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Maine Employment Law Legislative Round-Up

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Maine State Action/Activity

General Expectations

- Expect to see an increase in DOL investigations and penalties based on 2024 updates to statutory damages available to impose.
- General increase in OSHA health and safety investigations, primarily involving injury, even minor injuries.
- Increased MHRC/EEOC filings
 - Believed to be tied to market, more lay offs and terminations at the end of 2024 and beginning of 2025 than we have seen in a while, resulting in more charges

Passed – An Act to Amend the Law Governing Accrual of Earned Paid Leave (LD 55)

- Approved by the Governor July 1, 2025
- Amends the Earned Paid Leave Statute (26 MRS § 637)
- EPL that is unused in one year must be available in the year immediately following and cannot affect accrual
- Up to 40 hours or the accrual limit specified in the employer’s policy governing paid leave
- “Accrued and unused hours of earned paid leave from the previous year of employment must be available for use by an employee in the year of employment immediately following the previous year. Accrued and unused hours of earned paid leave carried forward from the previous year of employment may not reduce the total amount of hours of paid leave an employee is entitled to earn in the year of employment immediately following the previous year, up to 40 hours or the accrual limit specified in the employer's policy governing paid leave, whichever is higher.”
- Review and amend policy if necessary.

Passed – Employee Surveillance Bill (LD 61)

- Passed to be enacted 6/25 (unclear if Governor will veto)
- Employer Surveillance cannot be used unless employer notifies employees beforehand
- Employer Surveillance = monitoring of employees through electronic device or system (computer, telephone, radio, photo-optical) unless for security or safety purposes or global positioning systems
- No audiovisual monitoring in residence or in a personal vehicle
- Some exceptions for personal care services
- If surveillance is used, notice must be given during interview and annually thereafter
- Private right of action (attorneys fees, civil penalties, injunctive relief)

Passed – An Act to Amend the Workers Compensation Laws by Extending Indefinitely the Presumption Applying to Law Enforcement Officers, Corrections Officers, E-9-1-1 Dispatchers, Firefighters and Emergency Medical Services Persons Diagnosed with PTSD (LD 82)

- Passed 6/25
- A presumption in workers compensation that PTSD arose in the course of employment was set to expire on 10/1/2025
- This bill repeals the expiration and continues the rebuttable presumption indefinitely

Passed – Pay to Report to Work (LD 598)

- Employer who employs at least 10 employees
- If employee reports to work and employer cancels or reduces hours, employee must pay lesser of two hours of pay at regular hourly rate or total pay for the shift scheduled
- Not applicable if: adverse weather conditions; civil emergency; employee illness, medical condition or injury

Passed – Paid FML Amendment (LD 894)

- Signed by the Governor June 12, 2025
- Technical amendments not helpful to employer:
- Clarifies intermittent leave of one workday unless a lesser increment agreed by employer and employee
- Ability to collect delinquent premium contributions
- Successor liability for delinquent contributions

Next Term – Pay Range Disclosure (LD 54)

- Passed to be enacted 5/20 (died on appropriations; carried over)
- Employer with 10 or more employees
- Statement in postings of the prospective range of pay to be offered a successful applicant
- Range of Pay means: applicable pay scale, previously determined range of pay for position; actual range of wages; budgeted amount for position
- Does not include compensation based on commission
- Request of an employee, disclose pay range for position held
- Record maintenance for at least 3 years

Next Term – Flexible Work Schedule (LD 60)

- Passed to be enacted 5/29 (died on appropriations; carried over)
- All Employers covered
- Employee may submit a request in writing (text, letter, email) for a flexible work schedule. Employer **shall** consider if “inconsistent with employer operations). Must inform the employee in writing of decision regarding request for a flexible work schedule. Employer must specify why request is denied (if denied). If granted, must **mutually** agree on duration.
- Employer may rescind but may not retaliate
- Inconsistent with employer operations: burden of additional cost; detrimental effect on employee moral; adverse effect on meeting customer demand; inability to reorganize work; inability to recruit additional employees; adverse impact on safety; impact on business quality or performance; insufficient work during proposed schedule; planned structural changes; determination that job cannot be performed completely or partially at a different location.
- Civil penalty \$100-\$500 and civil action is available
- Applies to unionized workforces as well

Next Term – Raise Overtime Salary Threshold (LD 599)

- Passed to be enacted 5/27 (died on appropriations; carried over)
- Increases Salary Exempt Threshold under State law to highest of:
 - 3,000 times minimum wage (same as current standard or \$43,950.00);
 - \$58,656 per year;
 - 35th percentile of weekly full-time workers in lowest wage census by US DOL as of July 1, 2027; or
 - US DOL FLSA standard

Next Term – Report Gender Wage Gaps (LD 799)

- Passed to be enacted 6/4 (died on appropriations; carried over)
- Employers with one employee in Maine and 250 in US during reporting year
 - Employer shall identify a week to collect data of gender (based on self-identification) and submit gender and median hourly equivalent rate of pay and gender wage gap
 - No title/experience/position information provided just the median based on gender
- Before submission **SHALL** allow employee opportunity to review and correct
- Information will be published annually identifying the employer and related data
- \$1,000 penalty for violation

Federal Action/Activity

Federal – Non-Compete Agreements

- Recall in 2024 FTC (and NLRB) attempted to ban non-compete agreements
- Lawsuit brought and FTC was unsuccessful (nationwide stay entered). FTC appealed.
- On March 7, 2025, FTC moved to stay appeal for 120 days
- Rumor that FTC will not pursue defense of proposed rule

Federal – Disparate Impact & Artificial Intelligence

- EO – Restoring Equality of Opportunity and Meritocracy
- Policy – “It is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.”
- Provides an open door for discriminatory testing, promotion and applicant software

Federal – DEI/Diversity Initiatives

- Multiple EOs, but focus on 1/21 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity
- Has resulted in the Justice Department filing suit against high-profile law firms and other entities
- Directive of entities to identify corporations who may be in violation
- EEOC request for “diversity data” from multiple large law firms
- Has the law changed? No, Title VII’s standards remain in effect

Federal – What Does the Supreme Court Say?

- There is no “reverse discrimination” – all individuals provided with protection under federal law (Title VII specifically) bring case under the same standard, whether in the majority or minority group. *Ames v. Ohio Dep’t of Youth Services*
- Sexual orientation remains a protected class under Title VII despite current administration’s orders. *Ames v. Ohio Dep’t of Youth Services*

Federal – What Will the EEOC Do?

- Likely to remove certain regulations concerning the Pregnant Workers Fairness Act
- Likely to focus attention more on disability and religious discrimination claims and less on race/national origin/gender claims
- Likely to see more limited enforcement/litigation on behalf of the agency

Thank You

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