

RETAIL INDUSTRY SNAPSHOT: 3 IMPORTANT LESSONS ABOUT HOLIDAY HIRING

Insights

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Welcome to FP Retail Industry Snapshot, where we take a quick snapshot look at the most significant workplace law developments with an emphasis on how they impact retail employers. This edition focuses on holiday hiring – a necessity in retail. Fortunately for retailers, the holidays are a time when many people otherwise not working are looking for a job to provide some extra money for the holidays. But with the Great Resignation, low unemployment, wage inflation, and an increasingly negative attitude toward work, this season will present new challenges to retailers looking to staff up. This Snapshot will provide an employer’s overview on seasonal hiring, with a special emphasis on three critical points.

Critical Reminder this Time of Year

It is critical for retailers to remember that employment laws in almost all cases apply to temporary employees as they do the regular workforce. The nature of holiday hiring – combining high immediate need with the additional work the holidays place on retail managers – is simply ripe for missteps. Consider a manager trying to conduct an orientation for an employee at a time when the store has twice the normal number of customers. Interruptions will abound and paying attention to the details of the process is difficult.

Fisher Phillips recently published the article [The Holidays Are Here: Ten Practical Tips for Hiring Seasonal Workers](#). Three of those points stand out as particularly important for retailers in the current environment: training supervisors,

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Edward F. Harold

Regional Managing Partner

504.592.3801

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verifying employment authorization, and understanding laws pertaining to employing minors.

Training Supervisors

Frontline managers are the primary risk point in employment litigation. Discrimination and harassment lawsuits consistently focus on conduct occurring in the store. Under the holiday pressure, managers may feel pressured to ignore normal procedures particularly when dealing with seasonal workers, for example, firing a seasonal worker with no documentation. Defending these decisions is more expensive and time consuming if they become the subject of a complaint.

Verifying Employment Authorization

The same pressures lead to employment paperwork such as I-9 forms not being properly filled out. But if a company is audited on I-9 compliance, this is of no moment and any lack of compliance will lead to heavy fines.

Hiring Minors

Finally, many retailers are rethinking whether to hire minors to fill these positions. While a potentially tremendous resource for the holidays, state laws on employing minors are complex and must be strictly followed. The holidays are a difficult time to learn new rules.

Conclusion

Succeeding in business is never easy, but the upcoming holiday season can be an opportunity to put yourself ahead – or fall way behind. For retailers, after all, the holidays can make or break a year. Don't let your business succumb to the pressures, take short cuts, and end up in a lawsuit from a seasonal employee. Remember to read [The Holidays Are Here: Ten Practical Tips for Hiring Seasonal Workers](#) and focus on the three items mentioned above.

We will continue to monitor the latest developments related to workplace law for retailers, so you should ensure you are subscribed to [Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have questions, please contact the author of this Insight, your Fisher Phillips attorney, or any attorney in our [Retail Industry Team](#).

