

# Keeping Up With Compliance Quarterly

## 1st Quarter 2025

Keeping up with compliance developments can be difficult and time-consuming. This quarterly update highlights recent legal developments to help your organization stay on top of new requirements and minimize compliance risks.

For more information on these topics, please contact Employco USA, Inc..

## Recent Federal Developments

### New Legislation Simplifies ACA Reporting Requirements

At the end of 2024, Congress passed two new laws that eased Affordable Care Act (ACA) reporting requirements for employers and set new limits on the IRS' assessment of "pay-or-play" penalties. The ACA requires applicable large employers (ALEs) and non-ALEs with self-insured health plans to provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees. They must also provide related statements to individuals regarding their health plan coverage. The new legislation simplifies the requirement to provide individual statements so that, beginning in 2025, employers that meet certain requirements are no longer required to provide these statements unless they are requested.

In addition, ALEs are subject to IRS penalties if they do not offer affordable minimum essential coverage under the ACA's employer shared responsibility (pay-or-play) rules. The new legislation increases the time ALEs have to respond to IRS penalty assessment warning letters from 30 days to 90 days. The legislation also imposes a six-year time limit on when the IRS can try to collect assessments.

### DOL Issues Opinion Letter on FMLA and State PFML Programs

On Jan. 14, 2025, the U.S. Department of Labor (DOL) issued an [opinion letter](#) on the federal Family and Medical Leave Act (FMLA) and state and local paid family and medical leave (PFML) programs. The opinion letter states that PFML is treated similarly to paid disability plans and workers' compensation under the FMLA. This means that PFML for an FMLA purpose must be designated as FMLA leave, but employers and employees may not unilaterally require that employer-provided accrued paid leave run concurrently with PFML.

## U.S. Supreme Court Will Review ACA's Mandate for Free Preventive Care

The U.S. Supreme Court will review the constitutionality of a key component of the ACA's preventive care mandate during its current term. This decision will impact the requirement for health plans and health insurance issuers to cover, without cost sharing, a wide range of preventive care services. In June 2024, the 5th U.S. Circuit Court of Appeals ruled that a key component of the ACA's preventive care mandate is unconstitutional. However, the 5th Circuit limited its ruling to the plaintiffs in the case. This means that health plans and issuers have been required to continue to provide first-dollar coverage for the full range of recommended preventive health services. If the Supreme Court rejects the mandate as unconstitutional, this decision could lead to a nationwide shift in coverage.

## DOL Increases Civil Penalty Amounts for 2025

The DOL has [released](#) its 2025 inflation-adjusted civil monetary penalties that may be assessed on employers for violations of a wide range of federal laws, including the Fair Labor Standards Act (FLSA), ERISA, the FMLA, and the Occupational Health and Safety Act. For example, the maximum penalty for failing to file a Form 5500 for an employee benefit plan increased from \$2,670 to \$2,739 per day. Employers should periodically review their pay practices, benefit plan administration and safety protocols to ensure compliance with federal requirements.

## Telehealth Exception Has Expired for Calendar-year HDHP/HSA Plans

In response to the COVID-19 pandemic, the U.S. Congress enacted legislation that temporarily allowed high deductible health plans (HDHPs) that are compatible with health savings accounts (HSAs) to provide benefits for telehealth services before plan deductibles were met. This relief became effective in 2020 and was repeatedly extended. It currently applies to plan years beginning before Jan. 1, 2025. This means the relief ended on Dec. 31, 2024, for HDHPs with the calendar year as their plan year. To retain employees' HSA eligibility, employers with HDHPs should review their health plan's coverage of telehealth services to determine if changes should be made for the plan year beginning in 2025.

## EEOC Addresses the Use of Wearable Technologies Under Federal Discrimination Laws

On Dec. 19, 2024, the U.S. Equal Employment Opportunity Commission (EEOC) released a [fact sheet](#) addressing the application of federal employment discrimination laws to the collection and use of information from wearable technologies, also known as wearables. Wearables can be used to track various physical factors, such as an employee's location, heart rate, electrical activity or fatigue. In light of the EEOC's guidance, employers using wearables should review what data the wearables collect, whether data obtained is stored confidentially, and whether and how such data is used in employment-related decision-making.

## OSHA Revises PPE Standard for Construction Industry

On Dec. 12, 2024, OSHA finalized a [revision](#) to the personal protective equipment (PPE) standard for construction. The final rule explicitly requires the PPE to properly fit any construction worker who needs it to improve protection from hazardous conditions. The rule became effective on Jan. 13, 2025. Employers in the construction industry should review the requirements of the revisions and make sure they have implemented them into their safety programs. In addition, they must ensure they provide different sizes of PPE for their employees and monitor if their employees are wearing the correct PPE in the correct size.

## Federal Court Vacates DOL's Final Overtime Rule Nationwide

On Nov. 15, 2024, the U.S. District Court for the Eastern District of Texas [vacated](#) the DOL's [final rule](#) to amend current requirements that employees in white-collar occupations must satisfy to qualify for an overtime exemption under the FLSA. This ruling sets aside the final rule's increases to the standard salary level nationwide, returning the salary threshold to the pre-July 2024 threshold. The DOL has appealed the District Court's ruling; however, the future of the appeal is uncertain. Under new agency leadership and presidential administration, the DOL may abandon the appeal altogether or undertake new rulemaking to implement different overtime thresholds. Employers should monitor the situation for updates.

## Recent State Law Developments

### New York Amends Workers' Compensation Requirements for Mental Injury Claims

On Dec. 6, 2024, New York enacted [Senate Bill 6635](#), which eliminated the restrictions on which workers may file claims for mental injuries premised upon extraordinary work-related stress under the state's workers' compensation law. Prior to this amendment, only police officers, firefighters, emergency personnel, paramedics and other persons certified to provide medical care in emergencies could file this type of claim. The amendment, which became effective on Jan. 1, 2025, now allows any worker to file a mental injury claim premised upon extraordinary work-related stress incurred at work.

### New Jersey Enacts Pay Transparency Law

On Nov. 18, 2024, New Jersey enacted [Senate Bill 2310](#), a law requiring covered employers to include compensation information in job advertisements and announce internal promotional opportunities. The law takes effect on June 1, 2025, and applies to New Jersey employers with 10 or more employees over 20 calendar weeks.

## Nevada Approves New Heat Illness Regulation

On Nov. 15, 2024, the Nevada Division of Industrial Relations adopted a new heat illness [regulation](#) due to the increase in heat illness complaints submitted to Nevada OSHA. This regulation went into effect on Nov. 15, 2024, and applies to businesses with 10 or more employees. It provides flexibility for each business to evaluate workplace hazards associated with heat to develop and implement a plan that addresses their specific needs.

## New York Enacts Prenatal Personal Leave

New York's [budget for fiscal year 2024-25](#) includes provisions mandating paid employee prenatal leave. The budget amends the [state sick leave law](#) by adding a requirement that all employers provide their employees with 20 hours of paid prenatal personal leave per 52-week period, starting Jan. 1, 2025. The amendment does not require employees to accrue the new leave, nor does it impose a waiting period before employees may use the leave; the full 20 hours must be made available on Jan. 1, 2025.

## California Expands Discrimination Protections

California's Fair Employment and Housing Act (FEHA) prohibits employers with five or more employees from discriminating against employees based on their protected characteristics (e.g., race, sex, disability, religion and age). Effective Jan. 1, 2025, California [amended](#) the FEHA to broaden the definition of "race" to include traits associated with race, including hair texture and protective hairstyles, such as braids, locs and twists. California also [amended](#) the FEHA to protect employees from discrimination on the basis of their actual or perceived combination of protected traits.

## California Limits Driver's License Requirements

California further [amended](#) the FEHA to prohibit employers with five or more employees from requiring job candidates to have a driver's license in a job advertisement, posting, application or other materials unless it is reasonably believed that driving will be a job function for the position and satisfying this function using an alternative form of transportation (e.g., rideshare, taxi, carpooling, bicycling or walking) would not be comparably efficient or cost-effective for the employer. This prohibition became effective on Jan. 1, 2025.

## California Passes Captive Audience Ban

Effective Jan. 1, 2025, California [passed](#) the California Worker Freedom from Employer Intimidation Act, which prohibits all employers from discriminating against individuals who refuse to attend an employer-sponsored meeting or decline to participate in, receive or listen to employer communications in each case the purpose of which is to communicate the employer's views on religious or political matters (including labor organization efforts). Employers that violate the law may be subject to civil penalties of \$500 per employee for each violation, as well as injunctive relief and damages.

## Colorado's Child Labor Penalties Increase

Colorado [amended](#) the state's Youth Employment Opportunity Act (YEOA) to increase the penalties for violations and require the penalties to be deposited into the state wage theft enforcement fund. Under the YEOA, an employer that permits a minor to be employed in violation of the state's child labor laws is guilty of a misdemeanor punishable by a fine of not less than \$20 but no more than \$100 for each offense. Effective Jan. 1, 2025, the amendment increases the penalty to a fine of not less than \$250 but not more than \$1,000, with certain exceptions.

## Delaware's PFML Contributions Start

Delaware recently [implemented](#) a PFML program that will provide up to 12 weeks of parental leave per year and six weeks of medical or military exigency leave every two years. The program offers 80% wage replacement up to a weekly maximum, initially set at \$900. Benefits under the program will begin Jan. 1, 2026. However, employers with 10 or more employees were required to enroll in the PFML program by Jan. 1, 2025, unless an approved private benefit plan is in place. Additionally, contributions to the PFML plan begin to be assessed on Jan. 1, 2025. Employers that share the cost of the plan with their employees must begin to collect employee contributions from their employees' paychecks starting Jan. 1, 2025. Employers' quarterly contributions, which are collected retroactively 30 days after each quarter ends, will begin on April 30, 2025.

## Minnesota Requires Salary Disclosure in Job Postings

Effective Jan. 1, 2025, employers with 30 or more employees at one or more jobsites in Minnesota must [disclose](#) the minimum and maximum annual salary and hourly compensation range to be offered to a hired job applicant in job postings for open positions, as well as a general description of all benefits and other compensation, including any health or retirement benefits. The salary range can be based on the employer's good-faith estimate at the time of posting an advertisement for the position.