

## FEDERAL

### ACA Affordability Threshold Increases for 2025 Plan Year

The IRS has announced that the 2025 health plan affordability threshold will be 9.02 percent of an employee's household income, which is an increase from 2024's 8.39 percent. This threshold is used to determine if an employer's lowest premium health plan meets the Affordable Care Act's (ACA) affordability requirements. The ACA applies to employers with fifty or more full-time employees and/or full-time equivalents. Employees who work thirty or more hours per week are considered full-time.

### DOL's 80/20 Tip Rule Overturned

On August 23, 2024, in the case [Restaurant Law Center v. United States Department of Labor](#), the Fifth Circuit Court of Appeals struck down the Department of Labor's 80-20 labor rule that regulated the amount of time tipped employees may spend performing work that did not directly generate tips.

Employers are no longer held to the constraints of the 2021 Final Rule which prohibited them from claiming tip credits for non-tipped work that exceeded 20% of an employee's workweek or for non-tipped tasks performed for more than 30 consecutive minutes. The Court held that the Final Rule contradicted the plain text of the FLSA, which defines a "tipped employee" based on their occupation, and not on individual tasks.

The DOL may appeal to the Fifth Circuit Court of Appeals' ruling, but for now employers may resume taking the tip credit for employees who fall under the Fair Labor Standards Act and are engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips, without the necessity of tracking their occupational tasks.

### FTC Ban on Non-Complete Agreement

The Federal Trade Commission's (FTC) Final Rule prohibiting employers from utilizing non-compete agreements was set to take effect on September 4, 2024. However, on August 20, 2024, a Texas federal court struck down the FTC ban on non-competes stating it did not have the statutory authority to issue the Final Rule. The ruling effectively blocked it from taking effect as scheduled. Additionally, the Court ruled that the FTC does not have the authority to issue substantive rules and can only issue procedural issues and adjudicate unfair competitive practices on a case-by-case basis. Employers are now back to following state-specific restrictions on non-competes.

## STATE

### CALIFORNIA

#### California Health Care Minimum Wage Raise

Last fall, California enacted Senate Bill 525, which substantially raises the base minimum wage for health care workers, gradually, to \$25 per hour. The first incremental increase above the general state minimum wage was scheduled to occur on June 1, 2024. However, there were several delays and amendments to the law due to its impact on the California budget.

After the last delay in late June, health care employers did not have a clear answer to when they would be required to pay the higher minimum wages: the increase requirement could start as early as October 15, 2024, but no later than January 1, 2025. On October 1, 2024, the California Department of Health Care Services took action that triggered **October 16th** as the deadline for the first wage increase.

Health care workers are eligible to receive the higher minimum wage if they: (1) work for certain “health care facilities” that are covered in the new law and (2) provide health care services or support the provision of health care.

Further details may be found in the [FAQs](#) published by the State of California Department of Industrial Relations.

### Los Angeles County Fair Chance Ordinance

Effective **September 3, 2024**, the Los Angeles County “Fair Chance Ordinance” (FCO) now enforces stricter rules for criminal background checks in unincorporated areas. It applies to employers with five or more employees and requires non-discriminatory job postings, delayed criminal history inquiries, and detailed offer letters.

Employers must post, in a conspicuous place at any workplace or jobsite within unincorporated areas of the County of Los Angeles where any worker works, a [notice](#) informing workers of their rights under the Fair Chance Ordinance for Employers.

Employers may consult the [FAQs](#) published by the County of Los Angeles Department of Economic Opportunity.

### San Diego County Fair Chance Ordinance

Effective **October 10, 2024**, employers that have five or more employees, and are located or doing business in the unincorporated areas of San Diego County, must comply with the county’s Fair Chance Ordinance. The new ordinance restricts employer inquiries and actions related to a candidate’s criminal history and generally aligns with state law.

Specifically, employers cannot:

- State in job postings, including for transfer or promotion, any limitation due to a conviction or arrest, except when required by law.
- Include criminal history questions on applications or similar documents.
- Ask about, consider, or take adverse action based on an applicant’s criminal history before making a conditional offer of employment, transfer, or promotion.
- While conducting a criminal history background check, inquire, consider, or distribute information about arrests, diversion programs, or any conviction that has been sealed, dismissed, expunged, or statutorily eradicated, or for which the candidate has received a full pardon or has been issued a certificate of rehabilitation.

The ordinance also requires employers that intend to deny a candidate a position based on their criminal history to prepare a written individualized assessment; a copy of which employers are not required to provide to the candidate. Additionally, employers must provide a pre-adverse action notice to the candidate before revoking a conditional offer. The notice must include specific information. Employers must then provide the candidate with at least five business days to response to the pre-adverse action notice and the job shall remain open during the notice period.

## COLORADO

### Holiday Incentive Pay Must Be Included in Regular Rate of Pay Calculation for Overtime

In the case of [Hamilton v. Amazon.com Services LLC](#), the Supreme Court of Colorado issued an opinion on **September 9, 2024**, clarifying that unlike federal law, Colorado law requires that holiday incentive be included in the regular rate of pay for purposes of calculating overtime. The Court explained the regular rate of pay must include all payments that the parties have agreed would be received during the workweek (excluding overtime payments). These payments include “shift differentials,” which the Court described as when an employee receives a higher wage because of undesirable hours or disagreeable work.

## CONNECTICUT

### Expansion of Family Violence Leave

Connecticut expanded its Family Violence Leave Law effective **October 1, 2024**. The law now includes victims of sexual assault, in addition to family violence victims. Under this expansion, employees who are victims of sexual assault are entitled to take up to 12 days of unpaid leave per calendar year. This leave can be used for various purposes, such as seeking medical treatment, counseling, or relocating to ensure safety. Employers with three or more employees must comply with this new provision, making it important for organizations to update their policies accordingly.

## DELAWARE

### Housing Status Added as a Protected Characteristic

Delaware recently added “housing status” as a protected class for employment purposes. As of **September 26, 2024**, it is unlawful for employers in Delaware with four or more employees to discriminate against employees or job applicants based on their housing status. This new protection covers individuals regardless of whether their overnight residence is permanent or temporary. Employers must now ensure that housing status is included in their Equal Employment Opportunity (EEO) policies to comply with the updated law.

## FLORIDA

### Recent Increase to Florida’s Minimum Wage

On **September 30, 2024**, Florida’s minimum wage increased from \$12.00 per hour to \$13.00 per hour. The minimum wage tip credit remains the same, \$3.02, bringing the minimum wage for tipped employees in Florida to \$9.98. The increase is pursuant to the Florida constitutional amendment that raises the minimum wage to \$15.00 per hour by September 2026.

All Florida employers are required to post the current minimum wage poster in their place of business where an employee can see it. [Click here](#) to view the English version of the poster, or [click here](#) for other languages.

## MARYLAND

### Changes to Pay Notice Requirements at Hire and Pay Stub Requirements

As of **October 1, 2024**, employers are required to provide **written** notice of pay rates, regular pay days, and leave benefits at the time of hire, and must now include certain information on every pay stub or online pay statement. The Maryland Department of Labor published a template pay stub to help comply with the new requirements.

You may find more information on the Maryland Department of Labor website, located [here](#).

### New Heat Stress Regulation

Maryland’s Occupational Safety and Health (MOSH) Division of Labor and Industry recently announced its publication of the Heat Illness Prevention Standard as a final regulation in the September 20, 2024, edition of the Maryland Register.

As of **September 30, 2024**, with limited exceptions, employers with employees whose work activities, indoor or outdoor, expose employees to a heat index in the area where the employee is working that equals or exceeds 80° Fahrenheit must monitor the workplace heat index, create an effective heat-related illness prevention and management plan, and provide training to employees. In instances when temperatures rise to 90° or higher, employers must implement additional requirements.

You may find more information on the Maryland Department of Labor website, located [here](#).

## Pay Transparency

As of **October 1, 2024**, Maryland employers will be required to disclose the wage range or salary, benefits, and any other compensation information on all job postings for work to be performed at least partly in the state. This requirement applies to both internal and external postings. Employers must retain records of their compliance for at least three years after the initial posting or when the employer fills the position, whichever is later.

For more information, here is a [link](#) to FAQs published by the Maryland Department of Labor.

## Prince George's County Amends Criminal Background Check Law

Prince George's County, Maryland recently amended its criminal background check law, with changes that became effective on **September 16, 2024**. The amended law, renamed "Access to Employment for Returning Citizens", introduces several significant changes.

Key amendments include:

1. **Lower Employer Threshold:** The law now applies to employers with 10 or more full-time employees, a reduction from the previous threshold of 25.
2. **Restrictions on Criminal Background Inquiries:** Covered employers cannot inquire about or consider a job applicant's criminal history until after the initial interview. After the interview, covered employers are prohibited from considering certain criminal records, including:
  - Nonviolent felony convictions if the sentence was completed more than 5 years ago.
  - Misdemeanor convictions if the sentence was completed more than 30 months ago.
  - Arrests that did not lead to a conviction.
  - Arrests or convictions for possession of marijuana or cannabis-related paraphernalia provided the sentence has been completed.

## MASSACHUSETTS

### PFML: 2025 Contribution Rates and Benefit Amounts

The Massachusetts Department of Family and Medical Leave (Department) announced the 2025 weekly benefit amount and contribution rates for both employers and employees under the state's Paid Family and Medical Leave benefit program, which is funded through a payroll tax.

**Maximum Weekly Benefit:** Starting **January 1, 2025**, the most an employee can receive per week when they take paid family or medical leave is **\$1,170.64**. This is a slight increase from the 2024 maximum of \$1,149.90.

#### Contribution Rates:

- **For Employers with 25 or More Employees:**
  - Total contribution rate stays at **0.88%** of each employee's wages.
  - The breakdown:
    - **0.18%** toward family leave (you can take this entirely from employee paychecks).
    - **0.70%** toward medical leave. Employers must pay 60% of this, and the rest (up to 40%) can come from employee wages.
- **For Employers with Fewer than 25 Employees:**
  - Total contribution rate is **0.46%** of each employee's wages.
  - You are not required to contribute to the medical leave portion, but you can still take:
    - **0.18%** for family leave and **0.28%** for medical leave from employee wages.

For more information, you may visit the state's Department of Family and Medical Leave website, [here](#).

## Revised Workers' Compensation Notice

Massachusetts employers are required to give written or printed notice of workers' compensation coverage to employees. This includes posting the notice in the workplace. According to the Massachusetts Department of Industrial Accidents (DIA), the revised notice must be placed in a visible location that is used by and accessible to all employees. If there is no such location, employers may distribute the revised notice to employees either by regular mail or electronically.

The [revised notice](#) to employees is offered by the DIA in English, Arabic, Cape Verdean, Chinese, Haitian Creole, Khmer, Portuguese, Spanish, and Vietnamese.

## MINNESOTA

### New Employer-Sponsored Meetings Poster

The Minnesota Department of Labor and Industry has released the new Employer-Sponsored Meetings poster, which must be posted by employers of all sizes in a location where other employee notices are typically placed.

You can find the poster in several languages under the "Required Posters" section [here](#).

### Paid Leave Wage Reports Due October 31, 2024

Minnesota employers of all sizes are required to submit their first employee wage reports to the state by **October 31, 2024**, as part of their obligations under the state's Paid Leave law. The reports must include each employee's name, social security number, hours worked, and wages paid for the period of July 1, 2024 through September 30, 2024.

Employers need to submit this information quarterly through the state's Unemployment Insurance (UI) online system. Employers that are covered by the UI program will be able to submit a single wage detail file for both programs when they pay their UI taxes. Employers not covered by UI are required to set up a "Paid Leave Only" account in the UI system.

Paid Leave benefits will be available to employees starting on **January 1, 2026**. Employers may begin taking payroll deductions on the same date and must submit their first premiums to the state by **April 30, 2026**.

For more information, see [Minnesota's Paid Leave employer website](#).

## NEW HAMPSHIRE

### Crown Act

Effective **September 1, 2024**, workplace discrimination based on race includes discrimination based on an employee's hair texture or protective hairstyle. "Protective hairstyles" means hairstyles or hair type, including braids, locs, tight coils or curls, corn rows, Bantu knots, Afros, twists, and head wraps.

### New Veterans' Benefits and Services Poster

The New Hampshire Department of Labor recently released the new Notice of Veterans' Benefits and Services poster, which must be posted by employers of all sizes in a location that's accessible to all employees.

You may find the poster [here](#).

## NEW YORK

### Clean Slate Act

The NY Clean Slate Act amends the State Human Rights Law to prohibit employers from inquiring about or discriminating against applicants or employees sealed criminal records. The New York State Office of Court Administration is tasked implementing the processes necessary to identify and seal all eligible records, however they have been given three years to perfect their process.



Employers who conduct background checks and receive criminal history information must provide the individual with a copy of the report and inform them of their right to dispute any inaccuracies. The law takes effect on **November 16, 2024**. For more details, follow this link read the [Clean Slate Act](#) in its entirety.

## PENNSYLVANIA

### **Pittsburgh Ordinance Bans Tests for Many Prospective and Current Employees Who Use Medical Marijuana.**

On **September 24, 2024**, the Pittsburgh City Council passed a new ordinance prohibiting discrimination against an individual's status as a medical marijuana patient. Mayor Ed Gainey signed the ordinance the same day, making it **effective immediately**. The new ordinance makes it an unlawful employment practice for employers with five or more employees, employment agencies, and labor organizations to require applicants who hold valid Pennsylvania medical marijuana cards to participate in a pre-employment drug test for marijuana. It also limits employers' right to require marijuana tests of employees who hold Pennsylvania medical marijuana cards during employment absent suspicion of impairment.

The ordinance amends Pittsburgh's Anti-Discrimination laws, learn more by reading the text of City code found [here](#).

## TEXAS

### **Food Allergen Awareness Poster: Sergio Lopez Food Allergy Awareness Act**

Effective **September 1, 2024**, restaurants, retailers, and other food service establishments must display a food allergen poster in an area of the establishment regularly accessible to the establishment's food service employees.

The Texas Department of State Health Services published the poster, a copy may be found [here](#).

### **Workplace Violence Prevention**

Effective **September 1, 2024**, covered healthcare providers are required to be in compliance with the State's workplace violence prevention law that took effect on September 1, 2023. To be considered compliant, healthcare providers must have adopted a workplace violence prevention plan and have established written policies and procedures to ensure its implementation and enforcement.

Policies must:

- Give substantial attention to the Plan proposed by the facility's committee;
- Encourage employees to confidentially report information on workplace violence to the committee;
- Incorporate measures to protect employees from retaliation when they provide such information; and
- Adhere to the Texas Health and Human Services Commission's regulations regarding workplace violence.

The Texas Health and Human Services issued a guidance letter, a copy may be found [here](#).