Engage PEO Client Alert:

Nevada – Various Updates

Nevada Enacts Pay Transparency and Equality Law

As of October 1, 2021, Nevada has joined several other states in adopting restrictions and requirements to the hiring process to promote pay equality. **Employers hiring in Nevada should review their hiring practices and make immediate adjustments as necessary to ensure compliance.**

Whether for an outside hire or a promotion or transfer from within, employers and employment agencies may no longer:

- Seek or request a job applicant's wage or salary history (but asking for the applicant's wage or salary expectations is still permissible);
- Base hiring decisions or potential rate of pay on an applicant's wage or salary history; or
- Discriminate or retaliate against an applicant for not providing a wage or salary history, including but not limited to refusing to interview, hire, or promote.

Additionally, once an applicant has interviewed for a position, employers must provide applicants with a wage or salary range or rate for the position.

A non-compliant employer may be held liable for a variety of costs, including but not limited to actual damages, administrative penalties of $5,000 for each violation, attorneys' fees, and court costs, or administrative proceedings.

Nevada employers should consider taking the following steps to ensure compliance with the new law:

1. Review company hiring practices and adjust as needed.
2. Train all HR personnel, managers, and supervisors regarding the new restrictions and requirements.
3. Establish formal wage ranges for all positions in anticipation of requests from applicants.

Expanded Scope of Child Support Wage Garnishments

For purposes of child support wage garnishments, Nevada recently expanded the definition of "income" to include lump-sum payments such as commissions, bonuses, profit sharing, severance pay, and any other one-time, unscheduled, or irregular payment of compensation.

As of October 1, 2021, any employer required to garnish a Nevada employee's wages pursuant to a child support order must inform the enforcing authority identified in the order at least ten days before it intends to pay the employee a lump sum of $150 or more.

An employer may not make the lump sum payment to the employee until either:

(a) the date the employer informed the enforcing authority that it was releasing the payment; or

(b) the earlier of:

i. The eleventh day after informing the enforcing authority of the intended payment; or

ii. The date that the employer receives written notice from the Division of Welfare and Supportive Services of the Department advising how much to withhold and deliver to the enforcing authority.

Mandatory Paid Leave

Effective immediately, Nevada has amended the existing mandatory paid leave law, explicitly stating that it is available to employees for "any" use, including sick leave. Private employers with 50 or more employees in Nevada should review their leave policies and adjust as necessary to comply with this amendment. If you are using the Nevada Paid Leave policy template from Engage, you do not need to make any changes; if not, then please connect with your HR Consultant.

Paid Vaccination Leave

Effective immediately through December 31, 2023, private employers with 50 or more employees in Nevada must provide all employees with paid leave to receive a COVID-19 vaccine, two consecutive hours per dose for up to a total of four total hours. Employees must give at least 12 hours advance notice before using this leave, and employers may not deny employees the right to use it, condition it on finding a replacement worker, or retaliate against employees for using it.

- **The Nevada Labor Commissioner has prepared a related bulletin (available for download here) which covered employers must post in a conspicuous location in each workplace.** Additionally, covered employers must maintain a record of employees' receipt or accrual and use of vaccination leave for a period of one year, and they must make those records available for inspection on the Labor Commissioner's request.

This paid leave requirement does not apply to employers in their first two years of operation or employers that provide a clinic on their premises where the employee can be vaccinated during their regular work hours. However, unlike the mandatory paid leave law, there is no exemption for seasonal, on-call, or temporary employees from coverage, nor is there an exemption for employers that already provide the minimum paid leave required by the statute.

The law is currently silent on the rate of pay for vaccination leave, as well as whether employers may request documentation or other evidence that an employee has used leave for a permissible reason.

New "Kin Care" Law

As of October 1, 2021, employers providing paid or unpaid sick leave must permit Nevada employees to use a portion of their accrued sick leave to assist an immediate family member with an illness, injury, medical appointment, or other authorized medical need. Employees covered under a valid collective bargaining agreement are exempt from this new "kin care" law.

Employers may limit the amount of annual kin care leave to the amount of sick leave that the employee accrues during a six-month period, but they must permit the use of accrued sick leave for kin care purposes to the same extent and under the same conditions that apply to sick leave in general. Employers may not deny employees the right to use kin care leave nor retaliate against employees for doing so. Violations of the new kin care law are misdemeanors punishable by up to $5,000 per violation.

> **The Nevada Labor Commissioner has prepared a relevant bulletin (available for download here) which employers must post in a conspicuous location in each workplace.**

New Restrictions and Penalties for Noncompete Agreements

As of October 1, 2021, a court must award reasonable attorney's fees and costs to a former employee if it finds that an employer negotiated, executed, or attempted to enforce a non-compete agreement under either of the following circumstances:

A. The former employee was paid solely on an hourly wage basis, exclusive of any tips or gratuities; or

B. All of the following are true:

   1. The non-compete agreement restricts a former employee from providing service to a former customer/client;

      The former employee did not solicit the former customer/client;

   2. The former customer/client voluntarily chose to leave and seek services from the former employee; and

   3. The former employee has otherwise complied with the non-compete agreement's limitations as to time, geographical area, and scope of activity to be restrained.

These changes are much more protective to employees than was historically true. Therefore, employers should review their agreements to ensure that any non-compete provisions are in compliance.

DETR Posting Requirement

As of October 1, 2021, each employer in private employment in Nevada must post and maintain notice(s) provided by the Department of Employment, Training, and Rehabilitation concerning its job training services or employment programs. The notice(s) should be posted in a conspicuous location at the workplace. A copy of the current DETR notice can be downloaded here.

If you have any questions about the topics covered in this Alert, please reach out to your Engage HR Consultant.