

NEW YEAR, NEW LAWS – WHAT’S AHEAD FOR MASSACHUSETTS EMPLOYERS IN 2020?

Insights
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As we look forward to the New Year, Massachusetts employers should be aware of upcoming changes to the Commonwealth’s employment laws that took effect on January 1, 2020, as well as possible changes we foresee on the horizon. Now is also the perfect time to ensure you are in compliance with laws that took effect in 2019.

LOOKING FORWARD

There are several significant wage and hour changes that took effect once the clock struck midnight and we ushered in 2020.

MINIMUM WAGE INCREASE

As result of [2018’s “Grand Bargain” legislation](#), the minimum wage will increase each year between now and 2023. This year it increased by \$0.75 from \$12.00 to **\$12.75 per hour**. The minimum overtime rate will likewise increase to \$19.125.

TIPPED MINIMUM WAGE

Employers in the hospitality industry with service employees or food service workers who customarily and regularly receive more than \$20 per month in tips [just saw an increase in tipped minimum wage](#). On January 1, this amount increased from \$4.35 to **\$4.95 per hour**.

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It is important to remember that the sum of an employee's tips and the tipped minimum wage must equal or exceed the regular minimum wage at the end of each shift. You can no longer do this calculation weekly.

SALARY THRESHOLD INCREASE

Under federal law, the salary basis threshold for executive, administrative, and professional employees classified as exempt under the "white collar" exemptions **increased to \$684 per week** (a rise from the previous \$455), or \$35,568 annually. It is highly recommended that you conduct an audit of your non-exempt employees to ensure compliance with these changes as employment misclassification claims continue to be a hotbed of litigation.

SUNDAY AND HOLIDAY PAY DECREASES

Retail employers will see additional relief when it comes to Sunday and (some) holiday pay. For Sundays, as well as Memorial Day, Independence Day, and Labor Day, the premium rate will decrease from 1.4x the employee's regular rate to 1.3x.

However, premium pay on New Year's Day, Columbus Day, and Veterans Day must still be paid at 1.5x due to the state legislature's unwillingness to correct the statute and treat each holiday consistently. Retail employers with employees working overtime (40+ hours) are cautioned about using the discounted Sunday/holiday rate as it may increase overtime costs.

NEW LEGISLATION?

Though it is difficult to predict what the state legislature will have in store for Massachusetts employers in 2020, our "Magic 8-ball" says "signs point to yes" and "outlook good" when asked about predictive scheduling laws and statewide increases to the white-collar exemptions to overtime.

Predictive scheduling laws restrict an employer's ability to set employee schedules, often requiring significant advanced notice to employees of any changes. **These laws are particularly troublesome in industries such as retail** and food service, where weather and other last-minute factors have an outsized influence on consumer demand. Under

similar laws in other jurisdictions, employers must pay employee's extra where their schedule is changed without enough notice. Similar laws likewise restrict the use of "clopening" shifts, where an employee is asked to close the business at night and then reopen in the morning. A bill was recently introduced to mandate at least 11 hours between shifts.

It is also likely Massachusetts will act to increase the white-collar overtime salary threshold even higher than the federal increase that became effective on January 1. Several states – [including California](#), [New York](#), and Maine – currently have a higher salary threshold than required by federal law. Though the increase is unclear at this point, it would not be a surprise to see an employee-friendly state like Massachusetts join this costly trend in 2020.

REFLECTING ON 2019

In addition to changes in minimum wage and Sunday/Holiday premium pay that took effect in 2019, employers were saddled with a costly [Paid Family and Medical Leave tax](#). October 1, 2019 marked the start of mandatory contributions to fund the state's new program. All employers are now required to withhold up to .75% of each employee's wages.

Of that amount, an employer can require its employees to pay 50.4% (or 0.378% of wages). If the employer has more than 25 employees (as calculated under the new law), it must contribute the other 49.6% (or 0.372% of wages). If the employer has fewer than 25 employees, it is only required to remit the "employee" portion. Leave entitlements under this program will not begin until 2021.

WHAT'S NEXT?

You should continue to monitor any of these or other changes to Massachusetts employment law. Now is the time to review pay practices, audit compliance, and prepare for future changes as well.

We will continue to monitor further developments and provide updates once the final regulations are issued, so you should ensure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you

have questions, please contact your Fisher Phillips attorney or any attorney in our [Boston office](#).

This Legal Alert provides an overview of specific state law developments. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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