

WEBINAR SERIES

2024 New York Employment Law Updates and What to Look for in 2025

October 23, 2024



Today's Presenters



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Disclaimer

The materials contained in the following presentation have been prepared as general information and to inform the attendees of important changes that may impact their business. Neither this presentation nor any of the materials contained herein are intended as legal advice. Attendees should consult with counsel before taking any actions that may impact their legal rights.

Today's Agenda

- Minimum Wage Salary Threshold Increase Updates
- Salary Threshold Increase Impact in New York
- Article 6, New York Labor Law
- Freelance Isn't Free Law (FIFL)
- Retail Worker Safety Act (RWSA)
- New York Prenatal Leave Law
- Lactation Break Changes
- New York Anti-Discrimination Law Updates
- Proposition One, formerly called the Equal Rights Amendment
- Workers' Bill of Rights – New York City
- COVID-19
- Severance Agreements in New York, updates
- Non-Compete Clauses in NY

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

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2024 New York Law Update

Minimum Wage & Salary Threshold Increase:

New York State

Hourly Minimum Wage*

- January 1, 2024 - \$15.00
- January 1, 2025 - \$15.50

*With some exemptions generally in the food service industry

New York is one such state that has its own minimum salary level thresholds for executive and administrative level exempt employees, as does the City of New York, and the counties of Nassau, Suffolk, & Westchester.

New York State is as follows:

“Executive” and “Administrative” exempt capacity employees:

- January 1, 2024 - \$1,124.20 per week (\$58,458.40 per year)
- January 1, 2025 - \$1,161.65 (\$60,405.80 per year)
- January 1, 2026 - \$1,199.10 per week (\$62,353.20 per year)



2024 New York Law Update

Minimum Wage & Salary Threshold Increase:

New York City, Nassau, Suffolk, and Westchester Counties:

Hourly Minimum Wage*

- January 1, 2024 - \$16.00 per hour
- January 1, 2025 - \$16.50 per hour

*With some exemptions generally in the food service industry

“Executive” and “Administrative” exempt capacity employees:

- January 1, 2024 - \$1,200 per week (\$62,400 per year)
- January 1, 2025 - \$1,237.50 per week (\$64,350 per year)
- January 1, 2026 - \$1,275 per week (\$66,300.00 per year)



U.S. Department of Labor (DOL) Finalizes New Salary Thresholds – federal level changes REMINDER

Date	Standard Salary Level	Highly Compensated Employee Total Annual Compensation Threshold
Before July 1, 2024	\$684 per week (equivalent to \$35,568 per year)	\$107,432 per year, including at least \$684 per week, paid on a salary or fee basis.
July 1, 2024	\$844 per week (equivalent to \$43,888 per year)	\$132,964 per year, including at least \$844 per week, paid on a salary or fee basis.
January 1, 2025	\$1,128 per week (equivalent to \$58,656 per year)	\$151,164 per year, including at least \$1,128 per week, paid on a salary or fee basis.
July 1, 2027, and every 3 years thereafter	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.

Impact on New York State

- Professional exempt employees are currently subject to the federal exempt salary threshold of \$684.00/week or \$35,568 per year.
- As of July 1, 2024, professional exempt employees in all of New York state, including in New York City and Nassau, Suffolk, & Westchester counties will require an increase from the current federal salary threshold of \$684 per week (equivalent to \$35,568 per year) to \$844 per week (equivalent to \$43,888 per year) in salary to remain compliant with the new federal minimum salary threshold requirements. The incremental threshold increases, including the January 1, 2025, deadline will also need to be given particular attention moving forward.



Article 6, New York Labor Law

New York Labor Law - Article 6: Wage Theft and Pay Frequency

- In March 2024, modifications were made to the salary threshold for wage protections under Article 6 of the New York Labor Law, expanding provisions to a larger group of employees now provided protections which allow for “wage theft” claims in court or before the New York Department of Labor.

Purpose of the modifications is to expand the provisions of Article 6, which include:

- Pay frequency.
- Obtain written consent to pay employees by direct deposit.
- Pay benefits or wage supplements within 30 days.

Article 6, NYLL, continued

New York Labor Law - Article 6: Wage Theft and Pay Frequency, continued

Key Updates

- Updated salary threshold went from \$900 to \$1,300.00 per week (\$67,600.00) in New York for administrative, executive and professional employees who are paid less frequency than semi-monthly.
 - This threshold is different from the overtime/salaried exemptions mentioned on the previous slide.
- Employers must obtain written consent to pay employees by direct deposit.
- Employers must pay benefits or wage supplements within 30 days.

Freelance Isn't Free Law (FIFL)

On August 24, 2024 New York's Freelance Isn't Free Law took effect and is a direct descendant of New York City's Freelance Isn't Free Act, enacted in 2017.

- New York City first introduced this breakthrough legislation in order to protect a freelance worker's rights to such things as a written contract for services over \$800, prompt and full payment, and protections from retaliation.
- Law defined a Freelance Worker as: any natural person or organization composed of not more than one natural person, hired as an Independent Contractor to provide services in exchange for money



Freelance Isn't Free Law (FIFL), continued

The new statewide FIFL expands upon the concepts enacted in the FIFA, providing protections across the entire state which include:

- Written contract for work valued at \$800 or more (either by itself or combined contracts with the same hiring party within 120 days)
- Timely payments – either when due under contract or within 30 days, if not specified
- Once the work has been initiated, no changes to the contracted amount
- Hiring party must retain a copy of the contract for at least 6 years

Freelance Isn't Free Law (FIFL), continued

Important to note that this new law provides additional protections to the freelance worker that include:

- **Protections from discrimination and retaliation:**

Prohibitions are specifically outlined against discrimination or from otherwise taking any action against a freelance worker that penalizes this worker for either attempting to exercise, or attempting to deter a worker from exercising their rights to be free from discrimination, or attempt to preclude the worker from getting future work by attempting to or actual exercising these rights

- **Remedies** for violations of the law include bring a private cause of action in court for statutory damages, double damages, injunctive relief, attorney's fees, and other "such remedies as may be appropriate." Civil penalties of up to \$25,000 . The New York Attorney General retains the authority to investigate and provide appropriate remedies as well.

Retail Worker Safety Act (RWSA)

Signed into law on September 4, 2024, becoming effective on March 3, 2025

- This new law applies to any person, entity, business, or company that has at least 10 or more employees working at a retail store.
- A retail store is defined as a store that sells consumer commodities at retail and is NOT primarily engaged in the sale of food for consumption on the premises.
- Eligible employers are required to establish a workplace violence prevention policy, which is provided to employees upon hire and annually, thereafter.
- Employers are also required to establish a workplace violence prevention training program that is shared with employees upon hire and annually, thereafter as well as requiring certain employers install a panic button linked directly to local 911 public safety resources, by January 1, 2027. The panic button provision applies to employers with more than 500 retail employees nationwide.



New York Prenatal Leave Law

New York has become the first state in the nation to enact paid prenatal leave for pregnant workers

Effective January 1, 2025:

- It is an amendment to the New York State Paid Sick Leave, providing additional benefits for pregnant workers.
- Employers are required to provide for up to 20 hours of paid leave for prenatal care within a 52-week period.
- Prenatal Leave can be used for any qualifying reason in increments of one hour at a time.
- Prenatal Leave is available in addition to the current statutory sick leave benefits, which do vary upon the size of the employer.

New York Prenatal Leave Law, continued

Qualifying reasons:

- Health care services received during the pregnancy or related to the pregnancy,
 - including physical exams,
 - medical procedures,
 - monitoring and testing, and
 - discussions with health care providers related to the pregnancy.

Prenatal Leave Pay:

- Must be paid at 100% of the employee's regular rate of pay.
- Unused leave pay is not owed upon termination of employment.

Lactation Break Changes

- Effective date: June 19, 2024
- Employers now required to provide PAID leave for purposes of expressing breast milk
- Requires an Employer to provide up to 30 minutes of paid lactation breaks each time an employee reasonably needs to express breast milk, for up to three years following childbirth. The new law further requires the permitted use of existing paid break time or mealtime for time needed for these purposes in excess of 30 minutes.
- Additional requirements include providing a private room or space for employees to express breast milk that has:
 - a chair,
 - a working surface,
 - access to clean running water,
 - an electrical outlet if the workplace has electricity, unless having these provides an undue hardship for the Employer.

New York Anti-Discrimination Law Updates

- As of February 15, 2024, a new statute of limitations went into effect that extends the time for filing claims of unlawful discrimination from one year to three years and applies to all forms of discrimination under the State Human Rights law.
- This changes brings the Anti-Discrimination statute of limitations in-line with the existing statute of limitations for sexual harassment claims in employment, which has been in effect since 2020.
- This changes raises the responsibility AND liability of employers, housing providers, public accommodations, and educational institutions to abide by the New York State Division of Human Rights Law, at all times.



Proposition One, formerly called the Equal Rights Amendment

- This November 5th ballot, voters in the state of New York will have the ability chose whether to codify what was formerly called the Equal Rights Amendment into the state constitution.
- This measure, if passed, would modify the state constitution, which currently extends protections to race, color, creed and religion. These constitutional protections would broaden to include age, ethnicity, national origin, disability, and sex including sexual orientation, gender identity, and pregnancy outcomes. It also protects against unequal treatment based on reproductive healthcare and autonomy.

Proposition One, formerly called the Equal Rights Amendment

Why? Unlike the passage of legislative, which subject to change and be overturned from legislative cycle to legislative cycle, an amendment is much more difficult to pass, and consequently, to overturn, giving these broadened constitutional protections much more permanency, than that of new legislation, which in turn impact employers obligations as well.

Workers' Bill of Rights – New York City

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The “Know Your Rights at Work” notice was created by the New York City Department of Consumer and Workers Protection (DCWP)

Effective July 1, 2024, employers are required to provide a copy of the Worker’s Bill of Rights to existing employees and new hires

Employers must post the notice in a conspicuous area in the workplace

Covers employees, applicants, and independent contractors

Describes rights under federal, state, and local laws

Must be provided in the employee’s language

COVID-19

Sunset as of July 31, 2025, which is a year longer than the initial effort to repeal this law by July 2024.

Still Mandatory

Employers are still required to comply with current COVID-19 laws which require provision of up to 14 days of paid leave, separate from other leave accruals, when the employee is subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19.



Severance Agreements in New York, updates

- Employees who assert claims of discrimination, harassment, or retaliation and receive a nondisclosure provision in a Severance Agreement may, but are no longer required to take the full 21-day Consideration period, therefore this time period may now be waived (if in the pre-litigation context);
- However, the 7-day revocation period must remain in place.
- This aligns the New York law with the federal ADEA model.
- Independent contractors subject to discrimination, harassment or retaliation at work are also covered by this Consideration and Revocation period.
- Nondisclosure agreements will not prohibit the terminated employee from disclosing information to the New York Attorney General, law enforcement, the EEOC, the New York Division of Human Rights, any local commission on human rights, an attorney retained by the Employee, as well as others.

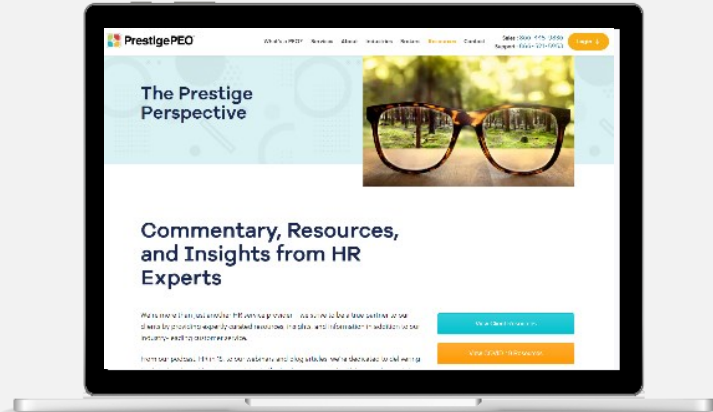
Non-Compete Clauses in NY

Non-Compete Clauses in New York continue to be debated, and although they have not been completely banned YET, it is important to remain both compliant with current requirements and vigilant for any changes.

Guidelines for Compliance in NY

1. Necessary to protect an employer's legitimate interests,
2. Does not impose an undue hardship on employee,
3. Does not harm the public, and
4. Is reasonable in time and geographic scope.

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