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Rich Meneghello (00:00)
Welcome to the FP 5: Five Things for Your 9-to-5. We help employers make sense of the fast-moving world of workplace law and compliance by breaking topics down into five parts. I'm Rich Meneghello.

Becca Rainey (00:12)
I'm Becca Rainey.

Lisa Nagele-Piazza (00:13)
And I'm Lisa Nagele-Piazza.

Rich Meneghello (00:18)
So July is almost here, and while most of us are thinking about vacations and nice weather and hanging out at the beach and fireworks and all that stuff, HR and legal teams have a much different summer activity planned, and that's because they have to deal with compliance updates.

Lisa Nagele-Piazza (00:36)
Aw, that sounds sad, Rich, but it is true. I might rather be on the beach, but we do need to focus on a lot of laws that are taking effect on July 1. I think a lot of employers realize that January 1st is a big compliance date, but midway through the year, we also have a lot going on.

July 1 brings a big wave of new employment laws from minimum wage increases and pay transparency requirements to non-compete restrictions, and even immigration enforcement changes at the state level. So today the three of us are breaking down five big changes employers should have on their radar before these laws take effect.

Rich Meneghello (01:13)
And you know, before we dive in, if you look in your show notes, you're gonna see an article that we've published that goes over a really detailed analysis of many of the new laws across the country that take effect July 1. And obviously we can't tackle them all here in this podcast, but it's worth taking a look at. It's always one of our most popular articles that we publish each year. I have to give massive credit to our colleague Lauren Laing who once again put this together. It's absolutely a must-read.

All right, Becca, why don't you get us started? I know that you are a self-avowed wage and hour nerd. So I'm going to guess that your first thing that you're gonna want to talk about has something to do with wage and hour laws.

Becca Rainey (02:00)
How did you know? Yes. So we're going to be covering a handful of minimum wage increases that are going on across the country for our first thing. And as Rich mentioned, we are really kind of giving a high-level summary here of these changes because there's a lot of local increases. But I want to start with the big ones. So we're seeing Alaska, the minimum wage will increase to $14 per hour. That's due to a ballot measure approved by voters in 2024.

In DC, the minimum wage will increase to $18.40 per hour for all workers. And in addition, the minimum wage for tipped employees there will rise to $10.30. So putting this into perspective, some of these numbers. The federal minimum wage of $7.25 hasn't gone up since 2009. 30 states, DC, as well as several territories, have enacted a state minimum wage that goes higher than that federal level, oftentimes double that federal level at this point. So keeping this in mind, employers really need to be aware of the jurisdictions their employees are working in and the relevant local laws. That goes down to the county. You know, in Illinois, we're seeing in Cook County their minimum wages are going up to $15.40 for non-tipped workers and $9.25 for tipped employees. And then there's also expected increases in Howard and Montgomery counties in Maryland, St. Paul, Minnesota, and then I'm not even gonna go through all of the local increases in California, but California cities and counties have a handful of changes, as well as a change for some workers in the healthcare industry, setting the minimum wage at $25, which is, what is that now? Triple the federal minimum wage, at least.

So this is all part of a larger trend where you know Congress really can't decide on an update to the federal minimum wage of $7.25, and so a lot of policy debate has been around whether the minimum wage should be more regional. Leave it up to the states to be responsive to their local economies' needs, is one type of thinking. And then the other type of thinking is: we really do need to increase the federal minimum wage because it limits the ability of the federal labor department's Wage and Hour Division, which enforces the federal minimum wage to go after employers or businesses who, whether they do this intentionally or unintentionally, don't pay their workers more than the federal minimum wage of $7.25. So if you think about like the state of California, for example, you have someone whose minimum wage is now $25. If they are underpaid, whether that's overtime or minimum wage purposes, it's only going to be the state of California who can actually go and enforce that law because the Department of Labor at the federal level is tied at $7.25. So once they look at the books, they're saying, well, for federal minimum wage purposes, your employer may have satisfied that requirement.

Rich Meneghello (05:15)
Hey, Becca, let me put you on the spot here. You're one of our DC insiders, there had been a lot of talk, I think, when the new Trump administration came into office that it might take a little bit more of a populist approach to certain policies, including workplace policies. Have you seen any movement, do you think there's any chance that sometime during the next couple of years we see Congress pass a law that raises the federal minimum wage?

Becca Rainey (05:45)
Yeah, I would say no way. I mean, there's no way that I think employer groups and business interests could agree, could find a level that they could agree with that groups on the other side, the labor and more democratic populist interests, could agree with.

I think, you know, those on the left really think that the minimum wage at the federal level is so behind, that it really needs to be doubled or tripled. And there's business groups and members of Congress who represent different economic interests in their states who warn that this may be a shock for some folks.

I find it, you know, maybe if lawmakers could come together on something smaller, you know, like a dollar or two, and then continue going up from there, that would be one thing, but I am highly skeptical that they will come together on that within this next congress.

Lisa Nagele-Piazza (06:48)

And that actually brings us to the second thing that we want to discuss today, which is pay transparency. And you know, we've seen a big push at the state level over the last several years. I think this is probably one of the fastest moving areas of employment law at the state level, where states are requiring employers to disclose salary ranges in their job postings, and then they're banning salary history inquiries at certain stages of the hiring process as well.

And the goal here is to not perpetuate past inequities when it comes to wages, whether it's based on gender and in some places also based on race or ethnicity as well, those historic disparities. And the big thing for employers is that making mistakes in this area, if you're not disclosing properly, can lead to really costly litigation so that you want to make sure that you're staying on top of this at the state level. Regardless of where you are, a lot of these laws are being considered and passed.

And now, specifically for July, Virginia has a new salary history and wage transparency law. And this is going to prohibit employers from asking job applicants about their past wage or salary history. And they'll be required to include wage ranges in both their external job postings, as well as their internal promotion or transfer opportunities as well. So it's going to affect external job candidates as well as your internal hiring processes. And this law actually has some teeth too, because it does create a private right of action, which means that job applicants or employees will have the right to sue for violations and there's a $10,000 maximum statutory damage here or the actual damages, and then of course attorney's fees as well. So any employer with operations in Virginia is gonna want to pay close attention to that one.

Becca Rainey (08:50)
And Lisa, as someone who has hiring HR experience, can you tell us what's the value of looking at salary history, and what is also the value to applicants when it comes to pay ranges?

Lisa Nagele-Piazza (09:07)
That's a great question. And I think for people who have been in the hiring manager role or the HR staffing role for a long time are used to using that salary history information to understand, okay, is this person going to be interested in this job? You know, we don't want to get too far in this job process and then find out that we're not on the same page with salary expectations versus what we have in our budget. It also sort of filters through job titles because job titles can be all over the place. And you know, salary, at least in theory, can tell you a little bit more about that person's level within their past organization and the type of experience that they may have.

But you know, moving towards this pay transparency is helping to just create more equality in the workplace so that, you know, women have historically, for example, been underpaid as compared to men. If you're focused on that salary history, you're going to just bring that salary inequity with you to your next job. So this is really meant to just be on board and say, hey, look, this is the job that we have. This is the pay range that we have decided on for this job. And, you know, does this fit within, you know, what your expectations are? And you can certainly talk about expectations, and I think that's important to do, but just not basing it on past salary.

Becca Rainey (10:35)
So it sounds like there's value to both sides of it, you know, where being transparent about what you're offering to the employee salary wise actually saves you some time because if you're hiring someone who is their expectations are way above that or way below it, you can kind of figure and weed out folks that may just not be a great fit for the position.

Lisa Nagele-Piazza (10:57)
Yeah and it's just a really good idea to focus on the job, what the role is, rather than, you know, what somebody else may have done in their past. That this is the job, this is the salary range for the job. And I think it's a shift that hiring managers and HR professionals are getting used to, certainly.

There's also a new law in Maine, too, regarding pay transparency. And it's requiring businesses to disclose pay ranges and also maintain employment compensation records. So a lot of times with these laws, there is a record keeping requirement along with it. So employers need to be aware of that. And I believe this law is actually taking effect on July 29th. So not every one of these laws takes effect on July 1, but everything we're discussing today is a July effective date.

So yeah, I think the real takeaway here is just when you're hiring and posting jobs. You just need to make sure that you're looking at where you're hiring, what states, you know, it gets complicated with remote work nowadays too. So this is a compliance area that I think it's a really good idea to you know, check with your attorney and make sure you're complying with the various salary transparency, pay transparency laws.

Rich Meneghello (12:14)
Alright, I'm gonna switch gears completely to talk about the third thing, and we're gonna talk about a new trend that we're starting to see take off a little bit more, and that is restrictive covenants and non-compete agreements. There were three states that passed laws that are taking effect on July one impacting this area. We're gonna talk about two of them. We're not gonna really spend a lot of time talking about South Dakota's law, but again, you could read about that in our more detailed article. But I wanna talk about Tennessee and Virginia.

Tennessee's law is super interesting to me in that, first of all, you've got a fairly red state with a Republican, business-centered legislature and governor. And they originally proposed, and it passed one of the houses, I think the Senate, a flat-out ban on non-competes. By the time it got to the governor's desk, it had been watered down, but it's still significant. Number one, it creates a floor for employees, unless they're earning at least $70,000, you can't enforce a non-compete agreement with them. And then secondly, it creates a time frame. If it's any non-compete agreement that is longer than two years, it's presumed to be not reasonable. So these are fairly, you know, reasonable kinds of restrictions, but not ones you'd expect to see from a state like Tennessee. And so I'd put this on the on the patented Meneghello surprise scale at like a six or a seven in terms of when I looked at it like, wait a second, what just happened here?

Lisa Nagele-Piazza (13:52)
Does this kind of show a bigger trend in this area as well, Rich? Like states are kind of saying, look, if you, you know, I know we've seen these for low wage-earning positions and then the time frames for them being focused on a lot here.

Rich Meneghello (14:07)
Yeah, totally. No, that's exactly it, which is that this kind of thing that maybe my thinking is a little bit antiquated. Maybe I'm stuck, you know, five or six years ago thinking, yeah, you'd never see a state like this pass a law like this. But now we are. I think there is a refocus on what is acceptable to the business community and to more you know, pro-business lawmakers, because the proof is right here when you're when you're talking about a state like

Tennessee passing any sort of law restricting non-competes, it's sort of makes you realize we're in a new era right now.

Probably not as surprising. I would put this next one more like a four on the surprise scale. And that's Virginia. You know, Virginia has been trending purplish blue for years now. And there were some laws last year that were passed by a Democratic legislature that were vetoed by the Republican governor. And now there's a Democratic governor. And so we've started to see some more pro-employee progressive laws passing. And this one going into effect on July 1 in Virginia follows that trend. This one said if you're an employer and you lay someone off and you don't give them severance, any non-compete agreement is void and can't be enforced. And by layoff, we're not just talking, you know, the traditional sense of layoff, it's any involuntary termination. So anytime an employer decides you you're no longer working for us. And there's no cause, a not-for-cause termination or layoff.

So what this means is there's two big open-ended questions here. Number one, how much severance, right? Is there going to be legal battles over, wait a second, that severance was a really low amount, such that it's not really worth the check that you're writing me in terms of voiding a non-compete. And secondly, what is a termination for cause and what's not a termination for cause? So we're gonna see a lot of litigation for that. Congratulations, lawyers. Once again, you're gonna get an opportunity to litigate some new stuff.

There's also a separate law that was passed in Virginia that bans non-competes for healthcare workers. That joins a trend we've seen over the last couple of years. Maryland and Montana are at least are two states that I know of that have passed laws doing that. But we're gonna see others, I would assume, head in that direction.
But you know, overall, I think these two laws just add to the overall vibe that we're seeing of a continued patchwork of different states passing different laws impacting non-competes in different ways. And so woe be to the multi-state employer and those of you out there who have to manage workforces that cross state bounds because we now just have two more laws that you have to take into consideration when you're looking at compliance and managing a multi-state workforce. So sorry about that, employers.

This is the FP 5, and I'm Rich Meneghello. Like we said, you can find an insight that goes over all of the things we're talking about and much, much more in our show notes. And again, have to give incredible credit to our colleague in the Content department here at Fisher Phillips, Lauren Laing, for doing such an incredible job finding all of these July 1 laws and putting them in an easy-to-find and easy-to-read format. So we definitely recommend that you check out that article that you could find in our podcast show notes.

Lisa Nagele-Piazza (17:35)
So the fourth thing we're going to talk about today is immigration and E-Verify. And I know that most employers have been tracking immigration compliance news at the federal level. And normally we think of this as part of the federal space, but there are some things to note at the state level as well.

And there are a couple of states that stand out here for July. One is Indiana. Now, Indiana has a sweeping new law that's creating state level penalties for employing unauthorized workers. This is going to be if an employer knowingly or intentionally recruits or hires or continues to employ someone who is an unauthorized non-citizen in Indiana. Now, I think it's important to note that the law does contain some safe harbors for businesses, and that includes the proper use of E-Verify. And for those of you who aren't familiar with E-Verify, it's the web-based system from the federal government that allows enrolled employers to confirm eligibility of their employees that they're eligible to work in the United States. So using E-Verify, and this is something that a few other states do as

well, either requiring E-Verify use or creating these safe harbors for employers that do use it, that check the eligibility of their employees electronically. Tennessee is actually mandating E-Verify, but it's only for state and local government employers. So this that one's pretty narrow and isn't going to affect private employers.
And so I think just a key takeaway here for all employers is it's really important right now to track what is going on with workplace immigration compliance and at the federal level there's been a lot of changes to I-9 enforcement, for example. Employers know they have to fill out their I-9 form to verify employment eligibility and then E-Verify as the electronic counterpart of that. But also, yeah, to just look at these state level changes too, because you might have some requirements or safe harbors in that respect.

Rich Meneghello (19:54)
And Lisa, I think this is probably one of these issues that if you are, and I don't wanna say this in any sort of critical way, but let's you're an old school HR legal compliance person who's been ...

Lisa Nagele-Piazza (20:08)
My people.

Rich Meneghello (20:10)
You're a veteran. You're a veteran, experienced. I guarantee you that like a decade ago, if you were not only being trained in this field or if you were training others you would literally say, yeah, you don't have to look at state law when it comes to immigration. That's 100% a federal area. Don't worry about this at all. But now it really does seem like there's just a huge proliferation of immigration-related, adjacent kinds of laws that are being passed by states and localities, which is a huge change, I think, in the way employers have to think about these kinds of laws.

Lisa Nagele-Piazza (20:43)
Yeah, everybody does see immigration as in the federal domain. And for the most part, that's absolutely true. But in the ways that states can regulate this area, they're certainly trying right now. And I think it really depends. Yeah, if you're in a blue state or a red state, what direction that is going to go in. But it certainly is a hot topic right now, and states are responding in different ways that employers should be paying attention to.

Becca Rainey (21:13)
I think one other thing I would mention too about E-Verify is just for employers to keep in mind that there's a lot of specific rules when it comes to using the system online. I would absolutely recommend going to DHS.gov and reading through the checklist of what's allowed and what's not. For example, you can only use E-Verify if you are hiring an employee. You cannot use it to re-check their status. That is something I just learned today.

Lisa Nagele-Piazza (21:38)
Believe it or not, Becca, I wrote an entire paper on this in law school. That's how complicated it can be.

Becca Rainey (21:44)
Yes. So make sure that you are aware of what the system require or what the government requires regarding the use of the system before you access it, especially for employers in states that are now mandating it and who may just not be familiar with the system. Again, as we love to say on the FP 5, consult with legal counsel, you know, if you have any questions about how to use any of these systems.

And fifth and finally, there's been a couple family medical leave expansions in two states. New Jersey's expanding its state medical leave coverage to employers with 15 plus employees and is lowering the eligibility threshold so that it covers workers with only three months of employment and 250 hours worked. So what does that mean? Let's zoom out. Federal law currently guarantees most workers at companies with at least 50 employees access to unpaid job protected leave for qualifying family and medical reasons. So that means that employees in the state of New Jersey were now more likely to be eligible for state coverage if they need that. While it's similar to the Federal Family and Medical Leave Act in that it offers 12 weeks of job-protected, unpaid leave in New Jersey, the state's law also allows workers to become eligible to take that leave sooner in their employment. All of these changes will take effect in the Garden State on July 17th, 2026.

The other state, Virginia. Virginia's paid family leave law is now technically in effect, although we're not going to see contributions until 2028. But this is a really important change because Virginia is joining 14 states and the District of Columbia in setting up paid family leave programs. Again, that's really distinct from federal law, which provides job-protected unpaid family leave. But you know, now states like Virginia are offering programs that will actually offer some wage supplements. So in Virginia, it's going to be called the Paid Family Medical Leave Insurance Program. It's going to provide two main benefits, which is up to 12 work weeks of job protected leave for certain qualifying family and medical reasons, and a partial wage replacement benefit during that leave. So while the program is officially active, payroll contributions won't begin until April 1st, 2028. And the program starts paying benefits out on December 1st, 2028. So again, this is one of those state laws that really follows a trend that we're seeing among more left-leaning states where they are trying to expand some of the not only job-protected leave that folks have, but also offer them supplements during that time if they are not able to tap into any vacation or other, if their employer doesn't offer paid sick leave.

So yeah, we've seen a larger trend of states enacting these laws in recent years. We've also seen efforts on the federal level to try and push for whether it's portable benefit programs for some people or different expansions of unpaid or job protected leave. But again, states are really kind of leading the pack when it comes to these changes.

Lisa Nagele-Piazza (25:13)
And this is one of those areas that's really nuanced too, right? Like every state could have different details and it can be a real compliance challenge for employers when you're just kind of trying to handle multi-state compliance.

Rich Meneghello (25:29)
Lisa, when you when you hear about another area that just becomes more and more challenging to deal with because each state has something different, do you ever regret leaving your role in HR before you decide to get into legal?

Lisa Nagele-Piazza (25:45)
No. I have so much respect for people on the front lines of HR, where I have been and I loved it, but at the same time it can it can get to be a real challenge when you're when you're multi-state and trying to comply with just so many nuanced laws.

Rich Meneghello (26:09)

I do so much of our trainings virtually, right? Where I'm sitting in front of a computer and there's several thousand people listening to me, but I don't really see them and I don't think about it. But recently I've been doing a slate of like in-person trainings, and most recently I was doing one, I was talking about some new state laws, and there was this just glazed look on everyone's face as I was talking. And I was like, I don't know if it's that I'm doing a horrible job or if people are just having to like hunker down, realizing, oh my God, there's a whole other set of new laws I'm gonna have to comply with now and you're thinking about the compliance challenges and training and policies and ...

Lisa Nagele-Piazza (26:46)
Yeah. Cause I mean, just even think about when a new paid sick leave law comes out and you're like, okay, well, how do I do my accruals? And that's a whole conversation, strategy, compliance challenge, something you've gotta make sure you can track in your HRIS. And then do we front load this? Do we what do we what do we do here? So, you know, I would print out any of those lovely Fisher Phillips insights that we put out and start highlighting and writing questions on the side and all of that. So yeah, we might talk about it for a few minutes, but the reality is when you're trying to comply with these nuanced laws, it's quite the endeavor.

Becca Rainey (27:30)
Right. And then it becomes a math challenge too when in some cases you may be allowed to use your paid vacation or other paid sick leave concurrently with this. And it's like trying to figure out, what is like just FMLA? What is just state? What is ...

Lisa Nagele-Piazza (27:47)
And even the federal and state and whether they run concurrently or not and trying to figure all that out.

Becca Rainey (27:53)
Right, right. Consult legal counsel.

Lisa Nagele-Piazza (27:55)
Yes.

Rich Meneghello (27:57)
Listen, I think I think as the conversation starts veering towards math, I think that's our sign to wrap things up because I'm fairly certain nobody tuned in to the FP 5 podcast to hear about math. So that's our signal to wrap things up.

We wanna thank everybody for listening and thanks, Lisa and Becca. I thought this was a lot of fun having a having a conversation, just the three of us.

Lisa Nagele-Piazza (28:12)
Yeah, this was great.

Becca Rainey (28:22)
Yeah, we'll be doing something similar at our upcoming AI conference, right?

Rich Meneghello (28:26)

We will. I don't know if we'll ever invite another FP attorney back as a guest 'cause I think the three of us did a great job just as is. We'll see.

Lisa Nagele-Piazza (28:34)
It was fun.

Becca Rainey (28:35)
Yeah.

Rich Meneghello (28:37)
Well, thanks everybody for listening to another edition of the FP 5. As a reminder, once again, you can find an insight that goes over many of the laws that are taking effect as of July 1 and the rest of July in our show notes.

And I have to give another acknowledgement to our fantastic legal content counsel, Lauren Laing, for pulling that together. She's the best. We will see you next week.