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Maine State Chamber of Commerce 2023 Human Resources Legislative Update*

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*As of 5:00 p.m. 5/15/2023

Newly Enacted Laws

- Expansion of Maine Severance Pay Law (L.D. 12)
 - Approved by Governor May 8, 2023
 - Effective 8/31/2023 (estimated), 91st day after session adjourns
 - Expanded to cover more employers and workers by removing “industrial or commercial” language before “facility as it relates to definitions of “covered establishment,” “closing,” and “relocation.”
- Revision of “Sexual Orientation” under MHRA (L.D. 707)
 - Approved by Governor April 24, 2023
 - Effective 6/29/2023
 - Deletes “gender identity or expression” from definition of sexual orientation as such classifications are independently protected

Pending L.D.s

- An Act to Provide Uniform Protections From Retaliation for Maine Workers in Connection with the Exercise of Rights Protected Under the Laws Governing Employment Practices (L.D. 767)
- An Act to Prohibit Training Repayment Agreements by Employers (L.D. 741)
- An Act to Protect Employee Freedom of Speech (L.D. 1756)
- An Act to Prohibit Noncompete Clauses (L.D. 1496)
- An Act to Protect Workers from Employer Surveillance (L.D. 949)
 - Amendment pending
- An Act to Support Family Caregivers by Expanding Family Medical Leave (L.D. 999)
 - Ought to Pass

Pending L.D.s

- Minimum Wage
 - An Act to Create a Livable Wage by Increasing the Minimum Hourly Wage (L.D. 1376)
 - Ought to Pass as Amended
 - \$15.00 minimum wage 1/1/2024
- Maine Human Rights Act
 - An Act to Increase the Limits on Awards for Compensatory and Punitive Damages Under the Maine Human Rights Act (L.D. 1423)
 - An Act to Protect Maine Citizens from Discrimination by Including Vaccination Status as a Protected Class (L.D. 1501)
 - An Act to Add Political Affiliation as a Protected Class to the Maine Human Rights Act (L.D. 1663)
 - An Act to Strengthen Protections of Persons After a Maine Human Rights Commission Investigation Finds No Reasonable Grounds to Believe Unlawful Discrimination Occurred (L.D. 967)
 - An Act to Amend the Maine Human Rights Act Regarding Right-to-Sue Letters (L.D. 1001)
 - Ought to Pass

Pending L.D.s – Wage and Hour

- An Act to Allow Employees to Request Flexible Work Schedules (L.D. 827)
 - Amendment pending
 - An Act Regarding the Right to Request Flexible Working Arrangements for Employees (L.D. 961) DEAD.
- An Act to Ensure a Fair Workweek by Requiring Notice of Work Schedules (L.D. 1190)
- An Act to Require Timely Payment for Salaried Employees (L.D. 1278)
- An Act Regarding Overtime Protections for Certain Maine Workers (L.D. 513)
- An Act to Amend the Maine Equal Pay Law by Prohibiting Pay Discrimination Based on Race (L.D. 1703)
- An Act to Require Disclosure of Pay Ranges and Record Keeping of Pay History (L.D. 936)
 - Amendment pending

Pending L.D.s – Workers’ Compensation

- An Act to Ensure Accountability for Workplace Sexual Harassment and Sexual Assault by Removing Certain Intentional Torts from Workers’ Compensation Exemptions (L.D. 53)
 - Ought to pass out of committee
- An Act to Amend the Workers’ Compensation Self-Insurance Laws to Allow for the Use of Fronting Companies (L.D. 1372)
 - Ought Not to Pass
- An Act to Amend the Maine Workers’ Compensation Act of 1992 Regarding Employee Liability (L.D. 1385)
 - Ought Not to Pass
- An Act to Improve the Maine Workers’ Compensation Act of 1992 (L.D. 1803)
 - Ought to Pass
 - Board Bill
- An Act to Index Workers’ Compensation Benefits to the Rate of Inflation (L.D. 1896)

Pending L.D.s – Unemployment

- An Act to Strengthen Work Equity Regarding Employment of Minors and Unemployment Benefits (L.D. 1332)
- An Act to Ensure Fairness in Unemployment Benefits by Clarifying Laws Regarding Labor Organizations (L.D. 1368)
- An Act to Remove the Waiting Period for Benefits Under Maine's Unemployment Insurance System (L.D. 1464)

Pending L.D.s - Industry Specific

- Healthcare:
 - An Act to Allow Health Care Workers to Return to Work by Reinstating Exemptions from Immunization Requirements (L.D. 172)
- Agriculture
 - An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws (L.D. 398)
- Hospitality
 - An Act to Establish Parity in Tipping Laws for Restaurant Workers (L.D. 903)
 - Ought to Pass as Amended
- Pulp and Paper
 - An Act to Enhance the Predictability of Mandatory Overtime for Pulp or Paper Manufacturing Facility Employees (L.D. 1794)

Concept Drafts

- An Act to Create a Bill of Rights for Temporary Workers (L.D. 321)
- An Act to Improve the Unemployment Insurance System (L.D. 322)
- An Act to Prevent the Wrongful Firing of Maine Workers (L.D. 324)
- An Act to Increase Enforcement and Accountability for Wage and Hour Violations (L.D. 372)
- An Act to Improve Labor Conditions for Maine Workers (L.D. 373)
- An Act to Reduce Recurring Workplace Harassment and Provide Consequences for Serial Offenders (L.D. 856)

Questions on Passed and Pending Legislation?

Next up Maine's Paid Family Medical Leave Act

Proposed Paid Family Medical Leave Act

- Definitions

- Application Year: The 12-month period beginning on the first day of the calendar year in which an individual files an application for family leave benefits or medical leave benefits.
- Family Member: Includes child, parent, spouse, grandparent, grandchild, sibling and
 - *“As shown by the covered individual, any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.”*

- Eligibility

- A. To bond with the covered individual's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption or foster care with the covered individual;
- B. To care for a family member with a serious health condition;
- C. To attend to a qualifying exigency;
- D. To care for a family member of the covered individual who is a covered service member;
- E. To take safe leave; or
- F. Any other reason set forth in section 843, subsection 4. [Maine's current FMLA statute]

- Contributions:

- Begin January 1, 2025

- Benefit Claims:

- Begin May 1, 2026

Proposed Paid Family Medical Leave Act

- Amount of Leave
 - **3. Maximum leave requirements.** *The following requirements apply.*
 - A. *A covered individual is not eligible for more than 12 weeks of family leave in an application year.*
 - B. *A covered individual is not eligible for medical leave for more than 12 weeks in an application year.*
 - C. *A covered individual may not take more than 12 weeks, in the aggregate, of family leave and medical leave under this subchapter in the same application year.*

This subsection does not prevent a covered individual from taking medical leave that is immediately followed by family leave when the medical leave is taken during pregnancy or recovery from childbirth and is supported by documentation from a health care provider.

- Benefits During Leave
 - *The taking of family leave or medical leave may not affect an employee's right to accrue vacation time, sick time, bonuses, advancement, seniority, length of service credit or other employment benefits, plans or programs. During the duration of an employee's family leave or medical leave, the employer shall continue to provide for and contribute to the employee's employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of leave.*
- Funding the Fund
 - *Beginning January 1, 2025, for each employee, an employer shall remit to the fund premiums in the form and manner determined by the administrator. Premiums must be remitted quarterly.*
 - *Beginning January 1, 2025, the premium amount may not be more than a combined rate of 1.0% of wages.*
 - *An employer with 15 or more employees may deduct up to 50% of the premium required for an employee by subsection 3 from that employee's wages and shall remit 100% of the premium required by subsection 3 to the fund.*

Proposed Paid Family Medical Leave Act

- Pay during Leave
 - **2. Determination of weekly benefit amount.** The weekly benefit amount paid to employees and self-employed individuals on family leave or medical leave is 90% of an employee's or self-employed individual's average weekly wage calculated over the past 4 quarters, except for any bonus pay calculated as follows:
 - A. The portion of the covered individual's average weekly wage that is equal to or less than 50% of the state average weekly wage must be replaced at a rate of 90%; and
 - B. The portion of the covered individual's average weekly wage that is more than 50% of the state average weekly wage must be replaced at a rate of 75% up to the maximum weekly benefit.
 - **3. Maximum benefit amount adjustment.** The maximum weekly benefit amount calculated under subsection 2 is 120% of the state average weekly wage. By October 1, 2026 January 1st of the year in which claims begin being processed and annually thereafter, the commissioner authority shall adjust the maximum weekly benefit amount as necessary, and the adjusted maximum weekly benefit amount takes effect on January 1st of the year following the adjustment. The authority may adjust the maximum benefit amount in order to maintain the solvency of the fund at a level of at least 140% of the benefits paid in the preceding year.
- Prohibits Retaliation
 - Hardship Exemption: *An employer that employs less than 15 employees is not subject to the anti-retaliation provision if it would impose an undue hardship on the employer that results in significant difficulty or expenses to the employer when considered in relation to the size, financial resources, nature, or structure of the employer's business.*



Questions?

Thank You