


NEWS



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EXECUTIVE ANALYSIS OF CHANGES IN NEVADA'S EMPLOYMENT LAWS

Newsroom

8.27.21

Business and EPLI Carriers Focus on Potential Impacts

During the 81st session of the Nevada Legislature in 2021, several new notable pieces of employment legislation were passed and signed into law by Governor Sisolak. Employers should review their current policies and make any required changes accordingly. Should you have any questions or concerns, our employment law team in Nevada stands ready to assist.

CLAIMANTS MUST BRING CLAIMS FOR WRONGFUL TERMINATION WITHIN TWO YEARS

SB 107: This law codifies the Nevada Supreme Court's decision in *Patush v. Las Vegas Bistro, L.L.C.*, 135 Nev. 353 (2019), in which the court held that claims for wrongful termination are governed by the two year statute of limitations. Prior to the passage of the legislation, Nevada law did not expressly state a specific statute of limitations for a wrongful termination of employment claim.

Effective 5/27/21

NEW LEAVE REQUIREMENTS SB 209 & 109

SB 209: Amends NRS 608 to require certain employers to provide employees paid leave to take time to get a COVID vaccine. This provisions is effective immediately with an expiration of 12/31/23. This amendment also requires employers to allow employees to use paid leave to obtain medical treatment, for preventative care, to participate in caregiving or to address other personal needs relating to the employees' health. Effective immediately.

RELATED SERVICES

Employment

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EMPLOYERS ARE PROHIBITED FROM DISCRIMINATING AGAINST AN EMPLOYEE DUE TO HAIR STYLE

SB 327: Amends NRS 610. This amendment establishes protections against discrimination based on hairstyles. More specifically, the law prohibits discrimination of an employee predicated on elements of their hair which may demonstrate traits based on race such as hair texture and hairstyle. The statute lays out examples of "protected hairstyles" such as afros, bantu knots, curls, braids, locks and twists. Employers may still enforce regulations regarding acceptable hair styles for work when necessary to maintain health and safety. The Nevada Equal Rights Commission may investigate claims of hair-based discrimination. Effective 6/2/21.

AUTHORITY & LIMITATIONS OF THE LABOR COMMISSIONER & REVISION OF DEFINITION OF WAGES

SB 245: Amends NRS 607. Pursuant to this amendment, if an employee who is subject to a collective bargaining agreement files a complaint with the labor commissioner, the labor commissioner may not exercise jurisdiction over the claim until the provisions and remedies under the collective bargaining agreement are fully exhausted. The only exception is if the labor commissioner finds that the remedies or relief provided to the claimant under the collective bargaining agreement are inadequate, unavailable, or non-binding.

In addition, if an employer fails to pay wages, compensation or salary due to an employee after termination as required by law, the employee may bring a civil lawsuit against the employer up until two years after the payment of such wages, compensation, or salary were due to the employee.

Finally, the statute expands the definition of wages to include payments owed to a terminated employee, or an employee who resigns or quits a position. Effective 7/1/21

GARNISHMENT OF WAGES PURSUANT TO CHILD SUPPORT ORDERS

AB 37: Amends NRS 31A to address the procedures by which an employer garnishes an employees' wages pursuant to a valid child support order. This amendment expands the current definition of wages to include lump sum payments, bonus payments, incentive pay, commission, severance, or any other kind of one-time payment to the employee. It also permits a court to impose penalties on any employer who refuses to properly withhold money for the purpose of complying with the garnishment order, or fails to deliver such funds from an employee's compensation. Effective 10/1/21

EMPLOYERS MAY NOT INQUIRE ABOUT AN APPLICANT'S SALARY HISTORY

SB 293: Amends NRS 613. Pursuant to this amendment, employers may not inquire about salary history during the interview process of a prospective employee. The employer may ask an applicant what their salary expectation is, but may not ask about earnings at prior jobs. In addition, the employer must provide an applicant who has completed an interview with a wage or salary range for such position as well as a range or salary range for those applying for promotions or transfers. Applicants may file a complaint with the Nevada Labor Commissioner for violations of this law and employers could be subject to administrative penalties as a result. This amendment does not apply to any employer with respect to employment outside this state or to any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities. Effective 10/1/21

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EMPLOYERS MUST POST NOTICE OF SERVICES PROVIDED BY THE DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION

AB 307: Amends NRS 232. Employers are required to post and maintain notice to employees regarding the services provided by the Department of Employment, Training & Rehabilitation. The notices must be posted in a conspicuous location at the workplace.

Effective 10/1/21

NEW REQUIREMENTS FOR SINGLE STALL RESTROOMS FOR PLACES OF PUBLIC ACCOMMODATION

AB 280: Amends NRS 651. This amendment requires places of public accommodation to make all single stall restrooms as inclusive and accessible as possible to persons of all gender identities and expressions. Places of public accommodation include any place the public is invited or which is intended for public use such as hotels, restaurants, bars, gas stations, grocery stores, museums, libraries, parks, private schools or universities, daycares, gyms and health spas.

This law requires the a single stall to specifically be available to: Parent or guardians who wish to accompany their children into the single stall restroom, disabled persons who need to enter the restroom with their caregivers, and a person of any gender identity or expression. This new legislation does not create a private right of action, or allow aggrieved persons to file complaints with the Nevada Equal Rights Commission regarding this issue.

Various effective dates from 10/1/21 through 2/1/22

CHANGES TO NONCOMPETITION LAW

AB 47: Amends NRS 598A. Pursuant to this amendment, employers may not bring an action against a former employee to prevent them from providing service to a former customer or client if the former employee did not solicit the prior customer or client; the customer or client voluntary chose to seek the services of the former of the employee; and the former employee is otherwise acting in accordance with the no compete agreement as agreed upon between the parties. If the employer attempts to restrict the former employee's actions in this way, a court must award reasonable attorney fees and costs to the employee.

In addition, under this new law, regardless of which side brings the action, courts must revise the noncompetition covenant, to not impose undue hardship on the employee and to impose a restraint that is not greater than that necessary for the protection of the employer rather than declaring it unlawful outright, even if the employee has brought the action for the purpose of challenging the non-complete.

Finally, a noncompetition agreement may not apply to employees who are paid solely on an hourly wage basis, exclusive of any tips or gratuities. If the court finds that the noncompetition covenant applies to an hourly employee the court shall award reasonable attorney's fees and costs to the employee.

Effective 10/1/21

The attorneys at WSHB will continue to monitor new and pending legislation of the Nevada legislature and apprise our clients of developments that may impact their business going forward.