

MARCH 21, 2025 | WAGE &amp; HOUR COMPLIANCE

# State Wage-Hour Enforcement Likely to Rise as Federal Enforcement Tackles Reduced Resources

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*As the priorities of the new Administration take shape, we foresee states stepping in to take on a more significant role in enforcing wage and hour laws and regulations over the next several years. This was one of the main takeaways from the American Bar Association's Wage and Hour Committee Conference we attended last month. States not only may take on a greater role in enforcement but also may explore multiple avenues for enforcing wage and hour laws and will continue to pass their own wage and hour regulations creating enhanced or additional obligations for employers operating in those states.*

*For example, many states have implemented laws requiring payment of a higher (often significantly higher) minimum wage than the current Federal minimum wage of \$7.25. Several states have also instituted supplementary forms of leave and/or paid leave for employees, as well as additional wage protections. Multi-jurisdictional employers must remain attuned to developments in every location where they do business to ensure compliance across all establishments.*

*The following provides an overview of emerging wage-hour trends and state-specific requirements to help employers navigate shifting landscapes in 2025 and beyond.*

At the ABA's recent gathering of wage-hour practitioners, several hot topics were on the agenda for discussion, including: how recent Supreme Court decisions like *Loper Bright Enterprises v. Raimondo* will impact wage and hour issues; the state of FLSA 541 overtime exemptions; the federal contractor minimum wage; conditional certification developments, including splits in judicial approaches; and the Family Medical Leave Act. Engaging with our colleagues and peers presented a great opportunity, though this year's meeting lacked the government perspective.

We know at the federal level, enforcement budgets will be tight, so U.S. DOL's Wage and Hour Division will need to efficiently marshal its limited resources to implement the Trump Administration's priorities. But states are already active in several wage-hour areas, and employers must be aware of these concurrent obligations when operating across jurisdictions.

## **Minimum Wage and Overtime**

Many states have minimum wages exceeding the federal level of \$7.25, which has been in effect since July 24, 2009. The Wage and Hour Division provides [numerous resources](#) illustrating the variability across jurisdictions, dividing locations among those with a higher minimum wage than the federal, the same as the federal, lower than the federal, without a minimum wage, and with a special minimum wage. Jurisdictions tend to update their minimum wages annually, either at the beginning of a new year or on or about July 1.

For example, as of January 1, 2025, California's minimum wage increased to \$16.50, but to further complicate compliance, California has separate minimum wages governing fast food restaurant employers and certain healthcare employers. Other locations with substantial minimum wages include Washington (\$16.66), Connecticut (\$16.35), Delaware (\$15.00), Illinois (\$15.00), Maryland (\$15.00), Massachusetts (\$15.00), New Jersey (\$15.49), Rhode Island (\$15.00), and – last, but not most – DC (\$17.50).

Cities and counties within states may also have their own – even higher – minimum wages, adding to the potential for confusion. Consider New York, which has a minimum wage of \$15.50 – but New York City, Nassau County, Suffolk County, and Westchester County have a rate of \$16.50. To keep things interesting, Oregon's standard state rate is \$14.70, the Portland Metro Area's is \$15.95, and non-urban counties' use \$13.70.

While the Biden Administration's final rule, [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#), attempted to increase the salary thresholds to exempt executive, administrative, and professional employees from overtime pay requirements, the U.S. District Court for the Eastern District of Texas vacated the rule, and the thresholds reverted to \$684 per week, which equates to \$35,568 annually. States were not affected by the district court's ruling, so California, New York, and Washington – among others – have established sometimes complicated salary threshold schemes with amounts above existing federal levels.

In addition to states implementing different requirements for minimum wage and overtime pay, some have also differed from the federal government in how they address the subminimum wage. Specifically, the FLSA allows payment of a wage below the minimum to certain individuals. Per the FLSA, this includes "individuals . . . whose earning or productive capacity is impaired by" physical or mental disability.

The Department of Labor initiated an effort to eliminate a program that permits employers to pay a subminimum wage, but that effort does not seem poised to progress under the current Administration and could certainly face legal hurdles. Some states have taken their own initiative in addressing this issue. Illinois, for instance, enacted the Dignity in Pay Act, which, among other things, eliminates permission to pay workers with disabilities less than the minimum wage by December 31, 2029. Thus, this is another issue about which employers should be aware of state-specific requirements.

### **Paid Leave Programs**

Though it is not required at the federal level, several states have also passed laws requiring paid leave, laying out specifically how those paid leave programs must be implemented. Currently, 13 states and DC provide paid family and medical leave, with New Hampshire also establishing a program that private employers can choose to opt into. And these programs have specific requirements of which employers must be aware. Maryland, for instance, recently adopted its paid Family and Medical Leave Insurance law, but it has not yet become effective.

Originally, the State established July 1, 2025, as the date on which employers would start paying into the plan, with paid leave available starting July 1, 2026. However, there is now an effort underway to push the start date for contributions to January 1, 2027, so that benefits would be available on January 1, 2028. We will certainly be following any changes to the timeline of the law.

Oregon, an early adopter of paid family and medical leave, updated its Oregon Family Leave Act (“OFLA”) and Paid Leave Oregon (“PLO”) in several important ways, including prohibiting the two types of leave from running concurrently. For leave taken on or after July 1, 2024, eligible employees can draw from either OFLA or PLO, depending on whether the reason for their leave qualifies under both laws, but cannot apply both types of leave at the same time. As OFLA is unpaid, employees in Oregon can now only receive pay during that leave if they use vacation, sick, or other paid leave.

Several more states require employers to provide paid sick leave or other forms of paid leave for specific purposes. For example, the Michigan Supreme Court just reinstated its Earned Sick Time Act, which took effect in its expanded form on February 21, 2025, for employers with more than 10 employees; the remaining employers’ obligations kick in as of October 1, 2025. Under Michigan’s law, employees can earn 1 hour of paid leave for every 30 hours worked, totaling up to 72 hours per year for employers with 11 or more employees or 40 hours per year for employees with 10 or fewer employees. New York also recently revised its Paid Sick and Prenatal Leave to add up to 20 hours of paid prenatal leave per year, which took effect on January 1, 2025.

Understanding these nuances is essential for employers to avoid any potential allegations of failure to properly pay employees while out on leave, to ensure they are providing required protections, and to track various types of leave as needed to confirm compliance.

### **Discrimination and Equal Pay Protections**

Several states have undertaken recent efforts to expand fair pay protections to specified categories beyond sex. Although a state’s anti-discrimination laws generally prohibit basing wages on an employee’s exclusion from or inclusion in a protected class, expansion of the law in this manner creates new potential claims for employees, as well as other avenues of recovery and, potentially, additional forms of damages. These types of laws, specifically fair pay laws akin to the federal Equal Pay Act, may also have additional requirements that employers must meet to ensure compliance. Thus, as those laws expand, employers must remain vigilant and up-to-date.

For instance, as of July 1, 2025, Washington’s Equal Pay and Opportunities Act, which currently prohibits wage discrimination based on gender, will be expanded to provide protections based on race, sexual orientation, citizenship or immigration status, disability, and other several other protected classes. New York State has updated its Constitution to prohibit discrimination, including employment/wage discrimination, based on several protected categories, such as sexual orientation, gender identity, pregnancy, and reproductive healthcare decisions.

### **Pay Transparency Requirements**

More than 15 states, including DC, have some form of pay transparency law addressing job postings. Even more – hello again, DC – prohibit employers from asking about salary history. Not to pick on the District, but it relatively recently entered these arenas – its salary posting and history laws went into effect in 2024 (prior to 2024, DC’s

ban on salary histories applied only to government agencies).

With federal priorities changing, and former federal employees flooding state job markets, we expect increased activity and interest in this space.

### **Child Labor Enforcement**

The Biden Administration prioritized child labor law enforcement through aggressive, inter-departmental activities. We do not expect as much attention on this issue from the Trump Administration, except perhaps when immigration and trafficking concerns overlap. States have gone in different directions when it comes to restrictions on minor work, with several taking steps in tension with the Biden Administration's priorities.

In response to the new administration, states may look to lead on child labor enforcement by filling gaps in Wage and Hour Division investigations. At the start of 2025, Illinois replaced its child labor law with a revised structure that implemented, e.g., a new penalty framework and enhanced restrictions on minor employment. In 2024, Virginia instituted higher child labor penalties, with larger fines attached to violations leading to serious injury or death.

Of note, Senators Corey Booker and Josh Hawley recently reintroduced a bipartisan bill, "Preventing Child Labor Exploitation in Federal Contracting Act," to hold government contractors accountable and to increase penalties for child labor violations. So, federal involvement to address child labor could continue at higher-than-expected levels.

### **And Everybody's Favorite California Quirk . . . PAGA!**

California reformed its Private Attorneys General Act, lovingly known as "PAGA," in the summer of 2024 based on collaboration among California Governor Gavin Newsom, legislative leaders, business groups, and organized labor. We [previously discussed](#) the relevant bills when they passed in the California Assembly and Senate, so we will not revisit the revisions in detail here.

The PAGA reforms were designed to rein in and streamline litigation, while encouraging compliance through capped penalties and the potential to cure violations. Even in its more palatable form, PAGA could serve as a script for like-minded states to conserve resources by shifting more of the burden of wage-hour litigation to employees, thereby conserving state resources. It will be interesting to see whether more jurisdictions turn to deputized private citizens to prosecute employer violations as states consider ramping up their wage and hour activity in the face of reduced federal enforcement.

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Employers should consult with competent counsel about their pay practices to ensure compliance with the patchwork of wage-hour laws and their divergent requirements across the country. Conn Maciel Carey's experienced, national [Labor and Employment Practice Group](#) tracks relevant developments and stands ready to provide expert advice in these areas. We are available to answer specific questions and discuss any concerns.

