

## The New York State Labor law amendments you need to know

Despite a summer of political circus distractions in Albany, the New York Legislature continued to crank out laws that further regulate New York employers. Here are some recent changes to New York State laws that you need to take into consideration.

### Pay rates and pay dates

Effective Oct. 26, 2009, all New York state employers have new obligations to let new employees know what they will be paid and when they will be paid.

The Legislature amended the New York State Labor Law Section 195(1) to require employers to provide all employees hired on or after Oct. 26, 2009, with written notice of their rate of pay and their regular paydays. The notice must also include the employee's overtime wage rate.

Previously, employers had to notify only new employees of their regular rate of pay and their paydays—and the notice could be oral.

The new law also requires employers to obtain employees' written acknowledgment that they have received the notification.

The new law is designed to allow workers to determine whether their paychecks properly reflect the hourly wage rates their employers agreed to at the time of hiring, including the proper overtime rate.

### Victim discrimination outlawed

Effective July 7, 2009, the New York State Human Rights Law prohibits employers from discriminating against employees who are victims of domestic violence.

A domestic violence victim is defined as someone who has been subject to acts that would constitute a family offense under the Family Court Act. This misconduct includes harassment, menacing, stalking, disorderly conduct and criminal mischief.

Protection for victims of domestic violence has been a part of the New

### Notices, notices, notices

In addition to the new requirement to notify new hires of their pay rates and dates, New York law requires several other employee notifications:

- Employers must notify employees of any changes in paydays before such changes take effect.
- Terms of employment between an employer and a commissioned salesperson must be in writing and signed by both parties. The agreement must include a description of how wages, salary, account draws, commissions and all other monies earned and payable will be calculated.
- Employees must be notified in writing or public posting of the employer's policy on sick leave, vacation, personal leave, holidays and hours.
- Employers must notify employees of their date of termination and exact date when employee benefits will end. The notice must be in writing and be given within five working days after an employee's termination.

York City Human Rights Law since 2001.

A memo to the new state bill notes that it "is not unusual for a victim of domestic violence to be terminated from her job or demoted because she needs time off or flexible hours as a protective measure."

This category is added to other protected characteristics under the Human Rights Law: age, race, creed, color, national origin, sexual orientation, military status, sex, disability predisposing genetic characteristics and marital status.

### Employer penalties increase

As of July 6, 2009, the Human Rights Law provides for civil fines and penalties, payable to the state, of up to \$50,000 for unlawful discriminatory acts and up to \$100,000 for willful, wanton or malicious discrimination.

Those fines are in addition to any compensatory damages or other payment under the law. They can add up quickly.

Now is a good time to review your discrimination and harassment policies and let supervisors know about the new penalties.

### Mini-COBRA strikes

An amendment to the New York State Insurance Law "mini-COBRA"

provisions extends former employees' eligibility to purchase continuation coverage under a group health plan. The old limit was 18 months after termination; now it's 36 months.

The law applies retroactively to insurance policies and contracts issued, renewed, modified, altered or amended on or after July 1, 2009. It does not apply to self-funded group health plans.

Although New York's mini-COBRA statute generally covers insurance plans of employers with fewer than 20 employees, this 36-month continuation period will apply to all New York group insurance policies regardless of employer size.

Therefore, if federal COBRA coverage is exhausted, qualified beneficiaries can extend coverage under New York law for an additional 18-month period, up to a total of 36 months following the date of the beginning of federal COBRA coverage.

**Final note:** The end of the year is a good time to review all your employment policies and handbooks to make sure they reflect all changes in the law. (And 2009 has been a particularly busy year for changes.) A good starting point is to review your copies of this newsletter to see which policies you need to update.