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New York Employment Law Developments: Paid Lactation Breaks, Posting Requirements and More

Within the next few months, New York employers will need to comply with new employment law obligations. As of June 19, New York state employers will be required to provide employees with paid 30-minute lactation breaks. By July 1, New York City employers must post and distribute a Know Your Rights poster regarding the Workers' Bill of Rights. Below we discuss those and other recent employment law developments in New York, as well as pending noncompete legislation that New York City employers should have on their radar.

Paid Lactation Breaks

Pursuant to the 2024-2025 budget, Bill No. A08806B, effective June 19, all New York state employers must provide employees with 30 minutes of paid break time each time the employee has a reasonable need to express breast milk for up to three years following childbirth. Although New York Labor Law Section 206-c already required employers to provide unpaid reasonable break time for employees to express breast milk at least every three hours, the new law expressly requires paid 30-minute breaks. The new law also requires employers to allow employees to use existing paid break time or meal time if they need more than 30 minutes to express breast milk.

NYC Workers' Bill of Rights

By July 1, New York City employers must distribute to all employees and post the Know Your Rights at Work notice, which contains a QR code that leads to the Workers' Bill of Rights on the New York City website. The notice must be posted in the workplace, on the employer's intranet or on a mobile app if the employer uses one to communicate with employees. The Workers' Bill of Rights, which was issued by the Department of Consumer and Worker Protection, provides guidance on rights that apply to employees, job applicants and independent contractors in New York City. It addresses paid sick and safe leave, temporary schedule changes, fast-food worker rights, freelance worker rights, minimum wage and hour rights, paid family leave, workers' compensation, disability benefits, pay transparency and more. Employers that fail to post or distribute the Workers' Bill of Rights could face a civil penalty of $500 for each violation.

Freelance Isn't Free Act

As we previously reported in our January alert, effective May 20, a business must provide a freelance worker with a written contract and must pay the worker within 30 days unless another payment period is agreed to. Businesses may not retaliate against freelance workers for exercising their rights under the act. The act provides for a private right of action and the recovery of double damages and attorneys' fees. These protections cover freelance workers who are paid at least $800 for their work, including for multiple projects over a 120-day period.

Paid Prenatal Leave

The budget, Bill No. A08805C, also makes New York the first state to require employers to provide paid prenatal leave. As a result, effective January 1, 2025, New York employers must provide employees at least 20 hours of paid prenatal leave during any 52-week calendar period. This leave can be taken for healthcare services during or related to an employee's

pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with healthcare providers relating to the pregnancy. The leave can be taken in hourly increments. Employers are not required to pay out unused prenatal leave upon termination of employment. The required prenatal leave is in addition to the leave required under New York's paid sick leave law.

Expiration of COVID-19 Paid Sick Leave Law

As we previously reported in our February 2021 alert, the New York COVID-19 Sick Leave Law provides employees with paid time off when they are subject to a quarantine or an isolation order due to COVID-19. However, with passage of the budget, that provision will expire on July 31, 2025.

Pending NYC Bills Addressing Noncompetes

In addition to the recent employment law changes discussed above, New York City employers should also be aware of pending legislation addressing noncompetes. As we reported last month, on April 23 the Federal Trade Commission issued a final rule banning nearly all noncompete agreements in the employment context. That rule is the subject of a pending legal challenge. Separately, the New York City Council introduced three bills addressing noncompetes, which are currently pending:

- No. 0140-2024 would prohibit employers from entering or attempting to enter into noncompete agreements with all workers and require them to rescind any existing noncompetes.
- 0146-2024 would prohibit employers from entering into noncompete agreements with low-wage employees. The bill defines a "low-wage employee" as a clerical and other worker as defined in subdivision 7 of Section 190 of the Labor Law.
- 0375-2024 would prohibit hiring parties from entering into noncompete agreements with freelance workers unless the noncompete requires the hiring party to pay a reasonable and mutually agreed sum to the freelance worker on either a biweekly or monthly basis for the duration of time during which the noncompete is effective.

If passed, each of these bills would become effective 120 days after it becomes law.

The Bottom Line

Employers should review their policies and consult with counsel to ensure that they comply with the new legal obligations and the potential additional requirements of the pending legislation.

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