

A COLORADO EMPLOYER'S REVIEW OF NEW AND PROPOSED LEGISLATION FOR 2026

Insights
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This past year saw many changes to Colorado's legislative landscape affecting businesses and employers. We're here to help you stay informed on what's new. This Insight will cover the biggest laws that recently took effect, and the most significant pieces of proposed legislation that we're monitoring for 2026.

2025 Legislation Recap

First, here's a round-up of new laws that have recently taken effect.

Colorado Privacy Act

Two important changes to Colorado's Privacy Act relating to the collection of biometric data took effect in 2025. First, as of July 1, 2025, companies collecting biometric data from consumers must adopt publicly available written policies that establish:

- a biometric data retention schedule;
- a protocol for responding to and notifying affected consumers of compromising data security incidents; and
- a timely data deletion policy.

Additionally, companies collecting biometric data from consumers must first inform consumers:

- that biometric data is being collected;

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- why it is being collected;
- the length of time the company will retain the data; and
- whether the data is being shared with a data processor and for what purpose.

Consumers must consent to the collection of biometric data, and a consumer's refusal to consent cannot be the basis for a company's refusal to provide them goods or services.

In the employer-employee context, an employer may require as a condition of employment the collection of an employee's biometric data only for the purposes of permitting access to secure physical locations or electronic systems, recording the start and end of a workday, improving workplace security, or monitoring public safety in the event of an emergency. For all other collection purposes, an employee may not be retaliated against for refusing to consent.

Finally, as of October 1, 2025, a company offering online services, products, or features to minors (persons under 18 years of age), who knows or willfully disregards that its users are minors, must obtain the minor's consent before processing their data. If the minor is a child (under 13 years of age), their parents must consent.

FAMLI Expansion

As of January 1, 2026, parents whose infants require neonatal care (or a higher level of care) may be eligible for an additional 12 weeks of paid leave. This Neonatal Care Leave can be combined with the standard Bonding Leave for a total of 24 weeks of paid leave.

You should provide the updated required FAMLI Program Notice in written form both at the time of hire and when you learn of any employee's potential need for FAMLI leave.

Workers' Compensation

Starting January 1, 2028, injured workers will be able to select any provider on the Colorado Division of Workers' Compensation's list of Level 1- or Level 2-accredited providers as their authorized treating physician. Previously, employers provided injured workers with a list of four accredited physicians to choose from.



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The governor has requested that, before the law goes into effect, a task force be formed to evaluate: the permissibility of in-house clinics as an option for injured workers, whether an employer is precluded from providing employees with a list of recommended doctors, the functionality of the Division of Workers' Compensation's provider directory, the accreditation process for providers, timelines, and mechanisms to lower costs.

COMPS Order #40 and 2026 PAY CALC Order

Effective January 1, 2026, the statewide minimum wage increased to \$15.16 an hour unless a higher local minimum wage applies. Employers may pay tipped employees \$12.14 per hour to the extent that adding tips raises the total pay to minimum wage. Non-emancipated minors must be paid \$12.89 per hour.

The minimum salary for executive, administrative, and professional (EAP) overtime-exempt employees increased to \$1,111.23 per week (\$57,784 annually). Additionally, highly compensated employees must be paid \$130,014 annually.

COMPS Order #40 and Paid Leave posters should continue to be displayed in the workplace.

2026 Proposed Legislation

Turning our attention to pending Colorado legislation that impacts the workplace, here are the most significant bills we are monitoring.

Colorado Worker Protection Act

Under Colorado's Labor Peace Act, workers seeking to form a union and collect dues must hold two separate elections. The first election requires the approval of a simple majority to form the union. The second election requires 75% approval of voting members for the negotiation of dues and fees. If a second election is not held or is unsuccessful, dues are voluntary.

In 2025, the Worker Protection Act was proposed, which called for the elimination of the second election, meaning unions could begin taking dues immediately. The bill was passed in both the House and the Senate but was vetoed by Governor Polis. In the 2026 legislative session, the bill has been reintroduced as HB 26-1005.

Protecting Workers from Extreme Temperatures

Introduced in the 2025 legislative session, HB 25-1286 sought to require employers to develop programs (such as additional training, prevention plans, and mandatory rest breaks at certain heat thresholds) to protect employees from heat hazards. The bill was introduced in the House but ultimately did not make it out of committee. The bill's sponsors plan to reintroduce the legislation in the 2026 session, addressing concerns raised by businesses.

Relatedly, on August 30, 2024, OSHA published a Notice of Proposed Rulemaking for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings. The public comment period closed January 14, 2026, and OSHA is currently developing a final rule.

Protections for Worker Safety

Introduced in the 2026 legislative sessions, HB 1054 purports to bolster federal workplace safety regulations promulgated by OSHA by creating a parallel enforcement regime. HB 1054 expands workplace safety regulation by requiring all employers (excluding the federal government) to ensure their workplace is free of recognized hazards. It would also allow the state to promulgate its own regulations to address situations not covered by federal OSHA or if the federal government makes regulations "less stringent" as determined by the state.

Perhaps most concerningly, HB 1054 gives a private right of action to any individual or labor organization aggrieved by a violation of HB 1054. Individuals or labor organizations "aggrieved" by an employer who has not provided a workplace free of recognized hazards may seek both injunctive relief (a stop work order) or damages of \$1,000 per violation in state court. This private right of action mimics California's Private Attorney General Act (PAGA) which has greatly increased litigation throughout the state. Currently, HB 1054 is before the Business Affairs and Labor Committee in the Colorado House of Representatives and lacks a Senate sponsor.

Transportation Network Company Discriminatory Practices

Currently, a transportation network company (TNC) may be faced with a civil penalty of up to \$550 if the TNC had

written notice of a driver's prohibited discrimination and failed to reasonably address it. Drivers are required to report to their TNC any refusal to provide services, and the TNC must report all refusals annually to the public utilities commission.

Under HB 1043, a TNC would no longer have to have written notice of discrimination before a penalty is assessed, and the penalty maximum would increase to \$5,000.

Additionally, TNCs would be required to report refusals monthly rather than annually, these monthly reports would be anonymized and made available to the public, and TNCs would be required to provide consumers with a mechanism for reporting refusals.

Conclusion

We will continue to monitor this proposed legislation and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Denver office](#).