

Employment

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New Year Employment Law Developments: Key Changes for New York Employers

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Ring in the new year means a host of new employment laws that are now effective and on the horizon for New York employers. With the state very busy at year-end, employers should take note of new laws impacting the workforce in 2024, including certain key developments summarized below.

Wage and Hour Updates

The state has increased the minimum salary thresholds for the “executive” and “administrative” minimum wage and overtime exemptions under New York Labor Law as follows:

Effective Date	New York City, Long Island, and Westchester County	Remainder of New York State
January 1, 2024	\$1,200 per week (\$62,400 annualized)	\$1,124.20 per week (\$58,458.40 annualized)
January 1, 2025	\$1,237.50 per week (\$64,350 annualized)	\$1,161.65 per week (\$60,405.80 annualized)
January 1, 2026	\$1,275 per week (\$66,300 annualized)	\$1,199.10 per week (\$62,353.20 annualized)

As a reminder, to be exempt from minimum wage and overtime requirements, an employee generally must meet **both** a salary and a duties test, the latter of which remains unchanged under the applicable New York regulations. New York’s salary thresholds for the “executive” and “administrative” exemptions are significantly higher than those required by the federal Fair Labor Standards Act.

New York’s minimum wage has also increased, effective Jan. 1, 2024, to \$16 per hour for New York City, Long Island, and Westchester County, with an increase to \$15 per hour for the remainder of New York State. The rates are set to increase again in 2025 and 2026 in accordance with a multiyear plan.

Separately, effective March 13, 2024, New York will change the salary threshold governing various other exemptions under New York Labor Law from \$900 to \$1,300 per week. This is separate and distinct from the salary threshold for exemption from minimum wage and overtime requirements, and impacts provisions related to frequency of pay, methods of payment of wages, and benefits and wage supplements.

Non-Compete Law

Following significant anticipation regarding the fate of the bill, on Dec. 22, 2023, Gov. Kathy Hochul vetoed a landmark New York bill, passed by both legislative houses in June 2023, that proposed a blanket ban on noncompete agreements. While the veto came as a welcomed respite for employers, it is anticipated that noncompete legislation will be reintroduced in the legislature in 2024, presumably taking into account identified pitfalls of the original bill and likely proposing a minimum salary threshold for enforcement of a noncompete.

Though it’s outside the scope of this alert, employers with employees in California will need to take note of new California noncompete laws, effective Jan. 1, 2024, which we previously detailed [here](#). Among the new requirements, by Feb. 14, 2024, employers must notify current employees, and former employees who were employed after Jan. 1, 2022, whose contracts include a noncompete clause or who were otherwise required to enter into a noncompete agreement, that any noncompete clause or noncompete agreement they may have signed is void. There are now also increased penalties for entering into or attempting to enforce a prohibited noncompete.

Social Media

Beginning March 12, 2024, New York law will prohibit an employer from requesting or requiring an employee or applicant to disclose information for accessing their personal social media accounts and from taking related actions. Comparable laws have been in effect for many years in other states, but this law is new to New York. Employers should ensure that their employment policies and practices are compliant.

Freelancers

Effective May 20, 2024, New York State's Freelance Isn't Free Act will require certain protections for independent contractors who are hired to provide services for \$800 or more, including, among other things, a written contract with certain detailed information. This statewide law mirrors the local law of the same name that has been effective in New York City since 2017.

NYC Workers' Bill of Rights

In accordance with a new law enacted in New York City, the New York City Department of Consumer and Worker Protection is slated to publish by March 1, 2024, information about rights under relevant federal, state, and local laws that apply to employees in New York City. Starting July 1, 2024, New York City employers must distribute the notice to current workers and newly hired employees on or before the first day of employment and conspicuously post the information in an area accessible and visible to employees.

Late 2023 Enactments

New York employers should also be aware of the following laws, all of which became effective in late 2023.

- **Settlement Agreements:** Effective Nov. 17, 2023, New York amended existing nondisclosure law to provide that no release of any claim the factual foundation for which involves unlawful discrimination (including harassment or retaliation) will be enforceable if the agreement (1) requires the complainant to either pay liquidated damages or forfeit all or part of the consideration for violation of a nondisclosure or nondisparagement clause or (2) contains or requires any affirmative statement, assertion, or disclaimer by the complainant that he or she was not in fact subject to unlawful discrimination, including harassment or retaliation. This law has several complex nuances, and employers are encouraged to consult with counsel for additional information.
- **Unemployment Notice:** Effective Nov. 13, 2023, New York employers must provide employees with written notice, in a prescribed form, of their right to file an application for unemployment benefits at the time of separation, reduction in hours, temporary separation, or other interruption of continued employment that results in total or partial unemployment.
- **Invention Assignment:** Effective Sept. 15, 2023, New York joined several other states that have enacted limitations on employee invention assignment provisions. New York's law makes unenforceable those employment agreement provisions that require employees to assign their rights to inventions developed entirely on their own time and with their own resources, with a few exceptions.

Takeaways

As the new year ushers in significant employment law updates, employers will need to comply with changes in the law, some of which are effective now, and otherwise anticipate forthcoming changes. Lowenstein Sandler's Employment Counseling and Litigation practice group is pleased to provide legal counsel if you have questions on compliant employment policies, documents, and practices.

Contacts

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