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New York and New Jersey Employment Law Legislation Update

Employers in New York and New Jersey should take note of several recent employment law developments. Recent state and local legislation in New York and New Jersey covers topics such as paid sick leave, pregnancy accommodations, minimum wage, equal pay, and leave for those affected by domestic and sexual violence. Winston & Strawn LLP's Labor & Employment practice has already issued client alerts on some of these legislative developments, but due to the volume of employment legislation impacting New York and New Jersey employers, we have consolidated a short summary below.

New York City Earned Sick Time Act Amendments

In February 2014, the New York City Council voted to expand the Earned Sick Time Act (Act), originally passed last year. The changes will take effect on April 1, 2014, the same date the original law was set to take effect. Notably, this Act eliminates the exemption for the manufacturing sector, which previously did not include manufacturers under the definition of "employer." While manufacturers will continue to be exempt from providing *paid* sick time; manufacturers will also be required to provide *unpaid* sick time to their employees.

There are other expansions of the law as well. The definition of "family member" has been broadened to include a sibling, grandchild or grandparent. The threshold number of employees requiring an employer to comply with the law has been reduced from 15 to five. Employers must retain records for three years, up from two. Moreover, the right to file a complaint with the department of consumer affairs to enforce the law has been extended to two years, an increase from 270 days.

Notice and posting requirements have also been amended such that, in addition to informing new employees about their rights under the Act, employers also must notify current employees of these rights within 30 days of when the law goes into effect (i.e., by the end of April 2014). Written notice must include information on the accrual and use of sick time, the calendar year of the employer, and the right to be free from retaliation and to bring a complaint to the New York City Department of Consumer Affairs (Department). The notice must be in English or the primary language spoken by that employee if that primary language is Chinese, French-Creole, Italian, Korean, Russian, or Spanish. Translations for these languages will be available in a downloadable format on the Department's website. The Act also provides that such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees. More information and the legislation text can be found [here](#).

New York City Human Rights Law (NYCHRL) Pregnancy Accommodations Amendment

Effective January 30, 2014, the NYCHRL was amended to require specifically that employers provide reasonable accommodations to pregnant workers, unless the employer can prove that the accommodation would cause an undue hardship. Such accommodations may include bathroom breaks, leave for a period of disability due to childbirth, breaks to allow for increased water intake, periodic rest for employees who stand for long periods of time, and assistance with manual labor. Click [here](#) to see the text of the amendment.

The amendment also requires that employers provide written notice to new and existing employees of their right to reasonable accommodation. This can be done

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through use of a poster created by the New York City Commission on Human Rights. This “Pregnancy and Employment Rights” poster is available in English, Chinese, Haitian Creole, Italian, Korean, Russian, and Spanish. The poster should have been distributed to new employees starting on January 30, 2014, and should be distributed to existing employees no later than May 30, 2014. The poster can be found [here](#).

Click [here](#) for Winston & Strawn LLP’s briefing, New York City Human Rights Law Amendment Requires Employers to Provide Reasonable Accommodations for Pregnant Employees.

New Jersey Law Against Discrimination (NJLAD) Pregnancy Accommodations Amendment

Effective January 21, 2014, the NJLAD was expanded with regard to protections for women affected by pregnancy, childbirth or related medical conditions. The amendment requires employers to provide reasonable accommodations to pregnant women who request them on the advice of a medical provider. Such accommodations may include bathroom breaks, periodic rest breaks, breaks for increased water intake, assistance with manual labor, and temporary transfers to less strenuous or hazardous work conditions. The law does not affect employees’ current leave rights, and these types of accommodations are not required if they would cause the employer undue hardship.

The amendment does not have a notice requirement separate from the NJLAD’s general notice requirement, which requires employers to display conspicuously the New Jersey Division of Civil Rights’ official poster in the workplace. That poster has not yet been updated to cover the pregnancy accommodations amendment.

For more information see Winston & Strawn LLP’s [briefing](#), New Jersey Expands Protections For Pregnant Women, and click [here](#) to see the full text of the amendment.

NJLAD Non-Retaliation Pay Equity Amendment

In August 2013, New Jersey passed a non-retaliation pay equity amendment to the NJLAD. The amendment

prohibits an employer from retaliating against any employee who requests information concerning the job title, occupational category, rate of compensation (including benefits), gender, race, ethnicity, military status, or national origin of any other employee or former employee, provided that the purpose of the request is to investigate potential discriminatory treatment, or take legal action for discriminatory treatment, concerning pay, compensation, bonuses, or other compensation. The amendment makes it clear that an employer is not required to release protected information in response to an employee’s request, but only prohibits reprisals against any employee who makes such a request. The amendment can be found [here](#).

New Jersey’s Equal Pay Act Amendment

In December 2013, New Jersey amended its Equal Pay Act to require employers with 50 or more employees (regardless of whether all 50 employees work inside the State) to post conspicuous notice, in a place or places accessible to all workers in each of the employer’s workplaces, in a form that details the right to be free of gender inequity or bias in pay, compensation, benefits, or other terms or conditions of employment under the NJLAD

The written notice must be distributed, either electronically or in hard copy form, and must be accompanied by an acknowledgment that the employee has received it, read it, and understands its terms. Winston & Strawn LLP’s briefing New Jersey Gender Equity Notice Obligations Effective in 2014 can be found [here](#).

New Jersey’s Security and Financial Empowerment (NJ SAFE) Act

In October 2013, the NJ SAFE Act went into effect, which requires Employers to provide unpaid leave to employees affected by domestic or sexual violence. Under the law, an employee who is the victim of domestic or sexual violence may receive a maximum of 20 days of unpaid leave in the 12 months following the incident. An employee also may take leave to assist a child, parent, spouse, domestic partner, or civil union partner who is victim to such violence. If an employee requests leave for a reason covered by both the NJ SAFE Act and the NJ Family Leave Act or the federal

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Family and Medical Leave Act, the leave will count simultaneously against the employee's entitlement under each respective law.

The NJ SAFE Act specifically provides that an employee may take leave to: seek medical attention for, or recover from, injuries caused by domestic or sexual violence; obtain services from a victim services organization; receive psychological or other counseling; engage in activities to increase the safety of the employee or related individual, such as temporarily or permanently relocating; seek legal assistance or remedies to ensure the health and safety of the employee or related individual; and/or attend, participate in or prepare for a related court proceeding.

The Act also requires employers to display conspicuous notice of employees' rights and obligations. The text of the Act is [here](#), and the poster can be found [here](#).

Jersey City Paid Sick Leave Ordinance

As of January 24, 2014, employers in Jersey City with 10 or more employees must provide up to 40 hours of paid sick leave annually. Covered employees include full-time, part-time, and certain temporary employees (such as interns), who work more than 80 hours per year in Jersey City. To be eligible for statutory sick leave, employees must work at least 90 days with accrual beginning on the first day of employment. Employees may use sick leave for a variety of reasons, including the employee's own medical illness or treatment, as well as for that of a family member. Although paid sick time is carried over to the following calendar year, employers are not required to carry over more than 40 hours from one calendar year to the next. The ordinance prohibits retaliation and/or discrimination against an employee who uses leave or complains about an employer who engages in misconduct with respect to the leave entitlement and employers may not take any adverse action against an employee because of the employee's use of sick leave.

The Jersey City Department of Health and Human Services (the Department) has created a poster in the form of an "FAQ" document for employees, available in English, Arabic, Chinese, Hindi, Spanish, and Tagalog. The poster must be displayed in English and in any language that is the first language of at least 10 percent of the employer's workforce (provided the Department

has made available a translation of the poster into such language). The employer must also provide individual written notice as to the law to all new hires at the beginning of employment, as well as to current employees as soon as practicable, in English and the primary language spoken by that employee.

The Ordinance can be found [here](#) and the FAQ is located [here](#).

Newark Paid Sick Leave Ordinance

On January 29, 2014, Newark passed its own mandatory paid sick leave ordinance. The Newark law is similar to the Jersey City ordinance with two key differences. First, the Newark ordinance permits an employer to pay employees for unused paid sick time at the end of the calendar year instead of permitting the employee to carry it over. Second, in addition to the requirement that employers with 10 or more employees provide 40 hours of sick leave, employers with fewer than 10 employees are required to provide up to 24 hours of paid leave. The Ordinance takes effect on May 29, 2014, or upon the expiration of current collective bargaining agreements for employees working under such agreements, whichever is later. Click [here](#) for the ordinance.

New York and New Jersey Minimum Wage Increases

As of December 31, 2013, New York State's minimum wage was increased to \$8.00. It will increase to \$8.75 on December 31, 2014, and \$9.00 on December 31, 2015.

As of January 1, 2014, New Jersey's minimum wage was increased to \$8.25. In addition, the State approved a constitutional amendment tying future increases to inflation.

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