

July 2016

Connecticut's New Employment Laws: 2016

The Connecticut legislature recently passed, and the governor has signed a number of laws affecting Connecticut employers. Some of these laws took effect immediately; others will take effect in the coming months.

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USE OF PAYROLL CARDS AUTHORIZED

[P.A. No. 16-125](#) allows employers to pay "wages, salary, or other compensation" using payroll cards. A payroll card is "a stored value card or other device used by an employee to access wages from a payroll card account and that is redeemable at the employee's election at multiple unaffiliated merchants or service providers, bank branches, or automated teller machines." The act clarifies that payroll cards do not include gift certificates. A payroll account must reside at a bank, Connecticut credit union, or federal credit union established by an employer for the transfer of an employee's wages, salary, or other compensation.

To use payroll cards, an employee must be given the option to receive compensation by payroll cards, direct deposit, or negotiable checks, and the employee must voluntarily and expressly authorize in writing or electronically the payment of compensation through a payroll card. The written authorization must clearly and conspicuously state (1) that payment of compensation is voluntary and the employee may choose to be paid by direct deposit or negotiable check; (2) the terms and conditions and any fees relating to the use of the payroll card; (3) the methods available to employees to access their compensation without any transaction fees and to avoid or minimize any transactions

fees, including at ATMs, financial institutions, and other convenient locations; (4) the method for checking balances without cost; and (5) that third parties may assess additional fees when employees use the card.

Employers are prohibited from intimidating, coercing, or threatening to discharge any employee who refuses payment through payroll cards. Employers also are prohibited from making payment of compensation through payroll cards a condition of employment or a condition of any benefit or form of remuneration for any employee. Further, employers are prohibited from charging costs of using payroll cards to their employees.

This new law, which becomes effective October 1, 2016, also includes limits on fees and costs associated with the use of such payroll cards, requirements that certain information be provided to the employees, and other restrictions on the use of such payroll cards.

PAYROLL DIRECT DEPOSIT AND ELECTRONIC PAYSTUBS EXPRESSLY AUTHORIZED

In addition to authorizing payroll cards, [P.A. No. 16-125](#) also updates Conn. Gen. Stat. § 31-71b(a) to permit payment of wages, salary, or other compensation by direct deposit “upon an employee’s written or electronic request.” The act also amends Conn. Gen. Stat. § 31-13a to permit employers, with an employee’s express written consent, to provide pay stub information electronically as long as the employer permits the employee to access and print such information securely, privately, and conveniently. This act is effective October 1, 2016.

BIWEEKLY PAYROLL PERMITTED WITHOUT REQUIRING A WAIVER FROM THE CTDOL

[P.A. No. 16-169](#) amends Conn. Gen. Stat. § 31-71b, Connecticut’s wage payment law, to allow biweekly payments without seeking the permission of the Connecticut Department of Labor. Previously, employers were required to obtain permission from the CTDOL to pay employees biweekly. Consistent with this amendment, the act revises Conn. Gen. Stat. § 31-71i to permit employers to seek permission from the CTDOL for pay periods less frequently than every two weeks. This part of the act also is effective October 1, 2016.

PROTECTION FOR NURSES WHO ADMINISTER MARIJUANA

Connecticut law exempts nurses who administer marijuana to patients in a manner consistent with the law from arrest and prosecution. [P.A. No. 16-23](#) contains a number of provisions relating to palliative use of marijuana. One of those provisions amends Conn. Gen. Stat. § 21a-408(c) to provide that “[a] nurse shall not be subject to arrest or prosecution, penalized in any manner, ... or denied any right or privilege ... for administering marijuana to a qualifying patient or research program subject in a hospital or health care facility licensed by the Department of Public Health.” The act also defines the term “nurse” to mean a nurse licensed under Conn. Gen. Stat. ch. 378. This act is effective October 1, 2016.

CRIMINAL BACKGROUND CHECKS FOR TEACHERS

Section 31-51i of the Connecticut General Statutes currently prohibits employers from inquiring about a job applicant’s erased criminal records. [P.A. No. 16-67](#), among other things, creates an exception to Conn. Gen. Stat. § 31-51i by permitting the Department of Education to provide information about a teacher applicant’s eligibility for employment, discipline for abuse or neglect or sexual misconduct, or conviction of a crime or pending charges and any information concerning such charges. This act is effective July 1, 2016.

“BAN-THE-BOX” CRIMINAL BACKGROUND CHECKS AND INITIAL EMPLOYMENT APPLICATIONS

[P.A. No. 16-83](#) amends Conn. Gen. Stat. § 31-51i to prohibit employers from inquiring about a prospective employee’s prior arrests, criminal charges, or convictions on an “initial employment application” unless permitted under federal or state law or a security bond, fidelity bond, or equivalent

for the position. An employee or prospective employee may file a complaint with the Connecticut Department of Labor alleging an employer's violation of this new law. This act takes effect on January 1, 2017.

TRAINING FOR HOTEL EMPLOYEES TO COMBAT HUMAN TRAFFICKING

[P.A. No. 16-71](#) contains a number of amendments and new laws to combat human trafficking. Among them is a requirement that operators of hotels, motels, inns, or similar lodgings ensure that each employee receive training at the time of hire on recognizing potential victims of human trafficking and activities commonly associated with human trafficking. This act is effective October 1, 2016.

USING EMAIL AND ELECTRONIC FILING FOR UNEMPLOYMENT COMPENSATION APPEALS AND HEARINGS

[P.A. No. 16-169](#) also updates the unemployment compensation appeals and hearings statutes by allowing the Connecticut Department of Labor to issue unemployment notices and decisions by electronic or other means rather than by "mail" as under the current statutes. The act also allows appeals to be filed electronically. This act is effective October 1, 2016.

MORE DISCRETION AT CTDOL HEARINGS FOR OVERPAYMENTS OF UNEMPLOYMENT COMPENSATION

[P.A. No. 16-169](#) also amends Conn. Gen. Stat. § 31-273 to provide that persons who received overpayments shall be entitled to a hearing before an examiner designated by the Connecticut Department of Labor based on evidence or testimony presented in a manner prescribed by the administrator, including in writing, by telephone, or other electronic means. Notice of such hearing must be given not less than five days prior to the date of the hearing. This part of the act is also effective October 1, 2016.

CTDOL NO LONGER REQUIRED TO ADOPT REGULATIONS FOR "REASONABLE SUSPICION" DRUG TESTING

[P.A. No. 16-169](#) also amends Conn. Gen. Stat. § 31-51x to delete the requirement that the Connecticut Department of Labor adopt regulations "to specify circumstances which shall be presumed to give rise to an employer having reasonable suspicion" to drug test employees. This part of the act is also effective October 1, 2016.

CT FMLA UPDATED FOR MILITARY PERSONNEL

[P.A. No. 16-195](#) amends Connecticut's Family and Medical Leave Act, Conn. Gen. Stat. § 31-51ll, to allow for leave because of "any qualifying exigency ... arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the armed forces." The armed forces include the United States Army, Navy, Marine Corps, Coast Guard, and Air Force, and any reserve component of these branches, including the Connecticut National Guard. This act became effective on June 7, 2016.

EXPANDED PROTECTION UNDER CONNECTICUT'S MILITARY NONDISCRIMINATION LAW

[P.A. No. 16-153](#) updates Connecticut's military membership nondiscrimination law, Conn. Gen. Stat. § 27-59, to expand the list of protected classes from "race, creed or color" to "religion, national origin, color, race, sex, gender identity or expression or sexual orientation." This act became effective on June 7, 2016.

PHYSICIAN NONCOMPETITION AGREEMENTS LIMITED

[P.A. No. 16-95](#), provides that a covenant not to compete with a physician will be valid and enforceable only if it is (1) necessary to protect a legitimate business interest; (2) reasonably limited in time, geographic scope, and practice restrictions; and (3) otherwise consistent with law and public policy.

Any covenant not to compete entered into, amended, extended, or renewed on or after July 1, 2016, cannot restrict a physician's right to perform competitive activities for a period longer than one year within a geographic region not more than fifteen miles from the physician's primary practice location. This act becomes effective on July 1, 2016.

For more information or if you have questions about how the issues raised in this legal update affect your policies, practices, or other compliance efforts, please contact one of the following lawyers in the firm's [Labor, Employment, Benefits + Immigration Group](#).

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