

Colorado Raises Minimum Wage for 2014: Checklist for Complying with New Employment Developments

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A new year is just around the corner. Along with champagne toasts and resolutions to lose weight, January 1 typically brings new laws and regulations in Colorado. 2014 is no different. Colorado employers should plan now for the changes going into effect in 2014. It is also a good time to make sure you are in compliance with the new laws that took effect in 2013. Here is a checklist to help you stay on the right side of the law.

- **Colorado Minimum Wage Goes Up to \$8.00 per Hour on January 1.** The Colorado Division of Labor has adopted Minimum Wage Order 30 which raises the state minimum wage from \$7.78 (2013) to \$8.00 per hour, effective January 1, 2014. The state minimum wage for tipped employees increases to \$4.98 per hour, also effective January 1, 2014. Colorado's minimum wage is adjusted annually for inflation pursuant to the Colorado Constitution. If this applies to any of your workforce, update your payroll practices to comply with the new rate on the first of the year.
- **Marijuana may be Legally Purchased and Possessed on January 1.** Adults may legally buy, use and possess small amounts of marijuana in Colorado beginning January 1st. Because marijuana is still illegal under federal law, Colorado employers may continue to have workplace policies banning its use by employees and prohibiting possession of marijuana on company premises. Review and if necessary, update your policies to reflect that use of controlled substances and drugs that are illegal under either state or federal law are not permitted. The new year is a good time to communicate this to your employees.
- **Rules Implementing Employment Opportunity Act (Credit History Law) Effective January 1.** Colorado's Employment Opportunity Act, section 8-2-126, C.R.S., was enacted last spring and went into effect on July 1, 2013, restricting an employer's use of credit history information on employees and applicants. (See our post on that new law.) The Division of Labor has adopted new rules, 7 CCR 1103-4, that go into effect on January 1 to implement the provisions of the act. The new rules include a couple of new definitions and clarifications not found in the act itself, including that "consumer credit information" does not include income or work history verification and that "prevailing party" means the employee

who successfully brings, or the employer who successfully defends, the complaint. The new rules also describe the enforcement mechanism for violations, including how complaints must be filed, the investigation process, initial decisions and appeals.

- **Rules Implementing Social Media and the Workplace Law Effective January 1.** Last spring, Colorado enacted a law, found at section 8-2-127, C.R.S., that restricts an employer's access to personal online and social media sites of employees and applicants. (We previously wrote on that law here.) The law went into effect on May 11, 2013 but new rules implementing the law go into effect on January 1, 2014. In large part, the rules, 7 CCR 1103-5, mirror the act itself but add that it is OK for an employer to access information about employees and applicants that is publicly available online. The new rules also detail the complaint, investigation, decision, appeals and hearing process.
- **2013 Family Care Act Extends FMLA Coverage to Care for Civil Union and Domestic Partners.** Effective August 7, 2013, Colorado's Family Care Act, section 8-13.3-201 et seq., C.R.S., extends leave benefits under the federal Family and Medical Leave Act (FMLA) to eligible employees to care for their civil union and domestic partners with a serious health condition. If you are a covered employer under the FMLA, ensure that your FMLA forms, policies and practices provide that eligible employees may take leave to care for a seriously ill or injured civil union or domestic partner. Also, for multi-state employers subject to the FMLA, remember that if you have employees in states that recognize same-sex marriages, the FMLA definition of "spouse" will include employees' same-sex spouses due to the U.S. Supreme Court's decision in *United States v. Windsor* (further discussed here).
- **Age 70 Cap on Colorado Age Discrimination Claims Eliminated in 2013.** Colorado's legislature enacted changes to the Colorado Anti-Discrimination Act (CADA). Effective August 7, 2013, there is no longer an upper age limit of 70 years old for age discrimination claims under CADA, section 24-34-301, et seq., C.R.S. This brings Colorado's age discrimination law in line with the federal Age Discrimination in Employment Act which makes it unlawful to discriminate against employees and applicants on the basis of age 40 or older with no upper age limit.
- **Prepare for Changes in Remedies Available for Colorado Discrimination Claims Beginning January 1, 2015.** Colorado added new remedies, including punitive damages, that may be recovered for violations of CADA for claims alleging discrimination or unfair employment practices that accrue on or after January 1, 2015, section 24-34-405. C.R.S. With a year to prepare, now is the time to get policies in place to address reasonable accommodations, complaint procedures and other good faith measures to resolve workplace discrimination issues.

Start the year off right by making sure you comply with these new developments in Colorado employment laws. We wish you a happy,

healthy, prosperous and compliant 2014!

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