



A Robinson+Cole Legal Update

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2022 Labor and Employment Tri-State Legislative Update: CT, MA, and RI

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As employers actively work to prepare for 2023, taking note of employment-related legislative activity is key. Following robust 2022 legislative sessions in Connecticut, Massachusetts and Rhode Island, employers have a number of labor and employment laws with which to become familiar as there has been a renewed focus on non-pandemic-related workplace issues. Legislators paid significant attention to, anti-discrimination statutes, union-related laws, and paid leave among other things. The following list highlights a selection of key labor and employment-related legislation passed by the state legislatures in Connecticut, Massachusetts, and Rhode Island.

CONNECTICUT

The 2022 session of the Connecticut General Assembly adjourned on May 4, 2022. The following key pieces of labor and employment-related legislation were signed into law:

Public Act No. 22-82: An Act Concerning . . . Domestic Violence Training and Protections for Victims of Domestic Violence

This law changes the definition of “employer” under the Connecticut Fair Employment Practices Act (CFEPA) to include all employers with one or more employees (previously three or more). The law also adds “status as a victim of domestic violence” as a protected class under the CFEPA. The law amends the CFEPA to prohibit employers from denying reasonable leave of absence to an employee for the purpose of seeking attention for injuries, obtaining services, or otherwise taking action to increase safety related to incidents of domestic violence. This part of the law became effective on **October 1, 2022**. It also requires an employer with three or more employees to post information concerning domestic violence and the resources available to victims of domestic violence in a prominent location. This part of the law became effective upon passage on **May 24, 2022**.

Public Act No. 22-24: An Act Protecting Employee Freedom of Speech and Conscience

The law, which became effective **July 1, 2022**, generally prohibits employers from disciplining or discharging an employee, or threatening to do so, because the employee refused to attend employer-sponsored meetings, listen to speeches or view communications primarily intended to convey the employer’s opinion about religious or political matters (i.e., “captive audience meetings”).

Public Act No. 22-17: An Act Concerning Wage Theft

Effective **July 1, 2023**, the Labor Commissioner is directed, upon inspection or investigation of a complaint, to issue a citation to a contractor or subcontractor that has failed to pay the prevailing wage rate. Such contractors and subcontractors may also receive a fine of \$5,000 for each offense (previously not less than \$2,500 but not more than \$5,000) from the Labor Commissioner. Additionally, the Labor Commissioner is required to maintain a list of any contractor or subcontractor that, during the three preceding calendar years, violated the new law or enters into a settlement with the Commissioner to resolve a claim brought by the Commissioner pursuant to the new law.

Public Act No. 22-118: An Act Adjusting The State Budget For The Biennium Ending June 30, 2023, Concerning Provisions Related To Revenue, School Construction And Other Items To Implement The State Budget And Authorizing And Adjusting Bonds Of The State

This law, also called the “Budget Implementer,” contains several employment-related provisions. The law makes it a violation of Connecticut’s Paid Family and Medical Leave Act (CT PFMLA) for any employer: 1) to interfere with, restrain or deny the exercise of, or the attempt to exercise, any right provided by CT PFMLA or 2) to discharge or cause to be discharged, or in any other manner discriminate against any individual for opposing any practice made unlawful by CT PFMLA or because such employee has exercised the rights afforded to such employee under CT PFMLA. The new law also establishes a Premium Pay program to provide pandemic relief to private sector employees meeting the eligibility criteria and makes any no-hire clause in a contract between a homemaker-companion agency and a client of such agency void, among other things. The provisions of this law contain various effective dates, depending on the specific provision.

MASSACHUSETTS

The 2022 session of the Massachusetts General Court adjourned on July 31, 2022. The following key pieces of labor and employment-related legislation have been signed into law:

House Bill H.4554: An Act Prohibiting Discrimination Based on Natural and Protective Hairstyles

This law prohibits workplace discrimination against “natural and protective hairstyles” in Massachusetts workplaces, schools, and places of public accommodation. “Natural or protective hairstyle” is defined to mean “hair texture, hair type and hairstyles, which shall include, but not be limited to, natural and protective hairstyles such as braids, locks, twists, Bantu knots and other formations.” Massachusetts joins 17 other states that have passed a Creating a Respectful and Open World for Natural Hair (CROWN) Act. The Massachusetts Commission Against Discrimination is responsible for enforcing these protections in the workplace. The law took effect on **October 24, 2022**.

RHODE ISLAND

The 2022 session of the Rhode Island State Legislature adjourned on June 23, 2022. The following key pieces of labor and employment legislation were signed into law:

Senate Bill 2430: An Act Relating to Food and Drugs – The Rhode Island Cannabis Act

With this law, which became effective upon passage on **May 25, 2022**, Rhode Island joins 18 other states and the District of Columbia in legalizing the recreational use of marijuana. The law specifically permits legalized recreational marijuana for individuals who are at least 21 years of age. The law allows employers to implement and enforce drug use policies that prohibit the use or possession of cannabis in the workplace or working under the influence of cannabis. An employer may refuse to hire, discharge, or take other adverse employment action against an individual who violates a workplace drug policy or was working while under the influence of marijuana. Additionally, an employer cannot not take disciplinary action against an employee solely for an employee’s private, lawful use of cannabis outside the workplace, subject to certain exceptions. The law contains an exception for safety-sensitive positions (any job, occupation, or profession that is hazardous, dangerous or essential to public welfare and safety), which permits an employer to implement policies that prohibit the use or consumption of marijuana within 24 hours prior to a scheduled work shift or assignment.

Senate Bill 2418A: An Act Relating to Labor and Labor Relations – Employment of Women and Children

This law, which became effective upon passage on **June 15, 2022**, requires that children aged 14 and older seeking to work complete, and certify the completion of, a training program created by the Department of Labor and training that addresses workers’ rights, workplace health and safety, and workers’ compensation prior to the issuance of the special employment permit.

House Bill 7511: An Act Relating to Labor and Labor Relations – Minimum Wages

This law repeals the previous exception to Rhode Island state minimum wage laws, which allowed the Director of Labor and Training to approve wages lower than the minimum wage for individuals whose earning capacity is impaired by physical or mental disability. The law became effective upon passage on **June 15, 2022**.

House Bill 2510 Substitute A: An Act Relating to Labor and Labor Relations – Tip Protection

The law, which became effective upon passage on **June 28, 2022**, provides that employers may not collect any portion of the tips given by customers to their tipped employees (except as it relates to credit card service charges). Additionally, a tip pool can be established among employees “who customarily and regularly receive tips,” so long as certain requirements are met. The tip pool can include nonexempt, non-tipped employees where an employer pays the full minimum wage and takes no tip credit.

As with all new legislation, employers should consider reviewing these laws and any other recently passed legislation applicable to their workplace to ensure their policies and practices are consistent and compliant with the relevant laws.

There were several pieces of employment-related legislation that were not passed in each of these states that employers should have on their radar, as the subjects of the legislation may resurface. Specifically, legislation related to pro-labor initiatives, increased wages and timely payment of wages, non-competition agreements, and paid sick and medical leave might be key topics in 2023.

Employers may wish to consult with competent legal counsel regarding implementation of the new laws and advice on preparing their operations for future workplace trends. Robinson+Cole's labor and employment attorneys are available to provide further guidance on new employment laws and their potential impact on employers.

For more information, contact any of the authors listed above.

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