Engage PEO Client Alert - Florida

Florida Updates

What's New for Minimum Wage

Florida's **minimum wage is set to increase to $11.00 per hour on Sept. 30, 2022** and will continue to increase annually by $1.00 per hour until it reaches $15.00 per hour on Sept. 30, 2026. Additionally, Florida's **minimum wage for tipped employees will increase to $7.98 per hour on Sept. 30, 2022**, from $6.98 per hour. However, the employer tip credit will remain unchanged at $3.02 per hour throughout the minimum wage increase phase-in process.

What's New for Marijuana Drug Testing

Although Florida has legalized the medical use of marijuana, Florida law preserves employers' rights to enforce drug-free workplace policies, which in turn allows Florida employers to access reduced workers' compensation premiums. Thus, if an employee qualifies for legal marijuana use, they must still obey an employer's rules for using drugs at work or having marijuana in their system. **Employers may continue to test for marijuana during pre-employment drug screens, fitness for duty testing, random testing as part of employment, or if there is reasonable suspicion that an employee is under the influence of drugs while at work**.

Minimum Wage Increase: Background

This gradual increase in the minimum wage stems from the November 2020 election when Floridians voted to increase the state's minimum wage to $15.00 per hour. Florida's legislature included the gradual phase-in of the minimum wage increase into the law's final version mandating the increase. As a result, all public and private employers must comply with the annual increases in the minimum wage, unless otherwise exempted by state or federal law. These increases are expected to continue through 2026.

Florida Medical Marijuana in the Workplace: Background

Florida law allows patients to receive and use medical marijuana. Importantly, the law doesn't require accommodation for medical marijuana users. Despite patients being able to legally qualify and receive medical marijuana, an employer can still enforce a drug-free environment, meaning the patient won't be able to work. Additionally, Florida law does not make it mandatory for employers to accommodate patients receiving medical marijuana or working under the influence of marijuana. The section also states that it does not "create a cause of action against an employer for discrimination or wrongful discharge."

What Does this Mean for Florida Employers?

Minimum Wage: Employers in the state must plan ahead for the coming minimum wage increases to ensure compliance, while also preparing for the impact on operational costs. Failure to comply with the minimum wage standards will result in a violation of the law which could trigger penalties from the Department of Labor or litigation.

Medical Marijuana: Since the passing of the amendment in Florida, employers have worried about what it could mean for drug use in the workplace. **Under the current law, employers are not required to accommodate employees who are medical marijuana users.** Thus, employers may continue drug screens and act against those who test positive for marijuana in the following circumstances:

- Job applicant testing,
- Fitness for duty testing,
- Upon return from a drug rehabilitation program,
- Random testing, or
- Reasonable suspicion drug testing.

Please reach out to your assigned Engage Human Resources Consultant if you have any questions concerning this alert or other HR-related matters.