

## MINNESOTA EMPLOYMENT LEGISLATION 2024

The Minnesota Legislature again has made important employment law changes. Below is a summary of the most significant. More detail is provided in these attachments:

- Minn Stat § 363A.03 – redline showing detailed changes in the Minnesota Human Rights Act
- Minn Stat § 181.943 - redline showing detailed changes relating to MN parenting leave

### Also - Federal Rule Change

Also attached is a summary of the important DOL exempt/ nonexempt rule change, which takes effect on July 1, 2024.

### Additional Tip

Refer to the [Minnesota Paid Leave website](#) for updates on advance employer obligations relating to the paid leave law that goes into effect on 1.1.26.

Effective Date (MN Statutes)	Topic	Changes	Recommendations
5.25.24 (177.50)	ESST Penalties	Enforcement is by MN DOL or private suit. Penalties: <ul style="list-style-type: none"> <li>▪ Failure to provide ESST: Double the ESST lost</li> <li>▪ Insufficient records to ascertain amount of loss: 96 ESST hours for each year when records are insufficient Records to be maintained 3 years</li> </ul>	<ul style="list-style-type: none"> <li>▪ This is an unusually harsh penalty</li> <li>▪ Review internal policies/ procedures to absolutely ensure no loss of ESST Policies are clear: understandable by employees and managers Policies are applied accurately</li> <li>▪ Update recordkeeping as necessary – records maintained 3 years</li> </ul>

<p><b>5.25.24</b> (181.9447)</p>	<p>ESST Use/ Increment</p>	<ul style="list-style-type: none"> <li>▪ New entitlement ESST may be used for funeral arrangements, attendance and other financial/ legal matters after death of family member</li> <li>▪ New increment of use – all ESST time May be used in the same increment of time as employee is paid, but not less than 15-minutes or more than 4-hours</li> </ul>	<ul style="list-style-type: none"> <li>▪ Update ESST policy</li> <li>▪ Update procedures and records</li> </ul>
<p><b>5.25.24</b> (181.032; 181.9447)</p>	<p>ESST Payroll notice</p>	<ul style="list-style-type: none"> <li>▪ Summary of ESST time no longer is required on pay stubs BUT</li> <li>▪ Separate notice is required each payroll period Summary of accrued, used, available must be communicated somehow – paper, electronic, online If online, computer must be available to employees Records kept 3 years</li> </ul>	<ul style="list-style-type: none"> <li>▪ Adjust accordingly</li> <li>▪ Showing ESST on the pay stub is still permitted</li> <li>▪ But providing a separate notice, paper or electronic, will be easier</li> </ul>
<p><b>5.25.24</b> (181.724; 181.725; 177.27)</p>	<p>Misclassification Cross-agency enforcement group</p>	<ul style="list-style-type: none"> <li>▪ Creates MN Intergovernmental Misclassification Enforcement and Education Partnership Act to: Maximize efforts to detect, investigate, and deter employee misclassification Share information to facilitate the detection and investigation of employee misclassification</li> <li>▪ “Misclassification” is improper classification of workers – independent contractor; exempt/ nonexempt</li> </ul>	<ul style="list-style-type: none"> <li>▪ This is a newly heavy emphasis on the subject Cross-functional communications among agencies has been uncertain and not mandatory to date Emphasis now is on research, coordination, collaboration, information sharing Group to present annually to the legislature – first presentation by 3.1.25</li> </ul>

		<ul style="list-style-type: none"> <li>▪ Creates a permanent work group among MN agencies: DOL MN Rev DEED Dept of Commerce Attorney General</li> </ul>	<ul style="list-style-type: none"> <li>▪ There is no doubt that info also will be shared with federal agencies: IRS, DOL</li> <li>▪ This program should concern every employer</li> <li>▪ Beginning asap: Analyze all employee classifications Start with independent contractors Include exempt/ nonexempt Make corrections as needed</li> <li>▪ Exempt/ nonexempt classifications also have been modified by federal law Employers should take special care in complying with those at the same time</li> </ul> <p><i>See the attached summary of the federal exempt/ nonexempt changes</i></p>
<p><b>5.25.24</b> (181.950; 181.951; 181.952; 181.954)</p>	<p>Cannabis</p>	<p>Adds cannabis to the list of drugs and procedures in the MN drug testing statute</p>	<p>No policy updates needed unless the employer drug tests applicants or current employees</p>
<p><b>7.1.24</b> (181.9881)</p>	<p>Nonsolicitation of employees prohibited by service providers</p>	<p>Adds new prohibition:</p> <ul style="list-style-type: none"> <li>▪ “Service Provider” - employer of workers providing services to a customer</li> <li>▪ No Service Provider may restrict, restrain, or prohibit in any way a customer from directly or indirectly soliciting or hiring an employee of a service provider</li> </ul>	<ul style="list-style-type: none"> <li>▪ Service Provider with current agreements – must notify employees that this provision is illegal as of 7.1.24</li> <li>▪ Customers – May hire workers as of 7.1.24 regardless of existing agreement</li> </ul>

		<ul style="list-style-type: none"> <li>▪ Effective 7.1.24, but same provision in any existing contract is void</li> <li>▪ Technology temp-to-hire contracts exempt</li> </ul>	
<p><b>8.1.24</b> (181.950; 181.951; 181.952; 181.954)</p>	Drug, cannabis testing	<ul style="list-style-type: none"> <li>▪ Permits saliva testing for drugs and cannabis – outside of a lab</li> <li>▪ Prescribes procedures</li> </ul>	No policy updates needed unless the employer drug tests applicants or current employees
<p><b>8.1.24</b> (363A.03)</p>	MN Human Rights Act	<ul style="list-style-type: none"> <li>▪ Expands definition of “disability” slightly</li> <li>▪ Replaces “sexual harassment” with “harassment” to cover all protected categories Does not define “harassment”</li> <li>▪ Expands definition of “familial status” to include guardian and mental incapacity</li> </ul>	<p><i>See the attached redline comparison of current and revised statutes</i></p> <ul style="list-style-type: none"> <li>▪ Begin managing according to the changes</li> <li>▪ Modify Employee Handbook only if necessary to include prohibition against harassment of <i>all</i> protected categories</li> </ul>
<p><b>8.1.24</b> (181.943)</p>	MN Pregnancy and Parenting Leave	<ul style="list-style-type: none"> <li>▪ Provides that: Parenting leave time (12 weeks) per the MN Pregnancy and Parenting Leave Act may not be reduced by time taken off for prenatal appointments</li> <li>▪ Likely also includes time taken as a pregnancy accommodation under 181.939</li> </ul>	<p><i>See the attached redline comparison of current and revised statutes</i></p> <ul style="list-style-type: none"> <li>▪ Begin managing according to the change</li> <li>▪ Change to the Employee Handbook is not mandatory</li> </ul>
<p><b>1.1.25</b> (181.173)</p>	Salary Ranges in Job Postings	<ul style="list-style-type: none"> <li>▪ New requirement</li> <li>▪ Limited to employers of 30 or more employees</li> <li>▪ Requires posting of minimum and maximum pay range, starting pay range, and general description of other benefits and compensation to be offered</li> </ul>	<ul style="list-style-type: none"> <li>▪ If applicable, be ready to comply on 1.1.25</li> <li>▪ Look for MN DOL clarification on whether internal postings are included</li> <li>▪ If no clarification, assume internal postings also must be included</li> </ul>

		<ul style="list-style-type: none"> <li>▪ “Job Posting” mean any solicitation to fill a specific position by any means</li> </ul> <p>Appears to apply just to external postings, but may also include internal – which are not referenced at all</p>	
<p><b>1.1.25</b> (181.9448)</p>	<p>ESST Other employer benefits</p>	<ul style="list-style-type: none"> <li>▪ No employer-provided sick/ safe benefits are required except ESST</li> </ul> <p>BUT</p> <ul style="list-style-type: none"> <li>▪ Any <i>paid</i> employer benefit that supplements ESST must meet <i>certain</i> ESST standards</li> </ul> <p>Applies to employee’s own illness/ injury only Applies to paid benefits only Excludes STD/ LTD benefits Excludes leave time accrued before 1.1.24</p> <ul style="list-style-type: none"> <li>▪ Mandatory standards</li> </ul> <p>Employee notice Proof requirements (document after 3 days) Maintain insurance on leave Return to same job, pay, seniority</p> <ul style="list-style-type: none"> <li>▪ No retaliation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Evaluate non-ESST benefits, especially long-term medical leaves</li> <li>▪ Bring any non-conforming benefit up to standards</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>▪ Remove the pay component of any non-conforming leave</li> <li>▪ Ensure that your policy still retains the right to allow long-term medical leaves without guaranteed right of return to work</li> </ul>
<p><b>1.1.25</b> (177.23; 177.24)</p>	<p>MN Minimum Wage</p>	<ul style="list-style-type: none"> <li>▪ No later than 8.31 in any year the MN DOL commissioner will establish the minimum wage to be effective the following January 1</li> <li>▪ Increase shall be the lesser of 5% or a different amount calculated by the commissioner</li> <li>▪ The minimum wage may never decrease</li> </ul>	<p>Applicable minimum wage is designated based on employer size – “Large” or “Small”:</p> <p>Annual gross volume of revenue from business activities more or less than \$500,000</p>

# Minn. Stat. § 363A.03

Section 363A.03 - [Effective ~~Until~~ 8/1/2024] DEFINITIONS

## **Subdivision 1. Terms.**

For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

## **Subd. 2. Age.**

The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

## **Subd. 3. Board.**

"Board" means the state Board of Human Rights.

## **Subd. 4. Business.**

The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

## **Subd. 5. Charging party.**

"Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section 363A.28, subdivision 1.

## **Subd. 6. Closed case file.**

"Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

## **Subd. 7. Commissioner.**

"Commissioner" means the commissioner of human rights.

## **Subd. 8. Complainant.**

"Complainant" means the commissioner of human rights after issuing a complaint pursuant to sections 363A.06, subdivision 3, paragraph (8), and 363A.28, subdivisions 1 to 9.

## **Subd. 9. Confidential, private, and public data on individuals and protected nonpublic data not on individuals.**

"Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota Government Data Practices Act.

## **Subd. 10. Demand responsive system.**

"Demand responsive system" means a system of providing public transportation that is not a fixed route system.

**Subd. 11.Department.**

"Department" means the Department of Human Rights.

**Subd. 12.Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; ~~or~~ (3) is regarded as having such an impairment ; or (4) has an impairment that is episodic or in remission and would materially limit a major life activity when active.

**Subd. 13.Discriminate.** The term "discriminate" includes segregate ~~or~~, separate ~~and, for purposes of discrimination based on sex, it includes sexual,~~ or harassment.

**Subd. 14.Educational institution.**

"Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.

**Subd. 15.Employee.**

"Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

**Subd. 16.Employer.**

"Employer" means a person who has one or more employees.

**Subd. 17.Employment agency.**

"Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

**Subd. 18.Familial status.** "Familial status" means the condition of one or more minors ~~being domiciled~~ having legal status or custody with (1) ~~the~~ the minor's parent or parents or the minor's legal guardian or guardians or (2) the designee of the parent or parents or guardian or guardians with the written permission of the parent or parents or guardian or guardians. Familial status also means residing with and caring for one or more individuals who lack the ability to meet essential requirements for physical health, safety, or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

**Subd. 19.Fixed route system.**

"Fixed route system" means a system of providing public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

**Subd. 20.Historic or antiquated rail passenger car.**

"Historic or antiquated rail passenger car" means a rail passenger car:

- (1) that is at least 30 years old at the time of its use for transporting individuals;
- (2) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; or
- (3) that has consequential association with events or persons significant to the past or embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past or to represent a time period that has passed.

**Subd. 21. Human rights investigative data.**

"Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

**Subd. 22. Labor organization.**

"Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

- (1) collective bargaining;
- (2) dealing with employers concerning grievances, terms or conditions of employment; or
- (3) mutual aid or protection of employees.

**Subd. 23. Local commission.**

"Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, gender identity, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

**Subd. 24. Marital status.**

"Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

**Subd. 25. National origin.**

"National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

**Subd. 26. Open case file.**

"Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

**Subd. 27. Operates.**



"Operates," when used with respect to a demand responsive or fixed route system, includes the operation of the system by a person under a contractual or other arrangement or relationship with a public or private entity.

**Subd. 28.Over-the-road bus.**

"Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

**Subd. 29.Party in interest.** "Party in interest" means the complainant, respondent, or commissioner .

~~"Party in interest" means the complainant, respondent, commissioner or board member.~~

**Subd. 30.Person.**

"Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

**Subd. 31.Physical access.**

"Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

**Subd. 32.Private entity.**

"Private entity" means an entity other than a public service.

**Subd. 33.Program access.**

"Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

**Subd. 34.Place of public accommodation.**

"Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

**Subd. 35.Public service.**

"Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

**Subd. 36.Qualified disabled person.**

"Qualified disabled person" means:

- (1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

**Subd. 36a.Race.**

"Race" is inclusive of traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists.

**Subd. 37.Rail passenger car.**

"Rail passenger car" means, with respect to intercity or commuter rail transportation, single- and bi-level coach cars, dining cars, sleeping cars, lounge cars, restroom cars, and food service cars.

**Subd. 38.Real estate broker or salesperson.**

"Real estate broker or salesperson" means, respectively, a real estate broker as defined by section 82.55, subdivision 19, and a real estate salesperson as defined by section 82.55, subdivision 20.

**Subd. 39.Real property.**

"Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

**Subd. 40.Religious or denominational educational institution.**

"Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

**Subd. 41.Respondent.**

"Respondent" means a person against whom a complaint has been filed or issued.

**Subd. 42.Sex.**

"Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

**Subd. 43.Sexual harassment.**

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;
- (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

**Subd. 44. Sexual orientation.**

"Sexual orientation" means to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

**Subd. 45. Specified public transportation.**

"Specified public transportation" means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

**Subd. 46. Station.**

"Station" means property located next to a right-of-way on which intercity and commuter transportation is operated, which is used by the general public and is related to the provision of the transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, drinking fountains, public telephones, and, if a public service providing rail transportation owns the property, concessions areas to the extent that the public service exercises control over the selection, design, construction, or alteration of the property. Station does not include flag stops.

**Subd. 47. Status with regard to public assistance.**

"Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

**Subd. 48. Unfair discriminatory practice.**

"Unfair discriminatory practice" means any act described in sections 363A.08 to 363A.19 and 363A.28, subdivision 10.

**Subd. 49. Vehicle.**

"Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.

**Subd. 50. Gender identity.**

"Gender identity" means a person's inherent sense of being a man, woman, both, or neither. A person's gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics. A person's gender identity is not necessarily visible to others.

*Minn. Stat. § 363A.03*

*1955 c 516 s 3; 1961 c 428 s 1-3; 1967 c 897 s 1-9; 1969 c 975 s 1,2; 1973 c 123 art 5 s 7; 1973 c 729 s 1; 1976 c 2 s 130; 1977 c 351 s 1; 1977 c 408 s 1; 1980 c 531 s 1,2; 1982 c 492 s 1; 1982 c 619 s 2,3; 1983 c 276 s 1-4; 1Sp1985 c 13 s 320-324; 1986 c 444; 1987 c 23 s 1; 1987 c 282 s 2; 1988 c 660 s 1; 1989 c 144 art 2 s 8; 1989 c 280 s 1-3; 1989 c 329 art 9 s 26; 1989 c 335 art 1 s 243; 1989 c 356 s 18; 1990 c 567 s 1, 10; 1992 c 527 s 1-10; 1993 c 22 s 1, 2; 1993 c 277 s 1-4; 1994 c 465 art 3 s 20; 2001 c 194 s 1; 2004 c 203 art 2 s 61*

Amended by ~~2023 Minn.~~ [2024 Minn. Laws, ch. 105, s 20, eff.](#)

[8/1/2024. Amended by 2024 Minn. Laws, ch. 105, s 5, eff.](#)

[8/1/2024. Amended by 2024 Minn. Laws, ch. 105, s 4, eff.](#)

[8/1/2024. Amended by 2024 Minn. Laws, ch. 105, s 3, eff.](#)

[8/1/2024. Amended by 2024 Minn. Laws, ch. 105, s 2, eff.](#)

[8/1/2024. Amended by 2023 Minn. Laws, ch. 52, s 19-46, eff.](#)

7/1/2023. Amended by 2023 Minn. Laws, ch. 52, s 19-48, eff.

7/1/2023. Amended by 2023 Minn. Laws, ch. 52, s 19-47, eff.

7/1/2023. Amended by 2023 Minn. Laws, ch. 3, s 1, eff. 8/1/2023.

This section is set out more than once due to postponed, multiple, or conflicting amendments.

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# Minn. Stat. § 181.943

Section 181.943 - [Effective 8/1/2024] RELATIONSHIP TO OTHER LEAVE

- (a) The length of leave provided under section 181.941 may be reduced by any period of:
- (1) paid parental, disability, personal, medical, or sick leave, or accrued vacation provided by the employer so that the total leave does not exceed 12 weeks, unless agreed to by the employer; or
  - (2) leave taken for the same purpose by the employee under United States Code, title 29, chapter 28.
- (b) Nothing in sections 181.940 to 181.943 prevents any employer from providing leave benefits in addition to those provided in sections 181.940 to 181.944 or otherwise affects an employee's rights with respect to any other employment benefit.
- (c) Notwithstanding paragraphs (a) and (b), the length of leave provided under section 181.941 **must not be reduced by any period of paid or unpaid leave taken for prenatal care medical appointments.**

*Minn. Stat. § 181.943*

*1987 c 359 s 4; 1988 c 659 s 1; 1990 c 577 s 6; 2014 c 239 art 3 s 5*

Amended by 2024 Minn. Laws, ch. 110,s 2-11, eff. 8/1/2024.

Amended by 2014 Minn. Laws, ch. 239,s 3-5, eff. 8/1/2014.

This section is set out more than once due to postponed, multiple, or conflicting amendments.

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## DOL WHITE COLLAR EXEMPTIONS NEW RULE

The federal Department of Labor (DOL) regulates employee compensation, including the minimum weekly wage and overtime pay.

Employees meeting duties and salary-level tests for “Executive”, “Professional”, “Administrative”, “Computer” and “Highly Compensated” status - are exempt from these requirements (“white collar exemptions”), as long as:

- They are paid on a “salary basis” (Computer employees can be hourly); and
- Weekly compensation meets a minimum threshold.

**On April 23, 2024, the DOL published its new rule increasing the minimum threshold as follows:**

Date	Minimum White Collar	Minimum Highly Compensated
Currently	\$684/ week \$35,568/ year	\$107,432/ year (Including at least \$684 per week paid as a standard salary)
July 1, 2024	\$844/ week \$43,888/ year	\$132,964/ year (Including at least \$844 per week paid as a standard salary)
January 1, 2025	\$1,128/ week \$58,656/ year	\$151,164/ year (Including at least \$1,128 per week paid as a standard salary)
January 1, 2027 and every 3 years after	Increase to be determined	Increase to be determined

## Recommendations

Although these changes are under legal challenge, the outcome is uncertain and July 1<sup>st</sup> is just around the corner. Therefore:

Analyze your workforce to determine required changes – pay upgrades for exempt employees, or conversion of exempt employees to non-exempt status. Changes can be made in separate steps by July 1, 2024 and January 1, 2025.

1. Project your workforce as of 7.1.24 and 1.1.25. Determine:
  - Number of exempt employees
  - Number of exempt employees already being paid at least the minimum amount
  - No changes required for employees currently paid at the minimum
2. Of employees not currently meeting minimum, determine:
  - Their names and roles
  - Which should be converted to non-exempt status (depending on job duties, internal status, etc.); and
  - Which should remain exempt.
3. For exempt employees currently paid less than minimum, determine:
  - How, when, and how much to modify compensation
  - When to make the changes
  - When and how to communicate the changes.
4. For employees to be converted to non-exempt status, determine:
  - How and when to make the changes
  - Whether and when to modify compensation
  - How and when to communicate the changes.