

# Insight

IN-DEPTH DISCUSSION

DECEMBER 5, 2016

## 2017 Labor & Employment Laws: New Year, New Government, New Challenges

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On January 1, 2017, employers across the nation will face a host of new or amended federal, state, and/or local labor and employment requirements. At the same time, there is uncertainty as to how the Trump Administration and Congress may alter those federal obligations.<sup>1</sup> With Congress gridlocked for much of the 2016 election year, the most significant labor and employment legislation and regulations were enacted at the state and municipal levels. Multiple states approved minimum wage increases, with built-in multi-year increases and annual adjustments. Marijuana liberalization – medical and recreational – occurred throughout the country.<sup>2</sup> Although only a handful of equal pay measures were enacted in 2016, Massachusetts garnered significant media coverage when it imposed limits on inquiries about applicants' prior salaries, continuing a slow but steady pay equity trend. New statewide paid sick leave measures were enacted, and numerous states expanded coverage or available rights under existing leave laws. The biggest compliance hurdle for multi-state and national employers – or even companies with statewide operations – may be simply keeping abreast of local law developments.

Some cities and counties have taken it upon themselves to shape workplace policy. In essence, local governments have become labor and employment law incubators; issues a decade ago labeled one-offs in liberal-leaning metropolitan areas have gained traction throughout the nation. Local governments continue to adopt minimum wage laws at an impressive clip, setting rates that exceed the state counterparts

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<sup>1</sup> For example, on November 22, 2016, the U.S. District Court for the Eastern District of Texas issued a preliminary injunction blocking the DOL's new rule re-defining which employees are exempt from overtime. Although the DOL has filed an appeal to the Fifth Circuit, it is anticipated that consideration of the appeal will not take place until after the Trump Administration takes office, thus permitting the new administration to reevaluate the merits of the rule. See Sean McCrory, Maury Baskin, Rob Friedman and Tammy McCutchen, *Federal Court Blocks New Overtime Rule*, Littler ASAP (Nov. 23, 2016).

<sup>2</sup> For a more thorough examination of new marijuana laws, see *Nancy Delogu and Eunju Park, Marijuana Legalization Efforts Enjoy Success, Demonstrating Major Shift in Approach to Drug Regulation and Use*, Littler Insight (Nov. 9, 2016)

and far exceed their federal cousin. Although more states have joined the club, local paid sick leave laws far outnumber state measures and exist in states (currently) without corresponding provisions. Cities and counties are also the only jurisdictions that have enacted flexible scheduling laws in which certain retail and hospitality employees must notify new employees about their schedules, provide additional pay for schedule changes, and offer additional hours to part-time employees. In 2016, San Francisco became the first jurisdiction to mandate that employers supplement their employees' wages when taking parental leave for new child bonding.

Most 2016 laws have already taken effect; what remains are those scheduled to take effect sometime in 2017, which we highlight below. Although local and industry-specific laws may be listed below, these samples are included to highlight compliance challenges employers face. In addition, not all state and local minimum wage laws are included in this article. A complete discussion of minimum wage rate changes for 2017 and beyond can be found in a separate Littler Insight.<sup>3</sup> Because the list does not every possibly applicable federal, state, and local law, employers may find it helpful to discuss with knowledgeable counsel which local, state, and/or federal laws will apply in 2017. At the federal level, the list below may change significantly with the incoming Administration.

## Federal

Rule/E.O.	Main Topic	Summary	Effective Date
Final Rule on Insurance Exchanges (2012) <sup>4</sup>	Healthcare Reform	States can allow businesses with more than 100 employees to participate in healthcare exchanges.	1/1/2017
Final Rules on Wellness Programs <sup>5</sup>	Wellness Programs	Employers must provide a notice clearly explaining what medical information will be obtained, how it will be used, who will receive it, the restrictions on its disclosure, and the methods the employer uses to prevent its improper disclosure. The rules also set limits on inducements for participating in an employer-sponsored wellness program (or multiple employer-sponsored wellness programs that request such information).	1/1/2017
Final Rule Defining Fiduciary and Conflict-of-Interest-Retirement Investment Advice <sup>6</sup>	Employee Benefits (Retirement)	Defines who is a "fiduciary" of an employee benefit plan under ERISA as a result of giving investment advice to a plan or its participants or beneficiaries.	4/10/2017
Final Rule on Disclosure of Median Compensation (2015) <sup>7</sup>	Executive Compensation	Public companies must disclose, to the SEC and shareholders, the ratio of CEO compensation to the "median compensation" of the corporation's employees (except the CEO).	1/1/2017

<sup>3</sup> Josh Kirkpatrick and Sebastian Chilco, *The Minimum Wage in 2017: A Coast-to-Coast Compliance Challenge*, Littler Insight (Nov. 18, 2016).

<sup>4</sup> Ilyse Schuman, *HHS Releases Final Rule on Insurance Exchanges*, Littler ASAP (Mar. 12, 2012).

<sup>5</sup> Ilyse Schuman, Judith Wethall, and Russell Chapman, *EEOC Issues Final Rules on Wellness Programs*, Littler Insight (May 20, 2016).

<sup>6</sup> Ilyse Schuman, Melissa Kurtzman, Steve Friedman, and Sean Brown, *Department of Labor Issues Final Fiduciary Rule*, Littler Insight (Apr. 7, 2016).

<sup>7</sup> Warren Fufeld, *New Compensation Disclosures for Public Companies*, Littler ASAP (Aug. 10, 2015).

Rule/E.O.	Main Topic	Summary	Effective Date
Executive Order 13706 & Final Rule Establishing Paid Sick Leave for Federal Contractors <sup>8</sup>	Paid Leave (Government Contractor)	Creates paid sick and safe time requirements for federal contractors relating to certain contracts entered into after January 1, 2017. Employees accrue 1 sick leave hour for every 30 hours worked. Accrual can be capped at 56 hours. Accrued but unused leave carries over to the following year. Leave can be used for an employee or an employee's family member.	1/1/2017
Notice of Minimum Wage Rate Change for Contractors <sup>9</sup>	Minimum Wage (Government Contractor)	Increases the minimum wage for workers performing work on or in connection with covered contracts to \$10.20 per hour, and increases the minimum cash wage for tipped employees to \$6.80 per hour.	1/1/2017
Final Rule on Walking-Working Surfaces and Personal Protective Equipment	Workplace Safety	Revises and updates general industry standards on walking-working surfaces to prevent and reduce workplace slips, trips, and falls, as well as other injuries and fatalities associated with walking-working surface hazards.	1/17/2017
Final Rule on Occupational Exposure to Respirable Crystalline Silica <sup>10</sup>	Workplace Safety	Sets new workplace permissible exposure limits (PELs) for respirable crystalline silica. Includes one standard for the construction industry (applicable June 23, 2017) and a separate standard for general industry and maritime employment (applicable June 23, 2018).	6/23/2017
Final Rule on Fair Pay and Safe Workplaces <sup>11</sup>	Pay Stubs (Government Contractor)	Contractors holding federal contracts for goods and services (including construction) worth more than \$500,000 must provide the following information to employees with each paycheck: hours worked; overtime hours; rate of pay; gross pay; and any additions to or subtractions from pay (like bonuses, awards and shift differentials).	1/1/2017
Final Rule Improving Tracking of Workplace Injuries and Illnesses <sup>12</sup>	Workplace Safety	Various employers must submit injury and illness data electronically.	1/1/2017

## Alabama

Law	Main Topic	Summary	Effective Date
Amendment 8	Labor Relations	Prohibits rejecting applications based on an applicant's membership or non-membership in a labor union.	11/29/2016

<sup>8</sup> Christopher Kaczmarek, Ilyse Schuman, and Linda Jackson, *Executive Order Requires Federal Contractors to Provide Paid Sick Leave*, Littler Insight (Sept. 22, 2015) & Sarah Gorajski, Ilyse Schuman, and Pamela Salgado, *DOL Issues Proposed Rule Implementing Paid Sick Leave for Federal Contractors*, Littler Insight (Feb. 26, 2016) & Sarah Gorajski, *DOL Issues Final Rule Implementing Paid Sick Leave for Federal Contractors*, Littler Insight (Oct. 3, 2016).

<sup>9</sup> Sarah Gorajski, *Department of Labor Issues Notice of 2017 Minimum Wage Increase for Federal Contractors*, Littler ASAP (Sept. 20, 2016).

<sup>10</sup> Danielle Kitson, *OSHA's Final Rule on Crystalline Silica Standards*, Littler Insight (Sept. 13, 2016).

<sup>11</sup> Maury Baskin, David Goldstein, Linda Jackson, Chip Jones, Michael Lotito, Michael Pedhirney, Ilyse Schuman, and Meredith Schramm-Strosser, *Taking a Closer Look at the New Federal Contractor "Blacklisting" Obligations*, Littler Insight (Sept. 1, 2016).

<sup>12</sup> Ben Huggett, *OSHA's Final Rule on Electronic Tracking of Workplace Injuries and Illnesses*, Littler Insight (May 12, 2016).

## Arizona

Law	Main Topic	Summary	Effective Date
Proposition 206 <sup>13</sup>	Paid Leave	Creates paid sick and safe time law. Employees accrue one hour of sick leave for every 30 hours worked, and can accrue either 24 or 40 sick hours per year, depending on an employer's size. Accrued but unused sick leave carries over to the following year, and employees can use 24 or 40 hours per year, depending on an employer's size. Leave can be used for the employee, a family member, or any other individual related by blood or affinity whose close relationship is the equivalent of a family relationship.	1/1/2017

## Arkansas

Law	Main Topic	Summary	Effective Date
Ballot Issue 6	Marijuana	Legalizes medical marijuana, prohibits discrimination against qualifying patients or designated caregivers, but does not require accommodating workplace use or working under the influence.	11/9/2016

## California

Law	Main Topic	Summary	Effective Date
SB 1342	Agency Enforcement	To enforce local laws or ordinances, including local wage laws, the city or county can delegate authority to a county or city official or a department head to issue subpoenas and report a failure to comply with subpoenas to a state court judge.	1/1/2017
AB 1843 <sup>14</sup>	Background Checks	Prohibits juvenile-court-related inquiries with limited exceptions.	1/1/2017
AB 1289 <sup>15</sup>	Background Checks	Drivers participating with a Transportation Network Company in California will be subject to mandatory criminal background checks, regardless of whether a driver is considered an employee or an independent contractor.	1/1/2017
SB 1241 <sup>16</sup>	Contracts	Contracts entered into, modified, or extended on or after January 1, 2017 cannot require employees who primarily reside or work in California to adjudicate certain claims outside California.	1/1/2017

<sup>13</sup> The proposition also increased the state minimum wage. Neil Alexander and Lindsay Schafer, *New Arizona Law Provides Minimum Wage Increases And Paid Sick Time*, Littler Insight (Nov. 15, 2016).

<sup>14</sup> Jennifer Mora, *California Amends Labor Code to Prohibit Employers from Using Juvenile Records in Employment Decisions*, Littler ASAP (Oct. 3, 2016).

<sup>15</sup> Jennifer Mora, *New Background Check Requirements for California Transportation Network Companies*, Littler ASAP (Oct. 19, 2016).

<sup>16</sup> Scott McDonald and Jim Hart, *New California Law Prohibits Choice of Law and Venue in Employment Contracts*, Littler Insight (Oct. 3, 2016).

Law	Main Topic	Summary	Effective Date
AB 1785	Cellphones & Driving	Prohibits driving while holding and operating a handheld wireless telephone or a wireless electronic communication device unless in hands-free mode, but allows using hands under limited circumstances.	1/1/2017
SB 1128	Employee Benefits (Commuting)	San Francisco Bay Area Commuter Benefits program was set to expire January 1, 2017, but has been extended indefinitely.	1/1/2017
SB 1234	Employee Benefits (Retirement)	Implements previously approved California Secure Choice Retirement Savings Program on January 1, 2017. Once initiated, employers with 5 or more employees that do not offer an employer-sponsored retirement plan or an automatic enrollment payroll deduction IRA must provide notice about the program to new and existing employees.	1/1/2017
AB 2828 <sup>17</sup>	Data Breach	Businesses must disclose a data security breach to California residents whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person along with an encryption key or security credential that could render that personal information readable or usable.	1/1/2017
AB 1676	Equal Pay	Prior salary by itself cannot justify compensation disparity under the bona fide factor exception.	1/1/2017
SB 1063	Equal Pay	Prohibits paying employees less than employees of another race or ethnicity for substantially similar work.	1/1/2017
SB 1001	Immigration	Prohibits requesting more or different documents than are required under federal law, refusing to honor documents that on their face reasonably appear to be genuine, refusing to honor documents or work authorization based on the specific status or term of status that accompanies the work authorization, and reinvestigating or re-verifying an employee's work authorization.	1/1/2017
AB 908	Leave of Absence	Increases the amount of paid family leave insurance benefit employees can obtain for claims filed on or after January 1, 2018. Eliminates one-week waiting period.	1/1/2017
SB 3 <sup>18</sup>	Paid Leave	Extends paid sick leave benefits to qualifying in-home supportive services workers.	1/1/2017

<sup>17</sup> Philip Gordon, Jennifer Mora, and Kwabena Appenteng, *Four States Expanded Employer Data Breach Notification Obligations in 2016*, Littler Insight (Sept. 23, 2016).

<sup>18</sup> The law also amended statewide paid sick leave provisions. Christopher Cobey and Sebastian Chilco, *California Raises its Minimum Wage and Expands Paid Sick Leave*, Littler Insight (Apr. 4, 2016).

Law	Main Topic	Summary	Effective Date
San Francisco Ordinances 160065 & 160719 <sup>19</sup>	Family Bonding Leave	Employers must provide pay to employees receiving state paid family leave insurance benefit when leave is taken for bonding with a new child. *Coverage is phased in based on employer size: 50 or more employees (January 1, 2017); 35 or more employees (July 1, 2017); 20 or more employees (January 1, 2018).	1/1/2017*
San Francisco Proposition E <sup>20</sup>	Paid Leave	Amends paid sick leave ordinance to better align with state law. Expands permitted uses to include leave connected to domestic violence, as well as bone marrow and organ donation.	1/1/2017
Santa Monica Ordinances 2509 & 2515 <sup>21</sup>	Paid Leave	Delays operative date of paid sick and safe time law to January 1, 2017. Phases in how many sick days must be provided each year.	1/1/2017
Los Angeles Ordinance 184320 <sup>22</sup>	Paid Leave	Paid sick leave ordinance's requirements apply to employers with 25 or fewer employees.	7/1/2017
Berkeley Ordinance 7505 <sup>23</sup>	Paid Leave	Creates a paid sick and safe time law. Covered employees accrue 1 sick leave hour for every 30 hours worked. For small businesses, there is a cap of 48 hours per year; for all other businesses the cap is 72 hours. Leave accrued up to the cap must be carried over to the following year. There is no express limit on how many leave hours can be used per year. Leave can be used for an employee, an employee's family member, or a designated person.	10/1/2017
AB 1847	Notification	Employers must notify employees that they may be eligible for the California (in addition to the federal) Earned Income Tax Credit.	1/1/2017
AB 2337	Notification	Employers must inform new employees (and current employees, upon their request) of their rights regarding discrimination against victims of domestic violence, sexual assault, and stalking. *The law is effective January 1, 2017, but notice is not required until the state labor department posts an online a model notice, which must occur by July 1, 2017.	1/1/2017*
Annual Adjustment of Computer Software Employee Pay Rate	Overtime	Increases the hourly rate employees must be paid from \$41.85 to \$42.35 per hour, increases the monthly rate from \$7,265.43 to \$7,352.62, and increases the annual rate from \$87,185.14 to \$88,231.36.	1/1/2017

19 Michelle Barrett-Falconer and Sebastian Chilco, *Bonding by the Bay: San Francisco Mandates Paid Parental Leave*, Littler Insight (Apr. 21, 2016) & *San Francisco Amends Paid Parental Leave Law to Adapt to State Law Changes and to Clarify Requirements*, Littler Insight (Sept. 21, 2016).

20 Liseanne Kelly, Lucy Anthony, Sebastian Chilco, and Pamela Salgado, *Voters Approve Paid Sick Leave Changes in San Diego and San Francisco*, Littler Insight (June 14, 2016).

21 Robert Blumberg, Maria Harrington, and Shiva Shirazi Davoudian, *Santa Monica Jumps on the Minimum Wage and Sick Leave Bandwagon*, Littler Insight (Feb. 18, 2016); see also Liseanne Kelly, Lucy Anthony, Sebastian Chilco, and Pamela Salgado, *Voters Approve Paid Sick Leave Changes in San Diego and San Francisco*, Littler Insight (June 14, 2016).

22 Robert Blumberg & Maria Harrington, *City of Los Angeles Doubles Employees' Sick Leave Entitlement Effective July 1, 2016*, Littler Insight (June 14, 2016).

23 Adam Fiss and Sebastian Chilco, *Berkeley Enacts California's Newest Local Paid Sick Leave Law*, Littler Insight (Sept. 6, 2016).

Law	Main Topic	Summary	Effective Date
Annual Adjust of Licensed Physician and Surgeon Pay Rate	Overtime	Increases the hourly rate employees must be paid to be considered overtime-exempt from \$76.24 to \$77.15 per hour.	1/1/2017
AB 2535	Pay Stubs	Wage statements for various employees that are exempt from state minimum wage or overtime requirements need not show total hours worked.	1/1/2017
AB 1978	Recordkeeping	Employers that enters into contracts, subcontracts, or franchise arrangements to provide janitorial services must keep for three years: names and addresses of employees engaged in rendering actual services for any business of the employer; hours worked daily by each employee, including the times the employee begins and ends each work period; wage and wage rate paid each payroll period; age of all minor employees; and any other conditions of employment.	1/1/2017
AB 1732	Restroom Accommodation	Single-user toilet facilities must be identified as all-gender.	3/1/2017
Emeryville Ordinance 2016-607	Scheduling	Covered retail and hospitality industry employers must, among other items, provide two weeks' notice of schedule, predictability pay for schedule changes, and offer hours to existing part-time employees before hiring new employees	7/1/2017
San Jose Measure E	Scheduling	Covered retail and hospitality industry employers must offer additional work hours to existing qualified part-time employees before hiring new staff.	TBD
SB 5	Smoking	Smoking prohibitions are amended to include a definition of smoking. Workplace smoking bans will apply to electronic cigarettes and vapes. Eliminates ability to allow smoking in designated employee vented breakrooms and for employers with five or fewer employees to smoke in certain nonwork areas.	1/1/2017
AB 1245 (2015) <sup>24</sup>	Unemployment	Employers with 10 or more employees must file all reports and returns electronically, and remit all contributions for unemployment insurance premiums by electronic funds transfer, except as otherwise provided.	1/1/2017
Proposition 64	Marijuana	Legalizes recreational marijuana for individuals age 21 or older, but permits drug-free workplaces, and does not require accommodation of marijuana use in the workplace or affect policies prohibiting use.	VARIES

24 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).

## Colorado

Law	Main Topic	Summary	Effective Date
HB 1432 <sup>25</sup>	Access to Personnel File	Employer must allow current and former employees to inspect and copy their own personnel file. This inspection permission will occur annually for current employees and once after employment ends for terminated employees. Employees can be required to pay the reasonable cost of copying documents.	1/1/2017

## Connecticut

Law	Main Topic	Summary	Effective Date
HB 5237 <sup>26</sup>	Background Check	Employers cannot seek information about prior arrests, criminal charges, or convictions in an initial employment application unless an employer is obligated per federal or state law to ask about criminal history for the position or the position requires a security, fidelity, or equivalent bond. Notices must accompany criminal history inquiries.	1/1/2017

## Florida

Law	Main Topic	Summary	Effective Date
Constitutional Amendment No. 2	Marijuana	Expands permitted medical marijuana use to individuals with various debilitating medical conditions, but does not require employers to accommodate on-site medical marijuana use.	1/1/2017

## Georgia

Law	Main Topic	Summary	Effective Date
SB 277	Joint Employment	Clarifies that a franchisor is not the employer of the franchisee or the franchisee's employees.	1/1/2017

25 Andrew Epstein and Erin Webber, *Colorado Grants Certain Private-Sector Employees the Right to Inspect Their Personnel Files*, Littler ASAP (June 16, 2016).

26 Jennifer Mora, Phillip Gordon, and Matthew Curtin, *Connecticut Becomes the Third Jurisdiction in 2016 to "Ban the Box"*, Littler Insight (June 3, 2016).

## Illinois

Law	Main Topic	Summary	Effective Date
HB 1260 <sup>27</sup>	Data Breach	Amends “personal information” definition to include user name or email address combined with a password or security question and answer to gain online account access. Requires notice to affected individuals in electronic or other form that directs them to promptly change their online account usernames or passwords and security questions or answers. Allows substitute notice of breach to prominent local media. Requires breach to be reported to state attorney general if more than 250 Illinoisans are affected. Imposes additional security obligations on data collectors.	1/1/2017
SB 2956	Disability Accommodation	Public facilities must comply with state accessibility code on alterations. Regulates alterations and addresses accessibility issues. Imposes civil penalties for violations.	1/1/2017
HB 1288 <sup>28</sup>	Domestic Workers	Amends four existing state employment laws so they will now apply to domestic workers: minimum wage law; day of rest law; fair wage law; human rights law.	1/1/2017
HB 6162 <sup>29</sup>	Leave of Absence	Employees can use personal sick leave benefits for an illness, injury, or medical appointment of the employee's child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent.	1/1/2017
HB 4036 <sup>30</sup>	Leave of Absence	Expands Victims' Economic Security and Safety Act to all employers; provides for 4 weeks of unpaid leave for employees working for employers with no more than 14 employees (greater leave is provided if an employer has more employees).	1/1/2017
Chicago Ordinance O2016-2678 <sup>31</sup>	Paid Leave	Creates a paid sick and safe time law. Covered employees accrue 1 sick leave hour for every 40 hours worked. Accrual can be capped at 40 hours per year. Half an employee's accrued but unused leave carries over to the following year, but additional leave must carry over if an employer is covered by the FMLA. Leave use can be capped at 40 hours per year, but additional leave can be used if for an FMLA-eligible absence. Leave can be used for an employee or an employee's family member.	7/1/2017

27 Philip Gordon, Jennifer Mora, and Kwabena Appenteng, *Four States Expanded Employer Data Breach Notification Obligations in 2016*, Littler Insight (Sept. 23, 2016).

28 Melissa McDonagh and Angelo Spinola, *Illinois Becomes Seventh State to Expand Employment Rights to Domestic Workers*, Littler Insight (Sept. 23, 2016).

29 Larry Robertson, *Illinois Increases Protected Leaves for Employees*, Littler Insight (Sept. 1, 2016).

30 *Id.*

31 Sarah Gorajski and Larry Robertson, *Chicago to Become the Second City in the Midwest to Mandate Paid Sick Leave in 2016*, Littler Insight (June 24, 2016).

Law	Main Topic	Summary	Effective Date
Cook County Ordinance 16-4229 <sup>32</sup>	Paid Leave	Creates a paid sick and safe time law. Covered employees accrue 1 sick leave hour for every 40 hours worked. Accrual can be capped at 40 hours per year. Half an employee's accrued but unused leave carries over to the following year, but additional leave must carry over if an employer is covered by the FMLA. Leave use can be capped at 40 hours per year, but additional leave can be used if for an FMLA-eligible absence. Leave can be used for an employee or an employee's family member.	7/1/2017
SB 3163 <sup>33</sup>	Non-Compete Agreement	Prohibits non-compete agreements with any low-wage employees.	1/1/2017
HB 4999	Social Media	Prohibited requests have been expanded to include coercing applicants or employees to provide social media information, shoulder surfing, requiring or coercing individuals to invite the employer to join an online group or to friend an employer. Prohibits adverse action against individuals for failing to respond to prohibited requests. Creates exceptions for workplace investigations, trade secrets, and complying with state, federal, and self-regulatory organization laws and rules. Expands employer's ability to monitor employer devices and accounts.	1/1/2017
SB 2804	Wage Assignment	Amends Illinois Wage Assignment Act, including provisions governing employees' revoking wage assignments.	1/1/2017
HB 6225	Workers' Compensation	Exempts entities leasing workers through an employee leasing arrangement that do not provide workers' compensation insurance from certain recordkeeping and reporting requirements. Provides a lessor or lessee can provide workers' compensation coverage for leased employees, but the lessor must notify the state insurance department if the lessee provides coverage.	1/1/2017

## Indiana

Law	Main Topic	Summary	Effective Date
South Bend Ordinance 10429-16	Smoking	Prohibits smoking in all enclosed areas of places of employment.	1/2/2017

<sup>32</sup> Larry Robertson, *Cook County, Illinois Becomes First in the Midwest to Mandate Countywide Paid Sick Leave*, Littler Insight (Oct. 18, 2016).

<sup>33</sup> James Witz, *New Non-Compete Law Regarding Low-Wage Workers Passes in Illinois*, Littler ASAP (Aug. 31, 2016).

## Maine

Law	Main Topic	Summary	Effective Date
Ballot Question No. 1	Marijuana	Legalizes recreational marijuana for individuals 21 years of age or older. Prohibits discriminating against individuals for marijuana consumption outside employer's property, but does not require employers to accommodate marijuana use in the workplace or impact an employer's ability to enforce workplace laws restricting marijuana use.	TBD

## Massachusetts

Law	Main Topic	Summary	Effective Date
SB 2119 <sup>34</sup>	Equal Pay	Employers cannot discriminate because of gender in the payment of wages, including benefits or other compensation, or to pay a salary or wage rate less than rates paid to employees of a different gender for comparable work.	1/1/2018
Question No. 4	Marijuana	Legalizes recreational marijuana use for individuals 21 years of age or older, but employers are not required to permit or accommodate conduct otherwise allowed by the law in the workplace, and can enact and enforce workplace policies restricting marijuana consumption by employees.	12/15/2016

## Minnesota

Law	Main Topic	Summary	Effective Date
Minneapolis Ordinances 2016-040 & 2016-065 <sup>35</sup>	Paid Leave	Creates a paid sick and safe time law. Covered employees accrue 1 sick leave hour for every 30 hours worked. Accrual can be capped at 48 hours per year, and 80 hours overall. Accrued but unused leave carries over to the following year. Leave use cannot be capped. Leave can be used for an employee or an employee's family member.	7/1/2017
St. Paul Ordinance 16-29 <sup>36</sup>	Paid Leave	Creates paid sick and safe time law. Covered employees accrue 1 sick leave hour for every 30 hours worked. Accrual can be capped at 48 hours per year, and 80 hours overall. Accrued but unused leave carries over to the following year. Leave use cannot be capped. Leave can be used for an employee or an employee's family member. The law applies to employers with 23 or fewer employees on January 1, 2018.	7/1/2017

<sup>34</sup> Christopher Kaczmarek, Stephen Melnick, and Joseph Lazazzero, *Massachusetts Adds Teeth to Equal Pay Obligations*, Littler Insight (July 28, 2016).

<sup>35</sup> Sarah Gorajski, *Minneapolis Becomes the Only City in the Midwest to Mandate Paid Sick and Safe Leave*, Littler Insight (June 1, 2016) & Sarah Gorajski and Sebastian Chilco, *Minneapolis Amends Recently Enacted Paid Sick Leave Law*, Littler ASAP (Oct. 4, 2016).

<sup>36</sup> Sarah Gorajski, *Saint Paul Becomes the Second City in Minnesota to Mandate Paid Sick and Safe Time*, Littler Insight (Sept. 12, 2016).

**Missouri**

Law	Main Topic	Summary	Effective Date
SB 656	Weapons in the Workplace	Employees holding a Missouri lifetime or extended concealed and carry permit can be prohibited from carrying concealed firearms on the employer's property.	1/1/2017

**Nevada**

Law	Main Topic	Summary	Effective Date
Initiative No. 2	Marijuana	Legalizes recreational marijuana use for individuals 21 years of age or older, but employers can maintain, enact, and enforce a workplace policy prohibiting or restricting actions or conduct otherwise permitted under the law.	1/1/2017

**New Jersey**

Law	Main Topic	Summary	Effective Date
Morristown Ordinance O-35-2016 & Executive Order 16-01 <sup>37</sup>	Paid Leave	Creates a paid sick time law. Covered employees accrue 1 sick leave hour for every 30 hours worked. Accrual can be capped at 40 hours per year (24 hours if certain employers have fewer than 10 employees). Accrued but unused leave carries over to the following year. Leave use can be capped at 40 hours per year. Leave can be used for an employee or an employee's family member.	1/1/2017

**New York**

Law	Main Topic	Summary	Effective Date
Final Rule on Methods of Wage Payment <sup>38</sup>	Wage Payment	Sets conditions for paying wages by direct deposit or by debit card.	3/7/2017
New York City 1017-C <sup>39</sup>	Contingent Workforce	Requires: a written contract if the freelance work is worth at least \$800, including multiple small projects over a 120-day period; that payment for services be made timely and in full; and that freelance workers be free of retaliation for exercising their rights under the bill.	5/5/2017

<sup>37</sup> Lauren Marcus, *Morristown Becomes New Jersey's 13th Municipality to Enact a Paid Sick Time Law*, Littler ASAP (Sept. 16, 2016).

<sup>38</sup> Eli Freeberg, *New York Implements Regulation Strongly Favoring Payment of Wages by Check and Discouraging Payment by Direct Deposit and Debit Card*, Littler Insight (Sept. 12, 2016).

<sup>39</sup> David Wirtz and María Cáceres-Boneau, *New York City to Pass Protections for Freelance Workers*, Littler ASAP (Nov. 7, 2016).

## North Dakota

Law	Main Topic	Summary	Effective Date
Measure 5	Marijuana	Legalizes medical marijuana use, but qualified patients or primary caregivers can face prosecution or a civil penalty for possessing, distributing, or transferring marijuana or using marijuana in the workplace.	12/8/2016

## Oregon

Law	Main Topic	Summary	Effective Date
SB 1587	Access to Personnel File	Employees can access to their time and pay records for three years.	1/1/2017
SB 1587	Deductions	Wage deductions must be voluntarily authorized by an employee in writing.	1/1/2017
SB 1587	Pay Stub	Employers must provide employees an itemized statement (which can be electronic if certain conditions are met) on regular paydays and when wages, salaries, or commissions are paid that includes: date of payment and dates of work covered by the payment; employee name; business name, business registry number or business identification number, and address and telephone number of employer; rate(s) of pay and whether employee is paid by the hour, shift, day or week or on a salary, piece or commission basis; gross and net wages; amount and purpose of each deduction made during the pay period; allowances, if any, claimed as part of minimum wage; for non-exempt employees, the regular hourly rate or rates of pay, overtime rate or rates of pay, number of regular and overtime hours worked, and the pay for those hours; for piece-rate employees, the applicable piece rate or rates of pay, number of pieces completed at each piece rate, and the total pay for each rate.	1/1/2017
SB 1587	Recordkeeping	Employers must keep terminated employees' time and pay records for no less than three years.	1/1/2017

## Pennsylvania

Law	Main Topic	Summary	Effective Date
SB 1265 <sup>40</sup>	Wage Payment	Authorizes employers to pay wages, salaries, commissions, or other payments by paycard if conditions are met.	5/3/2017

40 Matthew Hank and Wendy Buckingham, *New Pennsylvania Law Clarifies the Use of Payroll Debit Cards*, Littler ASAP (Nov. 10, 2016).

## Tennessee

Law	Main Topic	Summary	Effective Date
SB 1965	Immigration	Employers with 50 or more employees must use the federal E-Verify program to verify new employees' work authorization; must be enrolled in the program by January 1, 2017.	1/1/2017

## Vermont

Law	Main Topic	Summary	Effective Date
HB 261 <sup>41</sup>	Background Check	Restricts employers' ability to inquire about an applicant's criminal history on an initial application form.	1/1/2017
SB 139 (2015)	Healthcare Benefits	For purposes of the Vermont Health Benefit Exchange, a qualified employer is an entity that: has its principal place of business in Vermont and elects to provide coverage for its eligible employees through the VHBE, regardless of where an employee resides; or elects to provide coverage through VBHE for all its eligible employees who are principally employed in Vermont.	1/1/2017
HB 187 <sup>42</sup>	Paid Leave	Creates a paid sick and safe time law. Employees accrue 1 leave hour for every 52 hours worked. Leave can be capped at 24 hours per year (in 2017 & 2018) and 40 hours per year (in 2019 & subsequent years). Accrued but unused leave must be carried over to the following year. Leave use can be capped at 24 hours per year (in 2017 & 2018) and 40 hours per year (in 2019 & subsequent years). Leave can be used for an employee or an employee's family member.	1/1/2017

## Washington State

Law	Main Topic	Summary	Effective Date
Spokane Ordinances <sup>43</sup>	Paid Leave	Creates a paid sick and safe time law. Employees accrue 1 leave hour for every 30 hours worked. Leave accrual, carry-over, and use can be capped at 24 or 40 hours per year, depending on whether an employer has 10 or more, or fewer than 10, employees. Leave can be used for an employee or an employee's family member.	1/1/2017
Initiative 1433	Paid Leave	Creates a paid sick and safe time law. Employees accrue 1 leave hour for every 40 hours worked. There is no set cap on annual accrual or use, but carry-over is limited to 40 hours. Leave can be used for the employee or a family member.	1/1/2018

41 Jennifer Mora, *Vermont Joins the Ranks of Cities and States that "Ban the Box"*, Littler Insight (May 10, 2016).

42 Melinda Caterine and Shiloh Theberge, *Vermont Becomes the Fifth State to Pass Paid Sick Leave Legislation*, Littler Insight (Mar. 23, 2016).

43 Pamela Salgado, Jeannie Bohlman, Amy Mendenhall, and Sebastian Chilco, *Wading through the Changing Tide of Paid Sick Leave Laws in Washington State*, Littler Insight (Feb. 29, 2016).

Law	Main Topic	Summary	Effective Date
Seattle Ordinance 124960 (2015) <sup>44</sup>	Paid Leave	A private right of action for paid sick leave violations will be available regardless of employer size; previously only available to employees of employers with 50 or more employees.	4/1/2017
Seattle Ordinance 118765 <sup>45</sup>	Scheduling	Establishes secure scheduling requirements for covered retail and food services establishments, and requires onboarding notices to include good faith estimates of work schedules.	7/1/2017

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<sup>44</sup> *Id.*

<sup>45</sup> Douglas Smith, *Seattle City Council Approves Secure Scheduling Ordinance*, Littler Insight (Sept. 20, 2016).