

# Insight

## IN-DEPTH DISCUSSION

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### Ushering in a New Year of Labor and Employment Legislation

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With the new year less than one month away, the compliance countdown for new laws has begun. Limited time remains in 2015 for employers to ensure policies and practices are developed or revised to meet 2016 obligations. Time is of the essence, particularly as key management personnel are more likely to be absent this time of year because of upcoming holidays and planned vacations. Companies must make the most of what remains of 2015 to ensure they are prepared when they ring in 2016. To assist with this process, we have identified key labor and employment laws that will take effect in 2016 and impact employer operations throughout the country.

Federal legislative developments generally remain a nostalgic concept, as Congress stayed politically incapacitated. The only significant action at the federal level occurred via agency rulemaking, guidelines, and administrative decisions.

In 2015, the bulk of changes occurred at the state and local levels. The total number of generally applicable state labor and employment laws decreased from the number enacted in 2014. The proportion of labor- and employment-related bills enacted at the local level, however, increased. These laws covered a wide spectrum of subjects that have either already taken effect or will take effect in 2016. Popular topics covered at the state and local levels include 1) minimum wage; 2) paid sick leave; 3) pregnancy accommodation; 4) equal pay; 5) veterans hiring preference; 6) social media privacy; and 7) wage disclosure protections.

Efforts to increase the minimum wage show no signs of abating. This has been a bottom-up movement, with an ever-expanding list of localities enacting standards exceeding those in place at the federal and state levels. This push has, in certain instances, caused some states to enact laws preventing cities from doing so.

Paid sick leave is another development that has occurred primarily at the local level, as a federal mandate remains stalled in Congress. Although the number of local jurisdictions with applicable

laws continues to exceed the number of state-level laws, the issue gained national attention when President Obama issued an Executive Order requiring that such benefits be provided to certain federal contractors' employees in 2017.

Lawmakers at the state and local levels also strengthened workplace protections for women. Many laws were enacted to eliminate pay disparities based on sex, and/or provide increased protections to pregnant workers. A handful of laws, for example, require employers to provide reasonable accommodation for conditions relating to pregnancy and childbirth. Included within some of these laws are workplace protections for employees who ask about, discuss, or disclose their wages to their coworkers. Some of these "wage transparency" protections were instituted as standalone measures.

Social media privacy was another popular issue in 2015, with six states enacting bills that limit an employer's access to an employee's social media account or password. All but one of these laws have already taken effect.

In addition, laws intended to help veterans have been enacted in an increasing number of states. These measures allow employers to institute policies that provide veterans hiring and promotion preferences without running afoul of fair employment practices laws. The number of states and localities with "ban-the-box" laws prohibiting employers from asking applicants about criminal history also increased.

The vast majority of laws enacted in 2015 have already taken effect. Below we highlight major federal and state laws that take effect in 2016 that will generally impact employer operations throughout the United States.<sup>1</sup> Additionally, we have included a sample of local obligations that will arise next year. Although we have also included some industry-specific laws, these are included solely to highlight an employer's complex task of keeping track of federal, state, local, and industry-specific obligations. This list is non-exhaustive, so employers are encouraged to consult with knowledgeable counsel to determine which local, state, and/or federal challenges await them in 2016.

## Federal

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	Revenue Procedure 2015-30	Employment Taxes	Establishes 2016 limitation on deductions for Health Savings Accounts (HSAs): \$3,350 for an individual with self-only coverage under a high deductible health plan; \$6,750 for an individual with family coverage under a high deductible health plan.
1/1/2016	Executive Order 13658	Minimum Wage (Federal Contractor Employees)	Pursuant to Executive Order Executive Order 13658, the minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts is \$10.15 per hour. The required minimum cash wage that generally must be paid to tipped employees performing work on or in connection with covered contracts is \$5.85 per hour.

<sup>1</sup> Information in this article was derived from Littler GPS®, the firm's subscription service that tracks and analyzes employment- and labor-related legislation and regulations. In addition to legislative and regulatory tracking and analysis, GPS subscribers also have access to a comprehensive library of surveys covering a wide variety of labor and employment issues.

1/11/2016	Executive Order 13665	Wage Disclosure	The Office of Federal Contract Compliance Programs (OFCCP) published a final rule to implement Executive Order 13665 issued on April 8, 2014 to prohibit federal contractors from discriminating against, in any manner, employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants. Executive Order 13665 amends Executive Order 11246, which prohibits employment discrimination because of race, color, religion, sex, sexual orientation, gender identity, or national origin, by revising the mandatory equal opportunity clauses that are included in federal contracts and subcontracts, and federally assisted construction contracts, and creating contractor defenses.
8/1/2016 (may occur earlier)	H.R. 1314 <sup>2</sup>	Health & Safety	Deadline for OSHA to establish increased penalties, including an initial "catch-up adjustment."
9/30/2016	Executive Order 13706 <sup>3</sup>	Leave of Absence	Deadline for U.S. Department of Labor to issue regulations implementing Executive Order on paid sick and safe time obligations for certain federal contractors.

## Alabama

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 352	Non-Competition Agreements	Clarifies and restates the law relating to restrictive covenants. Details what is a "protectable interest," states requirements for a valid agreement, describes whether provisions can be "blue penciled" by a court, and outlines requirements for enforcing and defending against agreements, remedies.

## Alaska

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	Ballot Measure (2014)	Minimum Wage	Increases the minimum wage from \$8.75 to \$9.75 per hour.

## Arkansas

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	Ballot Measure (2014)	Minimum Wage	Increases the minimum wage from \$7.50 to \$8.00 per hour, and increases maximum tip credit from \$4.87 to \$5.37 per hour for tipped employees.

<sup>2</sup> See Ben Huggett, *OSHA Penalties – After 25 Years There Will be an Increase*, Littler Insight (Nov. 4, 2015).

<sup>3</sup> See Christopher Kaczmarek, Ilyse Schuman, and Linda Jackson, *Executive Order Requires Federal Contractors to Provide Paid Sick Leave*, Littler Insight (Sept. 22, 2015).

## California<sup>4</sup>

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 570 <sup>5</sup>	Data Breach	Provides new format and content requirements for data breach notices, and sets a minimum timeframe substitute notice must be posted on an entity's website.
1/1/2016	AB 1541	Data Breach	Expands definition of "personal information" that would trigger breach notification requirements if disclosed.
1/1/2016	SB 600	Discrimination	Prohibits discrimination based on citizenship, primary language, and immigration status.
1/1/2016	SB 358 <sup>6</sup>	Equal Pay	Prohibits preventing employees from disclosing their wages, inquiring about or discussing others' wages, or aiding or invoking employees' assertion of rights. The measure also relaxes the burden of proof for establishing an equal pay violation, and increases the length of time records must be kept.
1/1/2016	AB 622	Immigration	Prohibits verifying an individual's employment authorization status in a manner inconsistent with federal law, and imposes a pre-adverse action notification requirement.
1/1/2016	AB 583	Leave of Absence	Extends leave of absence and reinstatement protections to members of other states' National Guards who are called to active service by a governor or the President.
1/1/2016	SB 579	Leave of Absence	Broadens reasons for which school activities leave can be used. The law aligns "kin care" provisions with the state's paid sick leave law and expands the reasons for which, and for whom, kin care can be used.
1/1/2016	SB 588	Liability of Employers	Authorizes the state labor commissioner to file a lien on real estate, or a levy on an employer's property, or impose a stop order on an employer's business in order to assist an employee in collecting unpaid wages where there is a judgment against the employer. The law also imposes joint and several liability for unpaid wages in property services and long-term care industries. Finally, the law's provisions address liability for minimum wage, wage & hour, and wage order violations.
1/1/2016	AB 980	Liability of Employers	Authorizes state labor commissioner to issue a citation to enforce local minimum wage and overtime laws, including against an employer or person acting on behalf of an employer for violations of existing law related to reimbursements for expenses.

<sup>4</sup> For a discussion about industry-specific laws that will apply in 2016, as well as other California developments, see Christopher Cobey and Marina Gruber, *A Legislative El Niño for California?: New 2016 Employment Laws for the State's Private Sector Employers*, Littler Insight (Oct. 12, 2015).

<sup>5</sup> See Philip Gordon and Jennifer Mora, *Recent Amendments to Security Breach Notification Laws Further Complicate Breach Notification for Employers*, Littler Insight (Nov. 4, 2015).

<sup>6</sup> See Denise Visconti and Jennifer Savion, *California Passes Law Aimed to Bridge the Gender Wage Inequality Gap*, Littler Insight (Oct. 6, 2015).

1/1/2016	AB 1513 <sup>7</sup>	Meal & Rest Breaks	Sets out requirements for paying a separate hourly wage for "nonproductive" time worked by piece-rate employees, and establishes separate payment for rest and recovery periods. The law also requires additional information on wage statements beyond what is generally required, and includes a limited safe harbor provision.
1/1/2016	AB 10 (2013)	Minimum Wage	Increases the minimum wage from \$9 to \$10 per hour.
1/1/2016 (Oakland)	Measure FF (2014)	Minimum Wage	Increases the minimum wage from \$12.25 to \$12.55 per hour.
1/1/2016 (Richmond)	Ordinance No. 11-14 (2014)	Minimum Wage	Increases the minimum wage from \$9.60 to \$11.52 per hour. Credit toward minimum wage may be available if the employer contributes towards an employee medical benefits plan.
1/1/2016	2016 Computer Software Employee Overtime Exemption Pay Rate Announcement	Overtime	Increases required hourly rate of pay from \$41.27 to \$41.85 per hour, increases monthly rate from at least \$7,165.12 to at least \$7,265.43, and increases annual rate from at least \$85,981.40 to at least \$87,185.14.
1/1/2016	2016 Licensed Physician & Surgeon Overtime Exemption Pay Rate Announcement	Overtime	Increases required hourly rate from \$75.19 to \$75.24.
1/1/2016	AB 987	Reasonable Accommodation	Prohibits retaliating or discriminating against a person for requesting accommodation for a disability or religious beliefs, regardless of whether the accommodation request was granted.
1/1/2016	AB 1509	Retaliation	Amends anti-retaliation and whistleblowing laws to extend protections to an employee who is a family member of a person who engaged in, or was perceived to engage in, protected conduct or who made a protected complaint.
1/1/2016	AB 667	Unemployment	Extends duration of "disability benefit period" from 14 to 60 days.
1/1/2016	SB 658	Workplace Safety	Creates a liability exemption for businesses when an individual uses an automated external defibrillator (AED) in good faith at the scene of an emergency. Removes certain employee training requirements. Finally, the measure amends provisions relating to selection, placement, and installation of the AED.
1/21/2016	AB 304	Leave of Absence	Extends obligation to provide written notice when wages are paid (via wage statement or separate writing) about available paid sick leave or paid time off leave an employer provides in lieu of sick leave to employers in the broadcasting and motion picture industries.

<sup>7</sup> See Richard Rahm and Angela Raforth, *California Governor Signs AB 1513, Severely Limiting Piece-Rate Compensation but Throwing a Liability Life Raft to Employers*, Littler Insight (Oct. 12, 2015)

7/1/2016 (Los Angeles)	Ordinance No. 183612 <sup>8</sup>	Minimum Wage	Sets a minimum wage of \$10.50 per hour for employers with 26 or more employees, and provides for future increases and a separate minimum wage applicable to employers with 25 or fewer employees beginning July 2017.
7/1/2016 (San Francisco)	Ballot Measure (2014)	Minimum Wage	Increases the minimum wage from \$12.25 to \$13.00 per hour.
10/1/2016 (Berkeley)	Ordinance No. 7,352 (2014)	Minimum Wage	Increases the minimum wage from \$11.00 to \$12.53 per hour.

## Colorado

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	Minimum Wage Order 32	Minimum Wage	Increases the minimum wage from \$8.23 to \$8.31 per hour, and increases the minimum cash wage from \$5.21 to \$5.29 per hour for tipped employees.

## Connecticut

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	SB 32 (2014)	Minimum Wage	Increases the minimum wage from \$9.15 to \$9.60 per hour. For tipped employees, increases the minimum cash wage from \$5.78 to \$6.07 per hour (wait staff), \$7.46 to \$7.82 per hour (bartenders), and \$8.80 to \$9.25 per hour (other tipped employees); increases maximum tip credit from \$3.37 to \$3.53 per hour (wait staff) and from \$1.68 to \$1.78 per hour (bartenders).

## Delaware

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 4	Reasonable Accommodation	Requires employers to provide reasonable accommodation to employees who are victims of domestic violence, a sexual offense, or stalking.

## District of Columbia

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	B20-0459 (2014)	Minimum Wage	Increases the minimum wage from \$10.50 to \$11.50 per hour; increases maximum tip credit from \$7.73 to \$8.73 per hour for tipped employees.

<sup>8</sup> See Shiva Davoudian, *The Trend Continues: Los Angeles City Council Tentatively Approves Citywide \$15 Minimum Wage and Proposes Sick Leave Ordinance*, Littler ASAP (May 20, 2015).

## Hawaii

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 2609 (2014)	Minimum Wage	Increases the minimum wage from \$7.75 to \$8.50 per hour; increases the minimum cash wage from \$7.25 to \$7.75 per hour, and maximum tip credit from \$.50 to \$.75 per hour for tipped employees if wages and tips equal at least \$7.00 more than the minimum wage.
1/1/2016	HB 940	Smoking in the Workplace	Expands workplace restrictions to include electronic smoking devices.

## Illinois

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 1764	Benefits	Expands the scope of mandatory infertility coverage and what constitutes "infertility" under benefits law.
1/1/2016	HB 3619	Equal Pay	Expands coverage of the state's equal pay law to include all employers (prior law covered only those with 4 or more employees) and increases penalties for violations.
1/1/2016	SB 1571	Medical Marijuana	Provides that employers and property and casualty insurers are not required to reimburse medical marijuana use costs.
1/1/2016	SB 38	Overtime	Exempts from state overtime laws employees who are members of a bargaining unit recognized by the Illinois Labor Relations Board whose union has contractually agreed to an alternate shift schedule allowed by the FLSA.
1/1/2016	SB 1859	Staffing Agencies	Requires an employment agency to give employer clients proof of a valid license when the contract begins and must notify clients within 24 hours of any denial, suspension, or revocation thereof, which invalidates the contract until the agency is re-licensed and in good standing.
1/1/2016	HB 3122	Veterans' Hiring Preference	Allows an employer to adopt an employment policy that gives preference to a military veteran and his or her relatives. The employer must post the policy at the workplace or online, notify applicants of the policy and where it can be obtained, and consistently apply the policy.
7/1/2016 (Chicago)	Ordinance No. O2014-9680 (2014)	Minimum Wage	Increases the minimum wage from \$10 to \$10.50 per hour.

## Iowa

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
5/1/2016 (Johnson County)	Ordinance No. 09-10-15-01	Minimum Wage	Increases the minimum wage from \$8.20 to \$9.15 per hour in cities within the county that have not opted out of the law.

## Kentucky

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
7/1/2016 (Lexington)	Ordinance No. 130-2015	Minimum Wage	Establishes a minimum wage of \$8.20 per hour, with set increases in 2017 and 2018, and a review of the minimum wage in 2018. Allows employers to pay tipped employees a minimum cash of \$2.13 per hour if cash wage plus tips equals the minimum wage.
7/1/2016 (Louisville)	Ordinance No. 216	Minimum Wage	Increases the minimum wage from \$7.75 to \$8.25 per hour.

## Maryland

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
7/1/2016	HB 295 (2014)	Minimum Wage	Increases the minimum wage from \$8.25 to \$8.75 per hour; increases maximum tip credit from \$4.62 to \$5.12 per hour for tipped employees.
7/1/2016 (Montgomery County)	Bill 27-13 (2013)	Minimum Wage	Increases the minimum wage from \$9.55 to \$10.75 per hour; increases maximum tip credit from \$5.55 to \$6.75 per hour for tipped employees.
10/1/2016 (Montgomery County)	Bill 60-14 <sup>9</sup>	Leave of Absence	Requires employers to allow employees to accrue and use paid sick leave for various purposes, e.g., an employee's or family member's illness, injury or medical condition, domestic violence, sexual assault, or stalking, or certain public health emergencies. The law also contains general and wage statement notice requirements, and anti-retaliation provisions.
10/1/2016 (Prince George's County)	Bill 94-2013 (2013)	Minimum Wage	Increases the minimum wage from \$9.55 to \$10.75 per hour; increases maximum tip credit from \$5.92 to \$7.12 per hour for tipped employees.

## Massachusetts

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 2195 (2014)	Minimum Wage	Increases the minimum wage from \$9.00 to \$10.00 per hour; increases the minimum cash wage from \$3.00 to \$3.35 per hour, and the maximum tip credit from \$6.00 to \$6.65 per hour, for tipped employees.

## Michigan

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 934 (2014)	Minimum Wage	Increases the minimum wage from \$8.15 to \$8.50 per hour; increases the minimum cash wage from \$3.10 to \$3.23 per hour, and the maximum tip credit from \$5.05 to \$5.27 per hour, for tipped employees.

<sup>9</sup> See Libby Henninger and Michael Childers, *Montgomery County, Maryland Joins the Jurisdictions Requiring Paid Sick Leave, Alters the Employer Tip Credit*, Littler Insight (July 7, 2015).

## Minnesota

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	SB 1775 (2014)	Minimum Wage	Increases the minimum wage from \$9.00 to \$9.50 per hour for employers with gross sales of at least \$500,000, and increases the minimum wage from \$7.25 to \$7.75 per hour for employers with gross sales of less than \$500,000.

## Nebraska

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	Ballot Measure (2014)	Minimum Wage	Increases the minimum wage from \$8.00 to \$9.00 per hour; increases the maximum tip credit from \$5.87 to \$6.87 per hour for tipped employees.

## Nevada

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
7/1/2016	AB 179	Data Breach	Expands the definition of personal information, and the exceptions to the security breach notification requirement.
7/1/2016	2016-2017 Minimum Wage Announcement	Minimum Wage	The minimum wage <u>may</u> increase from July 1, 2016 through June 30, 2017, depending on the Labor Commissioner's determination, which is due by April 1, 2016.

## New Hampshire

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
1/1/2016	HB 522	Workplace Safety	Changes the term "material safety data sheet" to "safety data sheet" and revises what information must be included in the sheet.

## New Jersey

<b>Effective Date</b>	<b>Bill Number</b>	<b>Main Topic</b>	<b>Summary</b>
12/27/2015 (Jersey City)	Ballot Measure <sup>10</sup>	Leave of Absence	Amends various provisions of the city's existing paid sick leave law, including the definition of employee, the amount of paid and/or unpaid sick leave certain employers must provide, adds a construction union CBA exemption.

<sup>10</sup> See Jeannine Idrissa and Jessica Agarwal, *Changes to Paid Sick Time in New Jersey: Elizabeth Becomes 10th Municipality to Require Paid Sick Leave and Jersey City Expands its Paid Sick Leave Ordinance*, Littler Insight (Nov. 9, 2015).

3/2/2016 (Elizabeth)	Ballot Measure <sup>11</sup>	Leave of Absence	Requires employers, depending on their size, to allow an employee to accrue and use paid or unpaid sick leave for various purposes, e.g., an employee's or family member's illness, injury or medical condition, or certain public health emergencies. The law also contains notice requirements and anti-retaliation provisions.
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## New York

Effective Date	Bill Number	Main Topic	Summary
12/31/2015	SB 2607 (2013)	Minimum Wage	Increases the minimum wage from \$8.75 to \$9.00 per hour.
12/31/2015	Tipped Employee Wage Order	Minimum Wage	Increases the minimum cash wage for service employees, resort hotel services employees, and food service workers from \$5.65, \$4.90, and \$5.00 per hour, respectively, to \$7.00 per hour, and also decreases the maximum tip credit from \$3.10, \$3.85, and \$3.75 per hour to \$1.50 per hour.
12/31/2015	Fast Food Worker Wage Order <sup>12</sup>	Minimum Wage	Establishes a minimum wage of \$9.75 for covered fast food workers outside New York City, and establishes a \$10.50 per hour minimum wage for those in New York City.
12/31/2015	SB 2607 / Wage Orders (2013)	Overtime	Increases the minimum salary an overtime-exempt executive, administrative, or professional employee must be paid from \$656.25 to \$675 per week, including board, lodging, other allowances and facilities.
1/19/2016	SB 4 / AB 7317	Discrimination	Prohibits discrimination based on familial status, but does not alter, diminish, increase, or create new or additional requirements to accommodate protected classes.
1/19/2016	SB 1 / AB 6075 <sup>13</sup>	Equal Pay	Expands exceptions to the state's equal pay statute, and increases the amount of liquidated damages that may potentially be awarded for equal pay violations.
1/19/2016	SB 1 / AB 6075	Wage Disclosure	Prohibits preventing employees from asking about, discussing, or disclosing their wages or other employees' wages, provides that employees are not required to disclose their wages, and allows employers to create a written policy establishing reasonable time, place, and manner limitations on inquiries, discussion, and disclosure. Exception exists for HR-type employees.
1/19/2016	SB 8 / AB 4272	Reasonable Accommodation	Requires employers to provide reasonable accommodation to an employee or applicant with a pregnancy-related condition.
1/19/2016	SB 2 / AB 5360	Sexual Harassment	Expands employer coverage for sexual harassment to include all employers in the state.

11 *Id.*

12 The wage order's validity is currently subject to a legal challenge and an administrative decision is due by December 10, 2015, although the decision could be appealed. For a general, but more in-depth discussion about the wage order, see George Pauta and Stefanie Kastrinsky, *New York "Supersizes" the Minimum Wage for Certain Fast Food Employees*, Littler Insight (Sept. 29, 2015).

13 See Jean Schmidt, *New York Expands Protections for Women with Passage of Women's Equality Act*, Littler Insight (Nov. 3, 2015).

1/31/2016	Fast Food Wage Order <sup>14</sup>	Minimum Wage	Increases the minimum wage for covered fast food workers from \$9.75 to \$10.75 if outside New York City, and increases the minimum wage from \$10.50 to \$12.00 per hour for covered workers in New York City.
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## Oregon

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 3025 <sup>15</sup>	Background Checks	Prohibits most employers from asking questions about criminal history on job applications or at any other point in the hiring process before the initial interview, though exceptions exist.
1/1/2016	SB 601 <sup>16</sup>	Data Breach	Expands covered entities to include a person that licenses personal information that the individual uses in the course of his/her business, vocation, occupation or volunteer activities. Provides an exception for entities subject to HIPAA and are required to comply with HIPAA's breach notification requirements. The law also expands the definition of "personal information" that if disclosed, would trigger breach notification obligations, and requires that such notice must also be given to the state attorney general.
1/1/2016	SB 492	Leave of Absence	Allows an employee to use accrued paid sick leave or personal business leave when taking leave as a victim of harassment, domestic violence, sexual assault or stalking. If more than one type of paid leave is available to the employee, the employer is permitted to determine the order of use.
1/1/2016	HB 2600	Leave of Absence	Requires that if group health insurance (including family member coverage) is provided, the benefit must continue during family leave on the same terms as if the employee continued to work. The employee must make regular premium contributions during leave.
1/1/2016	SB 454 <sup>17</sup>	Leave of Absence	Requires employers, depending on their size, to allow an employee to accrue and use paid or unpaid sick leave for various purposes, e.g., an employee's or family member's illness, injury or medical condition, other reasons under the state's family medical leave law, domestic violence, sexual assault, or stalking, and certain public health emergencies. The law also contains notice requirements, anti-retaliation provisions, and limits on absence control policies.
1/1/2016	HB 2478	Miscellaneous	Replaces the terms "husband" and "wife" with "spouse" or "spouses" in all statutes.

<sup>14</sup> The wage order's validity is currently subject to a legal challenge and an administrative decision is due by December 10, 2015, although the decision could be appealed. For a general, but more in-depth discussion about the wage order, see George Pauta and Stefanie Kastrinsky, *New York "Supersizes" the Minimum Wage for Certain Fast Food Employees*, Littler Insight (Sept. 29, 2015).

<sup>15</sup> See Jennifer Mora, Jennifer Warberg, and Philip Gordon, *Oregon to Become the Latest State to Ban the Box*, Littler ASAP (June 22, 2015).

<sup>16</sup> See Philip Gordon and Jennifer Mora, *Recent Amendments to Security Breach Notification Laws Further Complicate Breach Notification for Employers*, Littler Insight (Nov. 4, 2015).

<sup>17</sup> See Douglas Parker and Don Stait, *Oregon Becomes Fourth State to Pass Paid Sick Leave Law*, Littler ASAP (June 15, 2015).

1/1/2016	HB 3236	Non-Competition Agreements	Decreases the maximum duration of non-competition agreements from 2 years to 18 months; applies to agreements entered into on or after January 1, 2016.
1/1/2016	HB 2546	Smoking in the Workplace	Requires employers to provide a workplace free of all smoke, aerosols and vapors containing inhalants, and prohibits aerosolizing or vaporizing inhalants in the place of employment or within 10 feet from certain workplace locations.
1/1/2016	SB 185 <sup>18</sup>	Social Media	Expands the types of requests an employer cannot make, and the employment actions an employer cannot take with respect to an employee's social media account or password.
1/1/2016	HB 2007	Wage Disclosure	Prohibits taking adverse action against employees asking about, discussing, or disclosing their wages or other employees' wages, or instituting a proceeding based on the employee's wage disclosure. Exceptions exist for HR-type employees.
7/1/2016 (Portland)	Ordinance No. 187459 <sup>19</sup>	Background Checks	Prohibits covered employers from considering a job applicant's criminal history prior to a conditional offer of employment. The ordinance applies to employers with six or more employees, at least one of whom is in a "position being performed a majority of the time within the City of Portland."

## Pennsylvania

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 874	Labor Relations	Removes the exception for conduct by a party to a labor dispute from criminal statutes on harassment, stalking, and threats to use weapons of mass destruction.
3/11/2016 (Pittsburgh)	File No. 2015-1825 <sup>20</sup>	Leave of Absence	Requires employers, depending on their size, to allow an employee to accrue and use paid or unpaid sick leave for various purposes, e.g., an employee's or family member's illness, injury or medical condition, or certain public health emergencies. The law also contains notice requirements, anti-retaliation provisions, and limits on absence control policies.

## Rhode Island

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 5364	Minimum Wage	Increases the minimum wage from \$9 to \$9.60 per hour; increases the minimum cash wage from \$2.89 to \$3.39 per hour, and the maximum tip credit from \$6.11 to \$6.21 per hour, for tipped employees.

<sup>18</sup> See Philip Gordon and Joon Hwang, *Trendsetter or Outlier? Oregon Adds New Twist to Password Protection Laws*, Littler ASAP (June 18, 2015).

<sup>19</sup> See Jennifer Warberg and Philip Gordon, *Portland, Oregon Bans the Box*, Littler Insight (Dec. 3, 2015).

<sup>20</sup> See Mark Phllis and Allison Brown, *Pittsburgh City Council Approves Amended Paid Sick Leave Bill*, Littler Insight (Aug. 6, 2015) and Mark Phllis, *Pittsburgh Paid Sick Days Ordinance: Notices Published and January Effective Date Set*, Littler ASAP (Oct. 16, 2015).

7/2/2016	HB 5220 <sup>21</sup>	Data Breach	Subjects more individuals and entities to coverage of the state's data breach security law, expands the definition of personal information, requires security breaches to be reported to law enforcement and consumer credit reporting agencies, clarifies notices' content requirements, and requires covered entities to implement an information security program.
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## South Dakota

Effective Date	Bill Number	Main Topic	Summary 1/1/2016
1/1/2016	2016 Minimum Wage Announcement	Minimum Wage	Increases the minimum wage from \$8.50 to \$8.55 per hour; increases the minimum cash wage from \$4.25 to \$4.28 per hour for tipped employees.

## Texas

Effective Date	Bill Number	Main Topic	Summary 1/1/2016
1/1/2016	HB 910 <sup>22</sup>	Firearms in the Workplace	Allows handgun licensees to openly carry if the gun is secured in a shoulder or belt holster, but employers can prohibit open carry on their premises. The law also changes the wording of required signage.

## Vermont

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 552 (2014)	Minimum Wage	Increases the minimum wage from \$9.15 to \$9.60 per hour; increases the minimum cash wage from \$4.58 to \$4.80 per hour, and the maximum tip credit from \$4.57 to \$4.80 per hour, for tipped employees.

## Washington

Effective Date	Bill Number	Main Topic	Summary
1/1/2016 (Seattle)		Minimum Wage	Increases the minimum wage for employees of employers with more than 500 U.S. employees from \$11.00 to \$13.00 (\$12.50 with medical benefits) per hour; for employees of employers with fewer than 500 U.S. employees, the law increases the hourly minimum wage from \$10 to \$10.50 per hour, and the hourly minimum compensation from \$11 to \$12 per hour.

<sup>21</sup> See Philip Gordon and Jennifer Mora, *Recent Amendments to Security Breach Notification Laws Further Complicate Breach Notification for Employers*, Littler Insight (Nov. 4, 2015).

<sup>22</sup> See Eduardo Cuaderes Jr., Yvette Gatling, and Vicki Phipps, and Suzanne Potter-Padilla, *Open Carry and Campus Carry: Expanded Handgun Rights in Texas in 2016 and Beyond*, Littler Insight (Aug. 7, 2015).

2/1/2016 (Tacoma)	Ordinance No. 28275 <sup>23</sup>	Leave of Absence	Requires employers to allow an employee to accrue and use paid sick leave for various purposes, <i>e.g.</i> , an employee's or family member's illness, injury or medical condition, domestic violence, sexual assault, or stalking, or certain public health emergencies. The law also contains notice and policy requirements, anti-retaliation provisions, and limits on absence control policies.
2/1/2016 (Tacoma)	Ballot Measure	Minimum Wage	Establishes a minimum wage of \$10.35 per hour for employees aged 16 and older, with set increases in 2017 and 2018, as well as annual increases beginning in 2019.

## West Virginia

Effective Date	Bill Number	Main Topic	Summary
1/1/2016	HB 4283 (2014)	Minimum Wage	Increases the minimum wage from \$8.00 to \$8.75 per hour; increases the minimum cash wage from \$2.40 to \$4.63, and maximum tip credit from \$5.60 to \$6.12 per hour, for tipped employees.

## Conclusion

The coming election year promises to be eventful. Although federal labor and employment laws are unlikely to be enacted in 2016, lawmakers from both sides of the aisle will continue to introduce "message" bills that have little chance of passage, but serve as campaign trail fodder. Meanwhile, the effects of the most significant law in recent memory—the Affordable Care Act—will continue to be felt in 2016.<sup>24</sup> Because of the congressional gridlock, however, employers can expect most legislative advancement to continue to occur at the state and local levels.

In addition, the latest regulatory agenda released by the federal agencies indicates that employers can expect important new rulemakings to be finalized in the next and final year of the Obama Administration. With projected completion of new regulations on the white collar overtime exemptions, "Fair Pay and Safe Workplaces" Executive Order, NLRB persuader rule, and OSHA silica standard, among others, employers could face significant burdens in the year ahead. Although the regulatory agenda and timeline is subject to change, employers should prepare for these changes.<sup>25</sup>

Littler's Workplace Policy Institute (WPI) will continue to monitor and report on these developments.

<sup>23</sup> See Pamela Salgado and Deidra Nguyen, *Tacoma is the Third Washington City to Mandate Paid Leave*, Littler Insight (May 29, 2015) and City of Tacoma Issues Rules Interpreting Paid Leave Ordinance, Littler Insight (Sept. 16, 2015) and

<sup>24</sup> Littler will soon publish an in-depth discussion of federal healthcare obligations that will take shape in 2016.

<sup>25</sup> See Illyse Schuman and Michael Lotito, *Final Rules on Overtime, Crystalline Silica, and Persuader Agreements are Expected in the First Half of 2016*, Littler Insight (Nov. 20, 2015).