016).

**Indiana.** The state's wage payment law was amended to provide that, in a suit to recover unpaid wages due, if the court determines that the employer that failed to pay wages due was not acting in good faith, the court shall order, as liquidated damages for such failure to pay wages, an amount equal to two times the amount of wages due the employee.

Also, for assignment of wages, the law was amended to provide that the total amount of wages assigned for the purchase of uniforms and equipment necessary to fulfill the duties of employment may not exceed the lesser of: (a) \$2,500 per year or (b) five percent of the employee's weekly disposable earnings.

Additionally, assignment for reimbursement for education or employee skills training (other than those provided through economic development incentive programs) and for advances for payroll or vacation pay have been added. The interest rate charged on amounts loaned or advanced to an employee and repaid may not exceed the bank prime loan interest rate, plus four percent (Public Law 193 (H. 1469), L. 2015, eff. July 1, 2015).

**Michigan.** The law regulating payment of wages and fringe benefits was amended to allow an employer to deduct from an employee's wages without the employee's written consent

an amount the employer paid of an employee's debt under a default judgment, provided: (1) the employer gives the employee a written explanation of the deduction at least one pay period before the wage payment affected by the deduction was made; (2) the deduction was not greater than 15 percent of the gross wages earned in the pay period the deduction was made; (3) the wage deduction was made after the employer had made all deductions expressly permitted or required by law or a collective bargaining agreement, and after any employee-authorized deduction; and (4) the deduction did not reduce the regularly scheduled gross wages otherwise due the employee to a rate that was less than the state minimum wage rate or the federal minimum wage rate, whichever was greater (Public Act 15 (H. 4120), L. 2015).

**Nevada.** Nevada's wage payment law requires an employer to pay an employee wages for each hour the employee works. Existing federal regulations allow employees who work shifts of 24 hours or more to agree not to be paid for a sleeping period not to exceed eight hours under certain circumstances (29 C.F.R. Sec. 785.22).

Nevada's wage payment law was amended, effective July 1, 2015, to provide that an employee who is employed in a certain residential facility and who works for 24 hours or more may agree not to be paid for a sleeping period not to exceed eight hours if adequate sleeping facilities are provided by the employer (Ch. 468 (S. 146), L. 2015).

**New Hampshire.** The state's wage payment law was amended to provide that the commissioner of labor may permit a school district to pay employees less frequently than weekly where a school district collective bargaining agreement for hourly employees provides an option to be paid in any number of equal installments with one additional installment. The additional installment must require a full reconciliation of pay at least once each calendar year. Employees must be informed in writing prior to choosing the equal payment option that the reconciliation could result in a paycheck of less than the equal amount to a possible zero balance due the employee. In all instances, payment must be made regularly on a predesignated date. An employee may opt out of participating in this payment provision by giving notice to the school district in writing prior to the first pay check (Ch. 168 (H. 347), L. 2015, eff. August 25, 2015).

**New York.** Provisions of the New York Labor Law relating to penalties for violations and orders of the labor commissioner to recover wages due were amended to provide that, for orders issued by the labor commissioner for any wages and civil penalty due, at the request of an employee, the labor commissioner shall assign, without compensation or liability, that portion of the filed order that constitutes wages,

wage supplements, interest on wages or wage supplements, or liquidated damages due that employee and may file an assignment or order in that amount in the name of the employee with the clerk of the county where the employer resides or has a place of business (Ch. 2 (S. 1319), L. 2015, enacted February 23, 2015).

**North Dakota.** The state's wage payment law was amended with regard to limitations on payment of accrued paid time off following a separation from employment.

Currently, if an employee has separated from employment voluntarily, a private employer may withhold payment for accrued paid time off if: (a) at the time of hiring, the employer provided the employee with written notice of the limitation of payment of accrued time off; (b) the employee has been employed by the employer for less than one year; and (c) the employee gave the employer less than five days' written or verbal notice.

In addition, effective August 1, 2015, if an employee separates from employment, a private employer may withhold payment for time off if: (a) the paid time off was awarded by the employer but not yet earned by the employee; and (b) before awarding the paid time off, the employer provided the employee with written notice of the limitation on payment of awarded paid time off (H. 1202, L. 2015, enacted April 9, 2015).

**Oklahoma.** New law was enacted to prohibit state agencies from making any payroll deductions on behalf of a state employee for membership dues in any public employee association or organization or professional organization that on or after November 1, 2015, collectively bargains on behalf of its membership pursuant to any provision of federal law (H. 1749, L. 2015, eff. November 1, 2015).

**Oregon.** New law was enacted to protect employees who ask about or disclose wage information.

Effective January 1, 2016, it will be an unlawful employment practice to discipline an employee who inquires about or discloses wage information, with a limited exception. The measure also provides protection to an employee who makes a charge, files a complaint, or institutes a proceeding stemming from the disclosure of the wage information made by the employee. Where the law is violated, aggrieved employees have the right to a private cause of action.

Protection for such wage disclosure will not apply to a person who has access to employee wage information as part of his or her job and the person discloses the wages of those who are not authorized access to that information, unless

the disclosure is made in response to a charge or complaint, or is in furtherance of an investigation, proceeding, hearing, or action, including investigations conducted by the employer (H. 2007, L. 2015).

**Rhode Island.** The state's wage payment law was amended to allow for payment of wages by credit to a payroll card account.

If an employer pays wages to an employee by credit to a payroll account: (1) the employee must be able to make at least one withdrawal from the payroll card account in each pay period without charge for any amount up to and including the full amount of the employee's net wages for the pay period; (2) if the employee's wages are paid more frequently than weekly, the employee must be able to make at least one withdrawal from the payroll card account each week without charge for any amount up to and including the full amount of the employee's net wages for that week; (3) employees who receive wages by credit to a payroll card account must be provided with a means of checking their payroll card account balances, either through an automated telephone system, or online, through the use of the internet, without cost, irrespective of the number of inquiries made (Ch. 246 (H. 5590 (Sub.A), L. 2015, and by Ch. 267 (S. 351), L. 2015).

**Tennessee.** Public officers and employees may authorize deductions for the payment of membership dues and benefit premiums to be made from the employee's compensation for payment to an employee association, if certain conditions are met.

Effective July 1, 2015, any member of the Tennessee highway patrol may authorize payroll deductions for the payment of membership dues to be made from the member's compensation for payment to an organization of members of the Tennessee highway patrol, if such organization meets the following criteria: (a) It solicits membership from all commissioned members of the Tennessee highway patrol; (b) It grants the same rights and privileges of membership to all its members; (c) It provides equal services to its members; and (d) It has a membership of not less than 20% of the currently employed commissioned members of the Tennessee highway patrol (Ch. 314 (S. 582), L. 2015).

**Utah.** Utah law regarding the payment of wages was amended to address the methods by which an employer

may pay an employee after the employer separates the employee from employment.

Effective May 12, 2015, the employer must pay wages due within 24 hours of the time of separation at the specified place of payment. This 24-hour time requirement is met if (1) the employer mails the wages to the employee and the envelope that contains the wages is postmarked with a date that is no more than one day after the date on which the employer separates the employee from the employer's payroll; or (2) within 24 hours after the employer separates the employee from the payroll, the employer (a) initiates a direct deposit of the wages into the employee's account or (b) hand delivers the wages to the employee (S. 272, L. 2015).

**West Virginia.** *Frequency of payment.* Effective June 12, 2015, employers (other than railroads) must pay wages at least twice each month and with no more than 19 days between payments, unless otherwise provided by special agreement (S. 318, L. 2015).

*Final paycheck.* Effective June 11, 2015, employers must pay final wages to an employee separated from employment on or before the next regular payday; However, fringe benefits provided for under an employee-employer agreement are to be paid according to the terms of the agreement. The law was clarified to provide that the scope of this provision is limited to separation from employment and not whether overtime is due. Penalties were also amended (S. 12, L. 2015).

*Wage claims.* The plaintiff has an affirmative duty to mitigate past and future lost wages against a current or former employer, regardless of whether the plaintiff can prove the defendant employer acted with malice or malicious intent, or in willful disregard of the plaintiff's rights. Any award of back pay or front pay by a commission, court or jury shall be reduced by the amount of interim earnings or the amount earnable with reasonable diligence by the plaintiff (S. 344, L. 2015).

**Wyoming.** The law relating to payment of wages was amended to provide that wages due an employee who quits shall be paid as scheduled for regular payroll (Act 86 (H. 127), L. 2015, eff. March 4, 2015). ■

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## MISCELLANEOUS STATE LAWS

### Other 2015 state law activity that may be of interest to employers

**California.** *Meal and rest periods.* California law prohibits an employer from requiring an employee to work during a meal or rest or recovery period mandated by an applicable statute, or applicable regulation, standard, or order of the

Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, and establishes penalties for an employer's failure to provide a mandated meal or rest or

recovery period. With certain exceptions, the law authorizes the commission to adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

Health care employers have relied on Industrial Welfare Commission Wage Orders (Nos. 4 and 5, from 1993 through 2000), and subsequent regulations, to allow employees to voluntarily waive one of their two meal periods on shifts exceeding 12 hours. The Orders continue to be enforced by the Division of Labor Standards Enforcement (DLSE).

However, a recent appellate court decision, *Gerard v. Orange Coast Memorial Medical Center* (2015) 234 Cal.App.4th 285, created uncertainty regarding the waiver that, without clarification, would require hospitals to alter scheduling practices. The California Court of Appeals concluded in that decision that certain language contained in a Wage Order of the Commission was invalid to the extent it conflicts with California Labor Code Section 512. Specifically, Section 512 prohibits waiver of a second meal period when an employee works more than 12 hours. Wage Orders 4 and 5, Section 11(D) have allowed such waivers in the health care industry since 1993.

In light of the court decision, statutory provisions have been amended effective October 5, 2015, to clarify that the health care employee meal period waiver provisions in Section 11(D) of Industrial Welfare Commission Wage Orders 4 and 5 were valid and enforceable on and after October 1, 2000, and continue to be valid and enforceable (Ch. 506 (S. 327), L. 2015, effective October 5, 2015).

*E-Verify.* The state enacted a law expanding the definition of an unlawful employment practice to prohibit an employer or any other person or entity from using the E-Verify system at a time or in a manner not required by a specified federal law or not authorized by a federal agency memorandum of understanding to check the employment authorization status of an existing employee or an applicant who has not received an offer of employment, except as required by federal law or as a condition of receiving federal funds.

The law will also require an employer that uses the E-Verify system to provide to the affected employee any notification issued by the Social Security Administration or the U.S. Department of Homeland Security containing information specific to the employee's E-Verify case or any tentative non-confirmation notice.

The law provides for a civil penalty of \$10,000 for an employer for each violation of these provisions (Ch. 696 (A. 622), L. 2015).

**Georgia.** The state amended its law relating to employer parking lots and the right to privacy in vehicles in such

areas. Existing law provides that an employer may not condition employment upon an agreement by a prospective employee that prohibits an employee from entering the parking lot and access thereto when the employee's privately owned motor vehicle contains a firearm that is locked out of sight within an enclosed compartment or area within such vehicle, as long as the firearm owner possesses a Georgia weapon carry license. As amended by Act 100 (H. 492), L. 2015, this provision will be extended to ammunition as well as the firearm itself.

The state also amended the Fair Business Practices Act of 1975 with respect to consumer reports furnished to employers for employment purposes. Among other requirements, a consumer reporting agency furnishing a consumer report for employment purposes that is likely to have an adverse effect upon a consumer's ability to obtain employment must notify the consumer of the fact that public record information is being reported, together with the name and address of the person to whom such information is being reported (Act 74 (H. 328), L. 2015).

**North Carolina.** Under the State Government Ethics Act, use of a public position for private gain is prohibited. A covered person shall not mention or authorize another person to mention the covered person's public position in a non-governmental advertising that advances the private interest of the covered person or others. However, this prohibition shall not apply to a letter of character reference for an individual seeking employment, at the request of that individual or in response to an inquiry of a potential employer as to the qualifications and character of that individual.

A "covered person" under this Act means a legislator, public servant, or judicial officer (Session Law 2015-208 (H. 584), effective August 11, 2015).

The state also enacted a law requiring E-Verify compliance in certain governmental contracts (Session Law 2015-294 (H. 318), L. 2015).

**Tennessee.** Effective July 1, 2015, no employer shall discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner otherwise consistent with Tennessee law (Ch. 80 (S. 1058), L. 2015).

Also, the state enacted a law relating to firearm ownership by teachers and other school employees. Specifically, no school administrator or other employee of an LEA shall require a teacher or other school employee to provide information on firearm ownership by the teacher or school employee.

Additionally, any information on firearm ownership that is voluntarily provided by a student, parent, teacher, or LEA employ-

ee shall not be the basis for adverse employment action against a teacher or LEA employee (Ch. 214 (S. 633), L. 2015).

**Texas.** Effective September 1, 2015, state agencies are required to participate in the federal electronic verification of employment authorization program (E-Verify) (S. 374, L. 2015).

**Wisconsin.** Wisconsin is now a “right to work” state. Wisconsin Governor Scott Walker signed Special Session Senate Bill 44, or “Freedom to Work,” on March 9, 2015. The legislation eliminates any requirement that employees pay union dues as a condition of employment, while maintaining the option to choose union membership.

Senate Bill 44 prohibits, as a condition of employment or continuing employment, that a person: (1) refrain or resign

from membership in, voluntary affiliation with, or voluntary financial support of a labor organization; (2) become or remain a member of a labor organization; (3) pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization; (4) pay to any third party an amount that is in place of, equivalent to, or any portion of dues, fees, assessments, or other charges or expenses required of members of, or employees represented by, a labor organization.

Workers maintain the right to contribute to unions; However, this contribution is a voluntary, noncompulsory act.

A violation of the law is a Class A misdemeanor, punishable by a fine of not more than \$10,000 and/or imprisonment not to exceed nine months. ■