

2013 SESSION CONNECTICUT GENERAL ASSEMBLY

In its 2013 session, the General Assembly passed a number of new laws affecting employers. Except as otherwise noted, the changes are effective October 1, 2013. The following material summarizes these new laws, but the specific provisions should be reviewed in the context of specific situations. These new statutes are available online through the General Assembly website at <http://www.cga.ct.gov/>. We will be happy to send you copies of any of these new Public Acts upon your request.

State Minimum Wage to Increase in Two Steps

PA-117 increases the hourly minimum wage from its current \$8.25 to \$8.70 on January 1, 2014 and to \$9.00 on January 1, 2015. It also increases the “tip credit” in each of those years to keep the employer’s share of hotel and wait staff’s wages at its current \$5.69, and bartenders’ wages at the current \$7.34 level. The tip credit lowers the employer’s share of the minimum wage, as long as the employee’s tips make up the difference. Current law left unchanged by the new act still allows learners, beginners, and people under age 18 to be paid 85% of the minimum wage for the first 200 hours of their employment. In effect, the act’s minimum wage increases raise this wage from its current \$7.01 to \$7.39 in 2014 and \$7.65 in 2015. PA-117 takes effect on July 1, 2013.

Unemployment Insurance Tax Operations to Change, Aiming to Improve Timeliness and Efficiency

Under PA 13-288, any employer that becomes subject to Connecticut’s unemployment law must electronically

notify the labor commissioner within thirty (30) days. The new act also requires an employer to electronically notify the commissioner within thirty (30) days after acquiring substantially all of the assets or business, including employees, of another employer that is subject to the state’s unemployment law.

In both instances, the labor commissioner must determine the manner in which the electronic notice will be provided. The act establishes a \$50 civil penalty per violation for violating either notice requirement. It also creates a \$25 fee for employers that fail to submit their required quarterly wage reports under a proper state unemployment compensation registration number.

All Employers to Become Subject to Electronic Quarterly Unemployment Tax Return Filing Requirement

Beginning with the first calendar quarter of 2014, PA 13-141 requires all employers subject to the state’s unemployment law, or their reporting agents, to submit their quarterly wage reports to the Department of Labor (DOL) on magnetic tape, diskette, or other electronic means prescribed by the department. The act also requires all employers, or their agents, that

directly reimburse the unemployment system for benefits paid to former employees (e.g. state and local governments) to pay electronically.

Currently, both requirements apply only to employers with two hundred and fifty (250) or more employees, although employers are exempt from the electronic reporting requirement if they can show that they are technologically incapable of meeting it. The new act allows employers, or their agents, to request a waiver from the electronic reporting and electronic reimbursement requirements. To do so, they must submit a written request for a waiver on a DOL-prescribed form at least thirty (30) days before the wage report or reimbursement payment is due. The labor commissioner must grant the request if, based on the information submitted by the employer or agent, she finds that the requirement would cause an undue hardship, and the commissioner must promptly notify the employer or agent of her decision. The commissioner's decision cannot be further reviewed or appealed. If granted, a waiver is good for one year. PA 13-141 is effective January 1, 2014

Identity of Employees Supplying Information to the Auditors of Public Accounts to Be Exempt from FOIA

PA 13-292 will exempt from disclosure under the Freedom of Information Act (FOIA) the portion of any audit or report prepared by the Auditors of Public Accounts that concerns the identity of an employee who provides information regarding either alleged fraud, or weaknesses in the control structure of an agency that may lead to fraud, and any document that may reveal the identity of such an employee.

Under current law the identity of an employee who files a formal whistleblower complaint with the auditors is exempt from FOIA, but the exemption does not currently extend to employees who simply provide information to them in other situations, for example, answering questions during the course of an audit.

New Task Force to Study Possibility of Paid Family and Medical Leave

Special Act 13-13 establishes a task force to examine the feasibility of creating a family medical leave insurance benefit. This "Task Force on Family and Medical Leave Insurance" will study the feasibility of establishing an insurance program to provide paid short-term benefits to workers who are unable to work due to pregnancy or the birth of a child, a non-work-related illness or injury, or the need to care for a seriously ill child, spouse or parent.

Extension of Protection for Taking Military Leave

PA 13-49 aligns Connecticut law with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), which protects employees who serve or served in the military from workplace discrimination due to their service. Specifically, the new act extends the employment protections currently afforded to employees who are U.S. armed forces reservists or National Guard members to members of the state armed forces who take time from their employment to perform ordered military duty. PA 13-49 covers employees serving in Connecticut's organized militia, National Guard, naval militia, or the Marine Corps branch of the naval militia, or any reserve component of the U.S. Army, Navy, Marine Corps, Coast Guard, or Air Force, including the Connecticut National Guard under U.S.C. Title 32 (homeland security).

Protections include being permitted a leave of absence when the member is ordered to military duty, including meetings and drills during regular working hours, and protection from loss of vacation or holiday privileges, or prejudice in promotions, continuances, or reappointments of employment due to absences.

Private and Parochial Schools Gain Wage Payment Flexibility

Under PA 13-252, private and parochial schools will be allowed to enter into a written agreement with their employees for a wage payment schedule that differs from the schedule otherwise required by law. Wage and hour law generally requires employers to pay employees on a regular pay day that cannot be more than eight days after the last day counted in the pay period. For several years the law has allowed public schools, the American School for the Deaf, the Connecticut Institute for the Blind, and the Newington Children's Hospital to negotiate different payment schedules. (Many boards of education pay employees based on the calendar year rather than the 10-month school year). The new act aligns the law for both public and private schools. The labor commissioner can also grant other pay schedule exceptions. In addition, under the act if a school stops operating before it pays all of the wages due to its employees the agreement is null and void, and the school is liable for paying all wages due the employees. PA 13-252 is effective from passage.

Unemployment Changes for Conformity with Federal Law

PA 13-66 changes the state's unemployment law by imposing a financial penalty on unemployment claimants whose fraudulent acts result in benefit overpayments, and prohibiting any relief from unemployment charges against an employer whose failure to adequately respond to a request for information led to a claimant's overpayment. The act also opens the state's shared-work program to all employers covered under the unemployment law. As a result, the new act helps bring the state's unemployment law into conformance with new federal requirements.

The act also expands the ways the labor commissioner can recover unemployment benefit

overpayments. If a claimant received overpayments through fraud, willful misrepresentation, or willful nondisclosure, existing law allows the commissioner to seek repayment through withholding the claimant's state income tax refund. If the commissioner cannot recover the fraudulent overpayments from the claimant's state income tax refund, the bill allows her to seek repayment through withholding the claimant's federal tax refund, under applicable federal law. PA 13-66 also allows the commissioner to seek a withholding of a state income tax refund for claimants who fail to repay accidental overpayments.

In addition, the act changes the quarterly statements the labor commissioner must provide to employers for combined wage claims (for claimants who worked in multiple states) paid under the unemployment law of another state. It requires the statement to show the benefits charged against the employer as quarterly totals instead of weekly totals, as under current law.

By law, employers are "charged" for the amount of unemployment benefits their former employees receive. The employer's charge is proportional to how much of the former employee's total wages the employer paid over the year before the employee claimed benefits (e.g. an employer who paid 20% of a former employee's total wages will be charged for 20% of the benefits the employee receives). These charges are then used to compute the employer's experience rate and quarterly tax contributions (for most private sector employers) or direct reimbursement due (for public sector employers).

Revised Employee Access to Personnel Files

PA 13-176 specifies how quickly an employer must provide a current or former employee with access to his or her personnel file. It allows an employer to mail the file to a former employee if they cannot agree on a location for the former employee to inspect the files.

The act also requires employers to provide employees with copies of documentation of any disciplinary action or termination, and to notify employees that they can include in their personnel file a written statement disagreeing with disciplinary, termination, or evaluation documents.

The new law also provides the labor commissioner with discretion to determine penalty amounts, within certain limits, for individual violations of the Personnel Files Act, and specifies factors that she must consider when making this determination.

Current law requires employers to let employees inspect their personnel files within a “reasonable time” after receiving a written request. The inspection must be during regular business hours at a location at, or reasonably near, the employee’s place of employment. PA 13-176, however, requires employers to provide this access and, if requested, allow the files to be copied within seven (7) business days for current employees and ten (10) business days for former employees. If an employer and former employee cannot agree on a location for the former employee to inspect the files, the act allows the employer to mail a copy of the file to the former employee within ten (10) days of receiving the written request for the file. Under the bill, former employees must request their files within one year of their termination from the employer. By law, employers must keep a former employee’s records for at least one year.

As to penalties, current law requires the labor commissioner to issue a \$500 civil penalty for the first violation of the Personnel Files Act against a particular employee and a \$1,000 penalty for any subsequent violations related to the same employee. The bill instead allows the commissioner to issue penalties

up to \$500 for first violations and up to \$1,000 for subsequent violations related to an employee or former employee.

Income tax Withholding

PA 13-8 allows Connecticut employers to withhold a portion of an employee’s wages as required by another state’s income tax laws for an employee who works for the employer in the other state or resides in the other state. Under current law, Connecticut employers can withhold state income tax for another state only if the other state has a reciprocal agreement with Connecticut.

Training for Municipal Police Officers

Under PA 13-190 the Police Officer Standards Training (POST) Council is allowed to develop an interactive electronic computer platform capable of administering training courses, and authorize police officers to complete certified review training at a local police department facility by means of such platform. Under current law, police officers under the council’s jurisdiction must complete at least 40 hours of review training every three years in order to maintain certification, unless the council grants a one-year extension.



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