

2023
BUSINESS IN 2022
WEEKLY WEBINAR SERIES
2021
2020
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Introduction

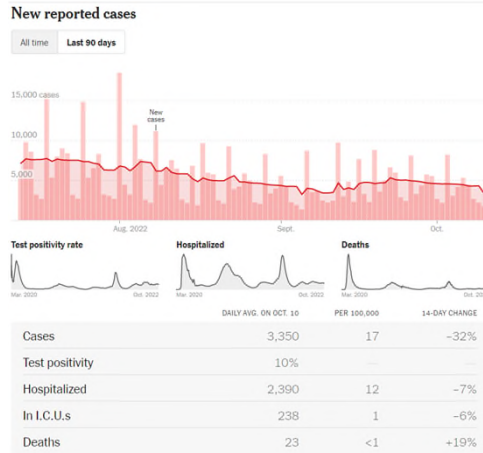


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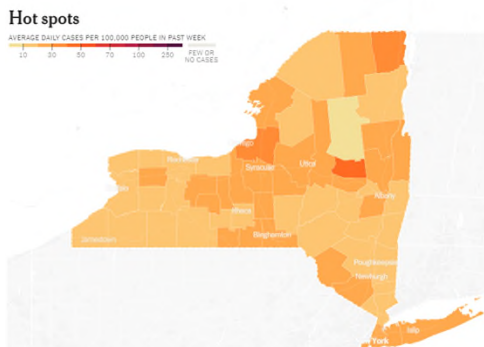
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Current COVID Data in New York



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Current COVID Data in New York



| | CASES DAILY AVG. | PER 100,000 | 14-DAY CHANGE | TEST POSITIVITY | HOSPITALIZED AVG. PER 100,000 | 14-DAY CHANGE | DEATHS DAILY AVG. | PER 100,000 | FULLY VACCINATED |
|--------------|---------------------|----------------|------------------|--------------------|----------------------------------|------------------|----------------------|----------------|---------------------|
| New York | 3,350 | 17 | -32% | 10% | 12 | -7% | 22.9 | 0.12 | 79% |
| Fulton > | 21 | 40 | -9% | 27% | 12 | +110% | 0.1 | 0.27 | 56% |
| Oswego > | 41 | 35 | -4% | 19% | 15 | +30% | 0.1 | 0.12 | 61% |
| Clinton > | 25 | 31 | +20% | 21% | 35 | +30% | 0.1 | 0.16 | 74% |
| Madison > | 20 | 29 | +47% | 14% | 16 | +31% | 0 | — | 62% |
| Warren > | 18 | 29 | -1% | 12% | 11 | +1% | 0 | — | 79% |
| Broome > | 53 | 28 | +13% | 13% | 24 | +9% | 0.2 | 0.10 | 65% |
| Washington > | 17 | 27 | +38% | 14% | 9 | +1% | 0.1 | 0.23 | 68% |
| Sullivan > | 21 | 27 | +7% | 11% | 19 | +27% | 0 | — | 63% |
| Oneida > | 61 | 27 | -2% | 14% | 16 | +36% | 0.4 | 0.19 | 64% |
| Chemung > | 22 | 26 | +28% | 14% | 20 | -29% | 0.1 | 0.17 | 63% |



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Recent Developments in Wage and Hour Law



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Minimum Wage Increase Effective 12/31/22

- Employees other than fast food employees:
 - \$14.20 per hour outside of New York City, Nassau, Suffolk, and Westchester counties (\$1.00 per hour increase)
 - \$15.00 per hour in New York City, Nassau, Suffolk, and Westchester counties (no change)
- Fast food employees:
 - \$15.00 per hour across the state (no change)



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Hospitality Industry Maximum Tip Credits Effective 12/31/22 (Proposed)

- Food service workers (delivery workers excluded)
 - \$5.00 per hour maximum tip credit/\$10.00 per hour minimum wage in New York City, Nassau, Suffolk, and Westchester counties (no change)
 - \$4.75 per hour maximum tip credit/\$9.45 per hour minimum wage in the rest of New York State (\$0.35 per hour increase in tip credit, \$0.65 per hour increase in tipped minimum wage)
- Fast food employees
 - No tip credit is allowed



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Hospitality Industry Maximum Tip Credits Effective 12/31/22 (Proposed)

- Service employees (employees who customarily receive tips and meet the tip threshold other than food service workers or employees in fast food establishments)
 - \$2.50 per hour maximum tip credit/\$12.50 per hour minimum wage in New York City, Nassau, Suffolk, and Westchester counties (no change)
 - \$2.35 per hour maximum tip credit/\$11.85 per hour minimum wage in the rest of New York State (\$0.15 per hour increase in tip credit, \$0.85 per hour increase in tipped minimum wage)



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Weekly Average Tip Thresholds for Service Employees Effective 12/31/22 (Proposed)

- Service employees at resort hotels
 - \$8.40 per hour in New York City, Nassau, Suffolk, and Westchester counties (no change)
 - \$7.95 per hour in the rest of New York State (\$0.55 per hour increase)
- Service employees in restaurants and non-resort hotels
 - \$3.25 per hour in New York City, Nassau, Suffolk, and Westchester counties (no change)
 - \$3.05 per hour in the rest of New York State (\$0.20 per hour increase)



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Increases to Executive and Administrative Exempt Salary Levels Effective 12/31/22 (Proposed)

- \$1,125.00 per week for employers in New York City, Nassau, Suffolk, and Westchester counties (no change)
- \$1,064.25 per week for employers outside of New York City, Nassau, Suffolk, and Westchester counties (increase of \$74.25 per week)
- New York minimum salary levels are inclusive of board, lodging, or other allowances and facilities



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Salary Requirements for the Professional Exemption

- No New York salary threshold for the professional exemption
- Federal threshold for executive, administrative, and professional exemptions is \$684.00 per week, exclusive of board, lodging, or other facilities
 - USDOL is expected to issue a proposed rule increasing this threshold soon
- No federal salary level requirements for
 - Teachers
 - Doctors
 - Lawyers
 - Medical Interns and Residents



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Farm Workers Overtime

- Farm workers are entitled to overtime at a wage rate of 1½ times the employee's regular rate for hours worked in excess of:
 - 60 hours per work week on or after January 1, 2020
 - 56 hours per work week on or after January 1, 2024
 - 52 hours per work week on or after January 1, 2026
 - 48 hours per work week on or after January 1, 2028
 - 44 hours per work week on or after January 1, 2030
 - 40 hours per work week on or after January 1, 2032
- Gradually phases out applicability of the federal agricultural overtime exemption to New York farm workers



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Court Restrains Enforcement of Important Provisions of Concealed Carry Improvement



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New York's Regulation of Private Gun Ownership Prior from 1911-2022

- Since 1911, New York has prohibited the unlicensed possession of firearms
- Until recently, to conceal and carry a firearm for self-defense outside their home or business, individuals were required to demonstrate "proper cause" for them to have such license



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New York's Regulation of Private Gun Ownership Prior from 1911-2022 cont.

- “Proper cause” required a special need for self-protection different from that of members of the general public, such as specific threats, attacks, or other extraordinary dangers to personal safety
- Without “proper cause,” individuals could get a restricted license allowing them to publicly carry a firearm for specified reasons, such as hunting, target shooting or employment



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New York State Rifle & Pistol Association, Inc. v. Bruen

- United States Supreme Court held that the “proper cause” standard was an unconstitutional restriction on individuals’ Second Amendment rights



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Concealed Carry Improvement Act

- Passed by New York and signed into law by Gov. Hochul on July 1, 2022
- Replaces “proper cause” standard with requirement that applicants demonstrate that they are of “good moral character”
- Requires applicants to provide character references and information regarding family members and social media accounts
- Imposes training requirement and requires applicants to participate in an in-person meeting to obtain a license



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Concealed Carry Improvement Act Cont.

- Prohibits possession of firearms in “sensitive locations” and “restricted areas”
- “Sensitive locations” include government buildings, healthcare facilities, religious institutions, casinos, libraries, public parks, schools or colleges, places of entertainment and places where alcohol is served, and on public transportation
- “Restricted areas” constitute private property where the owner or lessee has not posted clear and conspicuous signage or otherwise explicitly given permission allowing the possession of firearms



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Antonyuk v. Hochul

- As expected, CCIA subject to constitutional challenges almost immediately after becoming effective on September 1
- Judge Glenn T. Suddaby of the Northern District of New York issued decision restraining enforcement of significant portions of CCIA on October 6



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Provisions Where Enforcement Restrained (for now)

- “Good moral character” requirement – must be enforced such that licenses are issued unless a preponderance of the evidence demonstrates that applicant lacks good moral character and their possession of a firearm would pose a danger to themselves or others
- Requirements that applicants provide information regarding relatives and cohabitants and social media accounts
- In-person meeting requirement
- **Prohibition on firearms in “restricted areas”**



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Provisions Allowed to Stand (for now)

- Eighteen-hour firearm training requirement
- Character reference requirement



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What about “Sensitive Locations?”

- Prohibition stands with respect to (1) government buildings; (2) places of worship or religious observance (except those charged with keeping the peace); (3) schools, colleges, educational facilities (except summer camps); and (4) gatherings of individuals to express right to protest or assemble
- Prohibition restrained as applied to (1) places or vehicles used for public transportation; (2) places of entertainment, amusement, or where alcohol is served; (3) Times Square; and (4) other sensitive locations



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Further Developments are Coming



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What Does this Mean for Employers and Businesses?

- Unless otherwise constituting a “sensitive location” where the prohibition on the possession of firearms was allowed to stand, back to a post-Bruen/pre-CCIA world – meaning possession of firearms is not presumptively prohibited on private property simply because the owner/lessee has not given explicit permission
- Businesses and employers should consider posting signs and/or implementing policies regarding the possession of firearms if they wish to restrict the possession of firearms on their property
- Continue to watch for further updates

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Helpful Tips for Workplace Investigations



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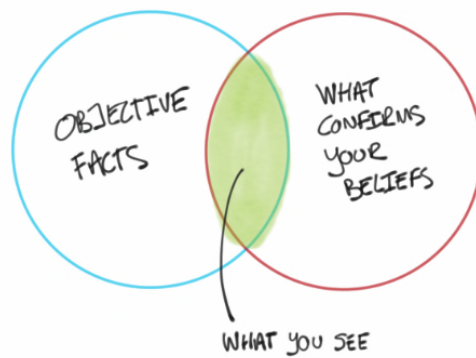
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Confirmation Bias



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WORKPLACE 2022

ANNUAL LABOR, EMPLOYMENT & HR CONFERENCE

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Corning • September 22

Melville • November 10

New York City • October 27

Rochester • November 3

Saratoga • October 26

Syracuse • October 6

Westchester • October 13

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Court Restrains Enforcement of Important Provisions of Concealed Carry Improvement

Nick Jacobson, njacobson@bsk.com

Helpful Tips for Workplace Investigations

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New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).



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Thank You

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