

Law of the Workplace

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CLIENT ALERT

Legislative Wrap-Up, Part II: Passed Bills

The Connecticut General Assembly's regular session adjourned on June 3, 2009. Employers should be aware of the following changes in labor and employment law.

While some Acts have been signed into law, others are awaiting gubernatorial action. These Acts include details that are beyond the scope of this summary. Please contact Siegel, O'Connor, O'Donnell & Beck, P.C. for specific guidance on any of the following requirements.

Signed by the Governor

P.A. No. 09-70, An Act Concerning Updates to the Family and Medical Leave Act. *Effective from passage.* Modeled after its federal law counterpart, this Public Act provides employees with 26 weeks of unpaid leave under Connecticut's Family and Medical Leave Act to care for an immediate family member or next of kin who is a current member of the U.S. Armed Forces, National Guard, or military reserves and is undergoing medical treatment, on outpatient status, or on the temporary disability retired list for serious injury or illness. As a reminder, Connecticut's FMLA only applies to employers of 75 or more employees, and does not include municipalities or boards of education.

P.A. No. 09-101, An Act Concerning Penalties for Violations of Certain Personnel Files Statutes and Equal Pay for Equal Work. *Effective October 1, 2009.* Employers will be subject to a \$300 fine for violations of the Personnel Files Act, which governs the disclosure and retention of employee records. The Personnel Files law requires the employee's written consent, in most cases, before an employer can disclose individually identifiable information other than the employee's dates of employment, job title, and wage or salary.

This Public Act also incorporates heightened requirements for equal pay to men and women performing equal work. These amendments are intended to bring Connecticut in line with the federal Equal Pay Act (introduced by the Ledbetter Fair Pay Act). Both laws provide a minimum 2 year period for employees to file a complaint, and include a "continuing violation" principle, meaning the employer violates the law each time it pays the employee unequal wages.

P.A. No. 09-106, An Act Protecting the Integrity of CONN-OSHA Investigations. *Effective October 1, 2009.* This bill allows employees to submit witness statements to Occupational Safety and Health Administration investigators without disclosing the employees' identities to the employer.

P.A. No. 09-104, An Act Concerning Evidence of Workers' Compensation Insurance for Contractors on Public Works Projects. *Effective from passage.* This Public Act allows a contractor on a public works project seeking renewal of a state license or permit to prove it carries workers' compensation insurance, as required by law, by listing on the renewal form: (1) name of its insurer, (2) policy number, (3) effective dates of coverage, and (4) certification by the contractor that the information is truthful and accurate. The contractor may use this process in lieu of presenting a physical certificate of insurance.

P.A. No. 09-33, An Act Concerning Confidentiality of Certain Employer Data. *Effective October 1, 2009.* This Public Act allows the Connecticut Department of Labor to provide confidential employee information that it receives from employers to private entities that contract with the U.S. Department of Labor, for the purpose of grant administration. Any such private contractor will be required to sign a confidentiality agreement.

Awaiting Action by the Governor

P.A. No. 09-147, An Act Establishing the Connecticut Healthcare Partnership. *Various effective dates beginning July 1, 2009.* The so-called healthcare “pooling” bill would require Connecticut to open its state employee health insurance plan to municipal and nonprofit employers beginning July 1, 2010 and small private sector employers effective January 1, 2011. The state employee health insurance plan, excluding dental, will be available to employers who must pay the same premium rates that are paid by the state. Under the state insurance, children up to age 26 are eligible for coverage under certain conditions. Governor Rell vetoed a version of this bill last year and is expected to veto this bill again.

P.A. No. 09-126, An Act Concerning Employer Health Insurance Premium Payments for Terminated Employees. *Effective October 1, 2009.* This bill allows employers to stop paying health insurance premiums related to an employee and his or her dependents 72 hours after the employee separates from employment, as long as the employer notifies the insurer within 72 hours and reimburses the affected employee his or her portion of any prepaid premiums refunded by the carrier. This bill does not apply if an employee is laid off or if a collective bargaining agreement requires the employer to pay the premiums.

In addition to these Public Acts, retail stores and restaurants should be aware of two additional pieces of legislation awaiting action by the Governor.

P.A. No. 09-129, An Act Concerning Customer Access to Restrooms in Retail Establishments. *Effective October 1, 2009.* This Public Act allows customers with certain medical conditions to access employee restrooms located in retail stores, even where the restroom is not typically open to the public. The customer must present a doctor’s note to gain access. A violation will result in an infraction of a \$35 to \$90 fine.

P.A. No. 09-157, An Act Concerning Access to Health and Nutritional Information in Restaurants. *Various effective dates beginning July 1, 2009.* By July 1, 2010, “chain restaurants,” as defined by the act, will be required to make the calorie content for each of its standard menu items available to consumers. Whenever a printed menu or menu board/sign is used, the chain restaurant will be required to list the total number of calories next to each item, along with a disclaimer that these numbers may vary based on special orders or slight variations in overall serving size or quantity of ingredients. The Department of Public Health will assess each restaurant’s compliance with these requirements as part of its regularly scheduled inspections, and must adopt regulations by July 1, 2010 governing inspection and enforcement procedures for same.

This material is intended to provide you with information regarding a noteworthy legal development. It should not be regarded as a substitute for legal advice concerning specific situations in your operation. If you have any questions or would like additional information on this topic, please contact our Firm at (860) 727-8900 or www.siegelconnor.com.

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