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## 2019 Nevada Legislature – Summary of New Labor & Employment Laws

On June 3, 2019, the Nevada Legislature ended its 80th Session with the passage of many bills affecting Nevada employers. Below is a summary of new laws that will impact many Nevada employers. Each has been approved by the Governor.

With new legislation, there are always a lot of questions about how a bill will be applied and interpreted. We have provided links to Nevada's legislative website where you can view the final text of the bill (click on "**As Enrolled**" for the final text). We also encourage you to talk through your questions with a KZA attorney and stay tuned to the Employer Reports for continued updates on these new laws. In the coming days, we will update you on additional new laws if and when they are approved by the Governor.

**[SB 312](#) – Paid Leave.** Effective January 1, 2020, this Bill requires every private employer with at least 50 employees to provide paid leave to employees. Here are the highlights of this new law:

- provides paid leave at a rate of at least 0.01923 hours for each hour of work performed
- law exempts any employer who provides at least the same amount of leave pursuant to a contract, policy, CBA or other agreement; temporary, seasonal or on-call employees; and employers in the first two years of operation
- leave can be used on the 90th calendar day of employment



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- employee does not have to provide a reason for use of leave, but must provide notice as soon as practicable of the need to use paid leave
- employer may cap use of leave to 40 hours per year and may limit use of daily leave to a minimum of 4-hour time blocks
- employer can cap amount of accrued paid leave that carries over each year to 40 hours
- upon separation, employer is not required to compensate for any unused available paid leave, subject to a limited exception
- law prohibits employer from denying employee the right to use available paid leave, retaliating against employee for using available leave, or requiring employee to find a replacement worker as a condition of using available paid leave
- Labor Commissioner to create a bulletin for employer to post in each workplace
- employer must provide on each payday an accounting of the hours of paid leave available for use; employer required to maintain a record of the receipt or accrual and use of paid leave for a 1-year period

**[AB 456](#), [SB 192](#) & [AJR 10](#) – Changes to Minimum Wage Law.** The Legislature made major changes to Nevada’s minimum wage law this year. It removed the Labor Commissioner from the process of deciding increases to the minimum wage and provided for an increase to the minimum wage for the next 5 years (AB 456); it also specified the minimum level of health benefits an employer must provide to be eligible for the lower tier of minimum wage payments (SB 192). Finally, it proposed a Constitutional Amendment to eventually remove the two-tier minimum wage system (AJR 10). Here are the specifics:



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- each tier of the minimum wage will increase by \$.75 each year from July 1, 2020 through July 1, 2024
- on July 1, 2020, the minimum wage increases from \$7.25/8.25 an hour to \$8.00/9.00 an hour
- on July 1, 2021, the minimum wage increases to \$8.75/9.75 per hour
- on July 1, 2022, the minimum wage increases to \$9.50/10.50 per hour
- on July 1, 2023, the minimum wage increases to \$10.25/11.25 per hour
- on July 1, 2024, it increases to \$11.00/12.00 an hour
- effective July 1, 2019, employees may sue employer for unpaid minimum wages; court may award back pay, damages, reinstatement or injunctive relief, and reasonable attorney's fees and costs
- effective January 1, 2020, the minimum level of health benefits that an employer is required to make available to an employee and his/her dependents for the purpose of determining whether the employer is authorized to pay the lower tier minimum wage (currently \$7.25) to an employee is now specified by statute
- *proposed* Constitutional amendment to remove the two-tiered system based upon an employer's provision of health care benefits and require all employers to pay a minimum wage of not less than \$12.00 an hour beginning July 1, 2024



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- *proposed* Constitutional amendment to raise the minimum wage in Nevada each time the federal minimum wage is increased or when the State Legislature enacts an increase beyond that provided in the Constitution

Please note that the *proposed* Constitutional amendment discussed above from AJR 10 is not yet effective. It must be passed by the next Legislature (in 2021) and then approved by voters at a general election.

**AB 132 – Substance Abuse Employment/Pre-Hire Testing.** This Bill prohibits an employer from failing or refusing to hire a person because he/she tested positive for the presence of marijuana. This prohibition does not apply to firefighters, emergency medical technicians, a position that requires an employee to operate a motor vehicle and for which federal or state law requires the employee to submit to screening tests, or a position that, in the determination of the employer, could adversely affect the safety of others.

The Bill also requires an employer to accept and “give appropriate consideration” to an additional screening test submitted by the employee, at his/her own expense, to rebut the results of an initial screening by the employer within the first 30 days of employment. This requirement does not apply if it conflicts with the provisions of an employment contract, a CBA, or federal law, or the position at issue is funded by a federal grant.

This new law becomes effective on January 1, 2020.

**AB 248 – Settlement Agreements.** Likely a response to the #metoo movement, this Bill affects an employer’s ability to require confidentiality in certain settlement agreements. Parties to a settlement agreement cannot agree to keep factual information about a civil or administrative action confidential if the action relates to (1) discrimination on the basis of sex by an employer, (2) retaliation by an employer for



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reporting discrimination on the basis of sex, or (3) conduct that if criminal liability were imposed would constitute a sexual offense pursuant to NRS 179D.097 and would be punishable as a felony, regardless of whether there was a criminal investigation, prosecution or conviction of such conduct. While the parties to such agreements cannot agree to keep factual information confidential, they can still agree to keep the amount of the settlement confidential. This Bill also requires the parties to include language protecting the claimant's identity from disclosure (if the claimant requests such protection) as long as neither party is a government agency or public officer. Finally, the Bill exempts a settlement agreement that results from successful mediation or conciliation by the Nevada Equal Rights Commission under certain circumstances. This Bill becomes effective July 1, 2019.

**SB 166 – Changes to NERC Procedures & Remedies.** Promoted by the Governor as a Bill meant to “[c]rack down on companies that knowingly pay women less for doing the same work, cementing protection for equal pay into state law,” this Bill gives the Nevada Equal Rights Commission (NERC) the ability to award civil damages to a complainant in cases involving an unlawful employment practice relating to discrimination on the basis of sex if the Commission determines after a public hearing that an unlawful practice has occurred. The Commission is authorized to award lost wages that would have been earned in the absence of discrimination or other economic damages resulting from the discrimination, including, without limitation, lost payment for overtime, shift differential, cost of living adjustments, merit increases or promotions, or other fringe benefits.

The Bill also gives the NERC the ability to assess monetary penalties against an employer with at least 50 employees if it finds willful discrimination; the penalties can range between \$5,000.00 and \$15,000.00. The Bill provides that before the NERC can impose a penalty, it must allow the employer 30 days to take corrective action; if corrective action is taken, the penalty cannot be imposed.



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This Bill becomes effective for employers on January 1, 2020.

**SB 177 – Damages for Discrimination.** This Bill provides that if a court finds that an employee has been discriminated against in violation of NRS 613.330 (which prohibits discrimination because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin), the court may award the employee the same damages that may be awarded to a person pursuant to Title VII of the Civil Rights Act of 1964. It also establishes procedures for the Nevada Equal Rights Commission to issue right-to-sue notices in a similar manner as the federal Equal Employment Opportunity Commission. This Bill becomes effective October 1, 2019.

**SB 493 – Misclassification of Independent Contractors.** This Bill addresses employers that misclassify employees as independent contractors. In addition to creating a Task Force on the issue of misclassification, it prohibits an employer from willfully misclassifying or willfully failing to properly classify a person as an independent contractor and from requiring a person to be classified as an independent contractor “through means of coercion, misrepresentation or fraud.” It provides the Labor Commissioner with the power to impose civil penalties for misclassification. Employees who believe they are misclassified can file complaints with the Labor Commissioner and recover “lost wages, benefits or other economic damages to make the person whole.” The Bill also changes the presumption in favor of independent contractor classification for certain contractors and subcontractors licensed under NRS Chapter 624. This Bill becomes effective July 1, 2019.

**AB 181 – Calling in Sick.** This Bill prohibits an employer from requiring an employee to be physically present at his/her place of work in order to notify the employer that he/she is sick or cannot work because he/she has sustained a non-work-related injury. This Bill became effective May 15, 2019.