

Legal Updates for New York and California Employers in 2025

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With 2025 having arrived and a new President known for shattering norms about to assume office, employers are eyeing the inevitable enforcement changes that the new administration will bring. But employers must remember to keep an eye on the equally significant changes in state law already underway.

A number of states have enacted new laws—in effect already or soon to take effect—which will require employers to update their payment and wage classification policies, leave requirements, and protections regarding discrimination and privacy.

We focus here on new laws that took effect on January 1, 2025 in New York and California—two of the most progressive and legislatively active jurisdictions, and (for those reasons) the two known as the most potentially “dangerous” for employers.

New York

Paid Prenatal Leave: New York is the first state in the nation to mandate that employers provide employees with 20 hours of paid prenatal personal leave every calendar year.

The Paid Prenatal Leave Law covers all private-sector employers, regardless of size of the employer.

A few significant points for compliance:

- The benefit is given to all employees, full or part time. There is no explicit allowance for pro-rating for those who are part-time.
- The benefit commences and is available right at hire, so every employee is eligible for it from day one on the job.
- The 20 hours of paid leave must be provided in addition to other types of sick and safe leave.
- For existing employees, the 20 hours must be ‘loaded’ at the beginning of the 52-week calendar period, which begins on the first day an employee seeks or uses the leave; and
- Employers have no obligation to pay out unused Paid Prenatal Leave at the end of a year, or upon termination, and the time does not carry over from one year to the next.

The definition of ‘prenatal care’ is broad, and covers health care services received during an employee’s pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and “discussions with a health care provider related to the

pregnancy.” The leave may also be used for time off in connection with the end or termination of a pregnancy.

Notably, the Law states that employers are prohibited from retaliating or discriminating against an employee for requesting or using paid prenatal leave, with civil remedies available to employees of up to \$10,000 to \$20,000.

For more information, the NY Department of Labor has published guidance for employers to assist with compliance with this new law, which can be found here <https://www.ny.gov/new-york-state-paid-prenatal-leave/information-employers>.

The Exempt Salary Threshold: The amount a New York employee must be paid to be classified as “exempt” from overtime is now higher:

- In New York City, Westchester and Long Island, the salary exemption threshold will be raised from \$1,200/week to \$1,237.50/week (i.e., \$64,350/year).
- In the rest of New York state, the salary exemption threshold will be raised from \$1,161.65/week to \$1,124.20/week (i.e., \$58,468.80/year).

Employers should thus review the salaries of their exempt employees in New York to ensure that they are still being paid above the updated salary exemption threshold. Also, keep in mind, that the salary exemption threshold is just one aspect of the multi-part of the tests to determine whether an employee is properly classified as exempt or non-exempt. Employees must also have certain job duties and responsibilities as required by New York law.

Minimum Wage: Effective January 1, 2025, the minimum wage in New York City, Long Island and Westchester County increased to \$16.50 an hour. The minimum wage in the rest of the state increased to \$15.50 an hour.

On January 1, 2026, the minimum wage in New York City, Long Island and Westchester County will increase to \$17 an hour. The minimum wage elsewhere in the state will increase to \$16 an hour. Moreover, the minimum wage for tipped service employees and home care aides will also increase.

California

There are several updates that came into effect on January 1, 2025 that employers in California must be aware of. We will focus on three unique updates to put on California employers’ radars.

Expansion of the Definition of “Race”: First, under California’s Unruh Civil Rights Act, the definition of “race” will be updated to include traits typically associated with race. The Unruh Civil Rights Act protects against discrimination by all business establishments in California. The updated law defines traits associated with race to include hair texture and protective hairstyles. The act further defines “protective hairstyles” as “braids, locs, and twists.” These types of protections for traits associated with race are consistent with several other state and local laws we have seen broadening the definition of race.

Prohibition on “Digital Replicas”: A provision will be added to the California Labor Code that would make an employment agreement unenforceable if there is a provision that allows for the creation and use of a digital replica of the employee’s voice or likeness in place of work that the employee would otherwise perform in person. A “digital replica” includes “computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of

an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered.” There are some exceptions which employers should review, if a licensing agreement was negotiated.

This law is one of several we expect to see where states attempt to strike a delicate balance of protecting employee rights while allowing employers to take advantage of the technological advances in artificial intelligence.

The Freelance Worker Protection Act: This act grants freelance workers protections related to the timing of compensation and retention of independent contractor agreements. Under the act, a freelance worker is defined as an individual, whether acting as an individual or part of an organization, that is engaged to provide professional services in exchange for an amount greater than or equal to \$250.

The Freelance Act requires that freelance workers be paid either on or the day before the compensation is due pursuant to a contract, or, if the contract does not specify, no later than 30 days after the completion of work. The act also requires the hiring party to retain the contract between the hiring party and the freelance worker for a period of no less than 4 years.

No Mandatory Employer Meetings: On January 1, California joined Illinois, Connecticut, Hawaii, New York, and Oregon to prohibit “captive audience” (that is, mandatory) meetings, on religious or political matters, including a labor organization. The so-called “captive audience” speech has long been a tool used by employers facing union organizing efforts to get employees in a room and tell them about the disadvantages of unionizing in an effort to affect the outcome of a union vote. Business groups immediately filed a federal lawsuit challenging the new law’s constitutionality on free speech and equal protection grounds. While litigation is pending, employers will have to make a decision: do they defer to the new laws and make the meetings voluntary?

What Should Employers Do?

As we always say: familiarize yourself with the requirements of these laws, update your policies, and train your managers. We are also watching for further compliance guidance from the agencies, so keep checking in with LaborDaysBlog.com. From our perspective, the biggest risk associated with all the new legislation is that the laws touch on entirely new areas, so employers and HR professionals can’t rely on familiar instincts to navigate compliance.

If you have any questions on best practices to update employment policies or need assistance with updates in any jurisdiction in the United States, please contact a member of the Kelley Drye Labor and Employment team.