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New Compliance Obligations for 2014: Fewer New Laws, But Important Changes for Employers

By Matthew Ruggles and Cynthia Brown

As always, the new year brings a host of new laws that are the product of our state and federal legislatures. Although many important changes were made to state and federal laws, 2013 saw a reduction of more than 30% in the number of labor and employment bills enacted as compared to 2012. While the total number is lower this year, these new compliance obligations are just as important for employers. This summary provides an overview and chart of new laws that become effective in 2014. As expected, California was again the busiest legislature, but no states were left out of the push to continue to regulate employers.¹

Oregon enacted a new one-of-a-kind law this year requiring certain private employers to provide bereavement leave to eligible employees under the Oregon Family Leave Act (OFLA).² While the leave is unpaid, companies that allow employees to use their paid sick leave for qualifying OFLA events will be required to pay employees under their sick leave policies. As states tend to pass copycat legislation, we will be watching for additional states to follow suit.

Last year we reported that Rhode Island had passed the first of its kind Homeless Bill of Rights. Both Connecticut and Illinois joined Rhode Island by enacting legislation providing employment protection for the homeless. The Illinois law aims to "lessen the adverse effects and conditions caused by the lack of residence or a home." The Act provides that "[n]o person's rights, privileges, or access to public services may be denied or abridged solely because he or she is homeless." Likewise, the Connecticut Homeless Person's Bill of Rights was created "to guarantee that the rights, privacy and property of homeless persons are adequately safeguarded and protected under the laws of Connecticut." Included among these enumerated rights is "equal opportunities for employment." More states are sure to follow suit, and we will continue to monitor this trend in 2014.

2013 saw five more state legislatures pass laws legalizing same-sex marriage: Rhode Island, Delaware, Minnesota, Hawaii and Illinois. Additionally, in June, the Supreme Court issued its long-awaited decision in *United States v. Windsor*. The Court ruled unconstitutional (in a 5-4 decision) the

1 See Christopher E. Cobey and Marina C. Gruber, *The Going Gets Steeper: 2013 California Employment Legislation Affecting Private Sector Employers*, Littler ASAP (Oct. 23, 2013) available at <http://www.littler.com/publication-press/publication/going-gets-steep-2013-california-employment-legislation-affecting-pr>.

2 See Don Stait, *Oregon Becomes the First State to Require Bereavement Leave*, Littler ASAP (July 18, 2013), available at <http://www.littler.com/publication-press/publication/oregon-becomes-first-state-require-bereavement-leave>.

section of the federal Defense of Marriage Act (DOMA) that required federal laws to ignore same-sex marriages legally entered into under an applicable state law. We are carefully monitoring this quickly changing area of law, which is happening in the legislature, in the courts, and on various state ballots.

We are continuing to see developments in other major issues as well. Weapons in the workplace, criminal background checks, social media privacy rights, and paid sick and family leave continue to be hot topics in state and federal legislatures. Nine out of the 12 states that have enacted social media privacy laws did so in 2013. In August, New Jersey became the twelfth state to enact such legislation,³ continuing the nationwide trend towards imposing some form of restriction on employer access to the restricted, personal social media content of applicants and employees.

This year the minimum wage was debated at both the federal and state levels.⁴ Several states raise their rate annually based on the consumer price index, or statutory requirements. However, other states, such as California and New Jersey, enacted new minimum wage hikes this year. Congress continues to debate raising the federal minimum wage.

While 2013 had a lower volume of enacted legislation than 2012, the effect on employers will be no less daunting. To assist employers in navigating this critical area of compliance, Littler continues to offer clients Littler GPS—a paid subscription service that tracks legal developments and provides analysis and guidance related to new laws and regulations. The Littler GPS online database provides user-friendly functionality, including full-text content search and intuitive navigation, which the user can easily focus on selected jurisdictions. Updates are posted to GPS on a daily basis, keeping employers informed and up to date.

If you have any questions about new federal or state laws, or Littler GPS, please contact your Littler attorney.

Enacted Legislation by 2014 Effective Date

State & Bill Number	Summary	Effective Date
Arizona 2014 Minimum Wage Determination	Effective January 1, 2014, the minimum wage in Arizona will increase by 10 cents per hour to \$7.90.	1/1/2014
California AB 10	Increases the minimum wage, on and after July 1, 2014, to not less than \$9.00 per hour and further increases the minimum wage, on and after January 1, 2016 to not less than \$10 per hour.	7/1/2014
California AB 11	Revises provisions to require employers to permit an employee who performs emergency duty as a volunteer firefighter, reserve peace officer, or as emergency rescue personnel, as defined, to take a leave of absence for the purpose of engaging in fire, law enforcement, or emergency rescue training.	1/1/2014

³ See Philip Gordon and Joon Hwang, *New Jersey Becomes the Twelfth State to Enact Social Media Password Protection Legislation; Recent Amendment to Illinois' Law Benefits the Financial Services Sector*, Littler ASAP (Sept. 4, 2013), available at <http://www.littler.com/publication-press/publication/new-jersey-becomes-twelfth-state-enact-social-media-password-protectio>.

⁴ See Christopher E. Cobey and Marina C. Gruber, *Raising the Floor: California Increases its Minimum Wage*, Littler ASAP (Sept. 30, 2013) available at <http://www.littler.com/publication-press/publication/raising-floor-california-increases-its-minimum-wage>; *Increased 2014 Minimum Wage for Missouri*, Littler's Wage & Hour Counsel (Nov. 11, 2013), <http://www.littler.com/wage-hour-counsel/increased-2014-minimum-wage-missouri>; *New Jersey Voters Approve Constitutional Amendment to Increase Minimum Wage*, Littler's Wage & Hour Counsel (Nov. 7, 2013), <http://www.littler.com/wage-hour-counsel/new-jersey-voters-approve-constitutional-amendment-increase-minimum-wage>; *Vermont Minimum Wage to Increase in 2014*, Littler's Wage & Hour Counsel (Nov. 5, 2013), <http://www.littler.com/wage-hour-counsel/vermont-minimum-wage-increase-2014>; Sebastian Chilco, *State Minimum Wages in 2014*, Littler's Wage & Hour Counsel (Oct. 23, 2013), <http://www.littler.com/wage-hour-counsel/state-minimum-wages-2014>.

California AB 263	Prohibits an employer from engaging in unfair immigration-related practices for the purpose of retaliation against any person who exercises any rights under the Labor Code, and authorizes a court to order the appropriate government agencies to suspend certain business licenses held by the violating party for prescribed periods based on the number of violations. Expands the protected conduct to include a written or oral complaint by an employee that he/she is owed unpaid wages; authorizes a private right of action for equitable relief, damages, and penalties by an employee against an employer who engages in unfair immigration-related practices; clarifies that an employer is prohibited from discriminating, retaliating, or taking adverse action against an employee or job applicant who has engaged in prescribed protected conduct relating to the enforcement of the employee's or applicant's rights.	1/1/2014
California AB 556	Adds "military and veteran status" to the list of categories protected from employment discrimination. Provides an exemption for an inquiry by an employer regarding military or veteran status for the purpose of awarding a veteran's preference as permitted by law.	1/1/2014
California AB 633	Prohibits an employer from having a policy precluding an employee from providing emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency; provides that these provisions do not impose any express or implied duty on an employer to train its employees regarding emergency medical services or cardiopulmonary resuscitation.	1/1/2014
California SB 46	Revises certain data elements included within the definition of personal information by adding certain information that would permit access to an online account. Imposes additional requirements on the disclosure of a breach of the security of the system or data in situations where the breach involves personal information that would permit access to an online or email account.	1/1/2014
California SB 288	Prohibits an employer from discharging or in any manner discriminating or retaliating against an employee who is a victim, as defined, of specified offenses, as defined, for taking time off from work, upon the victim's request, to appear in court to be heard at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.	1/1/2014

California SB 292	Specifies, for purposes of the definition of harassment because of sex, that sexually harassing conduct need not be motivated by sexual desire.	1/1/2014
California SB 390	Makes it a crime for an employer to fail to remit withholdings from an employee's wages that were made pursuant to state, local, or federal law.	1/1/2014
California SB 400	Extends protections to, and prohibits employers from taking adverse employment action against, victims of stalking. Also prohibits an employer from discharging or in any manner discriminating or retaliating against an employee because of the employee's status as a victim of domestic violence, sexual assault, or stalking if the victim provides notice to the employer of the status or the employer has actual knowledge of the status, and requires the employer to provide reasonable accommodations for such a victim.	1/1/2014
California SB 435	Requires an employer to pay an employee, for any meal, rest or recovery period mandated by law, one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided. The law previously required payment for any meal or rest period only.	1/1/2014
California SB 496	Prohibits an employer from making, adopting, or enforcing any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, if the employee has reasonable cause to believe that the information discloses a violation of, or noncompliance with, a local rule or regulation; prohibits retaliation because the employer believes that the employee disclosed or may disclose information; prohibits an employer from retaliating against an employee for disclosing, or refusing to participate in an activity that would result in a violation of or noncompliance with a local rule or regulation.	1/1/2014

California SB 530	Prohibits an employer from asking an applicant to disclose, or from utilizing as a factor in determining any condition of employment, information concerning a conviction that has been judicially dismissed or ordered sealed unless the employer is required by law to obtain that information, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation, or if the employer is prohibited by law from hiring an applicant who has been convicted of a crime.	1/1/2014
California SB 666	Provides that reporting or threatening to report an employee's, former employee's, or prospective employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of the employee's or former employee's family member, as defined, to a federal, state, or local agency because the employee, former employee, or prospective employee exercises a designated right, would constitute an adverse employment action; prohibits an employer from retaliating or taking adverse action against any employee or applicant for employment because the employee or applicant has engaged in protected conduct.	1/1/2014
California SB 770	Expands the scope of the family temporary disability program to include time off to care for a seriously ill grandparent, grandchild, sibling, or parent-in-law.	7/1/2014
Colorado HB 1209	Revises new-hire reporting requirements to comply with federal requirements that define "newly hired employees" and adds a new data element for new-hire reports for the date on which new hires first perform paid services.	1/1/2014
Colorado Rules re 7 CCR 1103-1	Increases the state minimum wage to \$8.00 per hour and the state tipped employee minimum wage to \$4.98 per hour.	1/1/2014
Connecticut HB 6452	Requires each employer, person or organization employing one or more employees to file and pay electronically quarterly unemployment tax returns, unless a waiver is secured.	1/1/2014
Connecticut SB 387	Raises the minimum wage to \$8.70 per hour as of January 1, 2014 and \$9.00 per hour as of January 1, 2015.	1/1/2014
Delaware HB 162	Brings the health insurance provisions of the Delaware insurance code into compliance with the federal Affordable Care Act. Applies to all contracts issued or renewed on or after January 1, 2014.	1/1/2014

Florida 2014 Minimum Wage Determination	The minimum wage in Florida will increase to \$7.93 per hour effective January 1, 2014.	1/1/2014
Hawaii SB 332 (HB 59)	Requires employers to provide employees with specific wage and employer information in employees' pay records; requires employers to maintain accurate and timely wage recordkeeping.	1/1/2014
Idaho HB 22	Revises reporting and paying periods for Idaho income tax withheld by certain employers.	1/1/2014
Illinois HB 1	Creates the Compassionate Use of Medical Cannabis Pilot Program Act. Provides that when a person has been diagnosed by a physician as having a debilitating medical condition, the person and the person's primary caregiver may be issued a registry identification card that permits legal possession of no more than 2.5 ounces of usable cannabis during a 14-day period. Prohibits employment discrimination against a registered qualifying patient or registered designated caregiver. Provides that no employer may be penalized or denied any benefit under state law for employing a cardholder. Does not prohibit drug-free workplace policies provided they are applied in a nondiscriminatory manner.	1/1/2014
Illinois HB 1247	Expands the prohibition on driving while using an electronic communication device to include uses beyond composing, sending, or reading an electronic message. Expands the exceptions to include the use of hands-free devices, two-way radios, and electronic devices capable of performing multiple functions as long as these devices are not used for a prohibited purpose.	1/1/2014
Illinois HB 2590	Provides that an employer may seek an order of protection to prohibit further violence or threats of violence by a person if: (1) the employee has suffered unlawful violence or a credible threat of violence from the person; and (2) the unlawful violence has been carried out at the employee's place of work or the credible threat of violence can reasonably be construed to be carried out at the employee's place of work by the person.	1/1/2014
Illinois HB 3038	Provides that employers and their employees or agents can be sued by any parties to electronic communications that are monitored illegally.	1/1/2014
Illinois SB 10	Provides same-sex and different-sex couples and their children equal access to the status, benefits, protections, rights, and responsibilities of civil marriage.	6/1/2014

Illinois SB 2306	Provides that, provided the password, account information, or access sought by the employer relates to a professional account relating to a social networking website and not a personal account, nothing in the provisions otherwise prohibiting an employer from requesting or requiring an employee or prospective employee to provide any password or other related account information in order to gain access to the employee's or prospective employee's account or profile on a social networking website shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring or to monitor or retain employee communications as required.	1/1/2014
Massachusetts HB 3538	Section 67 of the FY 2014 budget provides for a repeal of the state's Fair Share Contribution Program, which was established under a 2006 health care reform law and mandated that employers with 11 or more full-time equivalent employees (FTE) make a "fair and reasonable" contribution toward the health care costs of their full-time workers or pay a \$295 per FTE assessment. The federal Affordable Care Act contains an employer mandate for employers with over 50 employees that could have resulted in double penalties if the two policies were to coexist in the state.	1/1/2014
Minnesota SB 523 (HB 690)	Limiting reliance on criminal history for employment purposes.	1/1/2014
Missouri 2014 Minimum Wage Determination	The minimum wage in Missouri will increase to \$7.50 per hour effective January 1, 2014. Compensation for tipped employees must also total at least \$7.50 per hour.	1/1/2014
Missouri SB 1	Modifies the law relating to the Second Injury Fund and occupational disease within the workers' compensation system; affirmatively states that occupational diseases are exclusively covered under workers' compensation laws and establishes various occupational diseases; provides that employers do not have subrogation rights in toxic exposure cases when a person is liable to the employee and that employees making claims against the Fund must undergo a reasonable medical examinations at the request of the Attorney General; provides that claims for permanent partial disability are not allowed against the Fund and that only certain permanent total disability claims are allowed.	1/1/2014

Montana 2014 Minimum Wage Determination	The minimum wage in Montana will increase from \$7.80 per hour to \$7.90 per hour on January 1, 2014.	1/1/2014
Nevada SB 374	Clarifies that the existing medical marijuana law does not require any employer to allow the medical use of marijuana in the workplace, and does not require an employer to modify job or working conditions that are based upon the reasonable business purposes of the employer with respect to a person who engages in the medical use of marijuana. However, the employer must attempt to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided that such reasonable accommodation would not: (a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or (b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.	4/1/2014
New Jersey Public Question No. 2	Sets the minimum wage at \$8.25 per hour. The amendment also requires annual increases based on any annual increases in the cost of living.	1/1/2014
New York SB 4728 (AB 7951)	Relating to deductions for child support collections, requires an income payor to issue a notification when the debtor no longer receives income and to provide the debtor's last address and the name and address of the debtor's new employer, if known.	4/27/2014
New York SB 2607	Increases the minimum wage in New York to \$8.00 on December 31, 2013, \$8.75 on December 31, 2014, and \$9.00 on December 31, 2015.	12/31/2014
Ohio 2014 Minimum Wage Determination	The minimum wage rate in Ohio will increase on January 1, 2014, to \$7.95 per hour for non-tipped employees and to \$3.98 per hour for tipped employees, plus tips.	1/1/2014
Oklahoma SB 1062	Comprehensive Workers' Compensation reform bill.	2/1/2014
Oregon 2014 Minimum Wage Determination	The minimum wage in Oregon will rise to \$9.10 an hour in 2014.	1/1/2014
Oregon HB 2654	Prohibits employers from requiring or requesting that employees or applicants: disclose personal social media account passwords or user names; add the employer to the individual's social media contact list; or allow the employer to view the employee's or applicant's personal social media account.	1/1/2014

Oregon HB 2683	Authorizes the employer to pay wages due to the employee through direct deposit into employee's account, and requires employer to pay employee wages by check upon employee request.	1/1/2014
Oregon HB 2903	Requires certain employers to post in premises where employees are employed a summary of statutes and rules related to employment rights of victims of domestic violence, harassment, sexual assault or stalking.	1/1/2014
Oregon HB 2950	Allows eligible employees to take family leave to deal with the death of family member.	1/1/2014
Oregon SB 590	Revises new-hire reporting requirements to comply with federal requirements that define "newly hired employees."	1/1/2014
Rhode Island HB 5079	Raises the minimum wage commencing January 1, 2014 to \$8.00 per hour.	1/1/2014
Rhode Island HB 5507 (SB 357)	Prohibits an employer from inquiring either orally or in writing about an applicant's prior criminal convictions, with certain exceptions, until the first interview with the applicant. An employer may inquire about the applicant's criminal convictions during the first interview and thereafter in accordance with all applicable state and federal laws.	1/1/2014
Rhode Island HB 6065 (SB 980)	Allows employers whose average payroll exceeds 200% of the state minimum wage to pay wages less frequently than weekly.	1/1/2014
Rhode Island SB 256	Raises the minimum wage commencing January 1, 2014 to \$8.00 per hour.	1/1/2014
Tennessee SB 1209 (HB 850)	Removes certain prevailing wage requirements for the construction industry.	1/1/2014
Tennessee SB 519 (HB 549)	Allows individuals to be exempt from the workers' compensation requirements if such individual is a member of a recognized religious sect or division and is an adherent of established tenets or teachings of such sect or division by reason of which such individual is conscientiously opposed to acceptance of the benefits provided by the workers' compensation laws.	1/1/2014

Texas HB 489	Provides that restaurants, retail food stores, and other food establishments and vendors may not deny in certain circumstances an assistance animal entry into an area of the establishment that was open to customers and was not used to prepare food. The assistance animal would have to be accompanied and controlled by a person with a disability or in training and controlled by an approved trainer. If the assistance animal were accompanied by a person whose disability was not readily apparent, a staff member of the establishment could inquire only about whether the assistance animal was required because the person had a disability and what type of work the animal was trained to perform.	1/1/2014
Vermont 2014 Minimum Wage Determination	Vermont's minimum wage will increase to \$8.73 an hour in 2014. The basic tip wage rate for service and tipped employees will increase to \$4.23 per hour. The maximum tip credit allowed for 2014 is \$4.50 per hour.	1/1/2014
Virginia HB 1900	Aligns regulation of health insurance and related products to be consistent with relevant requirements of the federal Affordable Care Act. Addresses premium rate restrictions on health benefit plans providing individual and small group health insurance coverage, prohibits discrimination based on health status, prohibits adjustments in the cost of coverage based on genetic information, requires individual and small group health insurance coverage to include the essential health benefits as required by the Affordable Care Act, limits waiting periods for health plans offering group health insurance coverage to 90 days, and, effective 1/1/16, expands small employer groups from those with no more than 50 employees to no more than 100 employees.	1/1/2014
Washington 2014 Minimum Wage Determination	Washington's minimum wage will increase to \$9.32 per hour beginning January 1, 2014.	1/1/2014
Washington HB 1752 (SB 5590)	Changes certain requirements for the operation of commercial motor vehicles in order to comply with federal regulations.	7/8/2014

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