What To Know About New Employment Laws In Fla.

By **Katie Molloy and Cayla Page** (October 22, 2024)

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As part of the 2024 Florida legislative session, lawmakers passed, and Gov. Ron DeSantis signed, a wide array of new state laws that went into effect on July 1. Among the more than 150 new laws, several deal with key labor and employment issues, such as teen labor rights and retirement benefits for public employees.

In light of these changes, it's important that companies review their employee rosters to ensure compliance with both state and federal laws.

The following are some of the notable changes and important takeaways from the slate of new laws, rules, and regulations affecting employers and employees statewide.

Teen Labor Rights

One of the more controversial state employment laws that recently took effect is H.B. 49. This law permits 16- and 17-year-olds to work more than 30 hours per week when school is in session if they have permission from a parent, guardian or high school principal.

H.B. 49 also allows teens to work more than eight hours on Sundays and holidays when school is the next day. However, the new law still imposes other restrictions for 16- and 17-year-olds, including requiring a 30-minute meal break after they have worked for four hours.

Another state bill that addresses teen labor rights is H.B. 917, which allows 16- and 17-year-olds to work in some aspects of home construction as long as they are under the supervision of someone who is 21 years or older, and not working on certain structures that are more than six feet off the ground.

Employers should be vigilant about complying with the new state legislation as well as the Fair Labor Standards Act, which says that violators of federal child labor laws could face penalties of up to $10,000 per worker and criminal prosecution.

With the passage of H.B. 49 and H.B. 917, Florida may be opening the door to more employment opportunities among teens. However, it's important to remember that these changes only apply to teens who are 16 and 17 years old, not to those younger than 16.

Florida employers should familiarize themselves with these state-specific child labor laws, as well as the child labor laws in the Fair Labor Standards Act.

The research should include industry-specific regulations that may apply to your business, and special attention to prohibitions against minors working in hazardous occupations, or performing dangerous tasks as outlined in the Fair Labor Standards Act.

Employers must obtain proof of age, by means of a birth certificate or driver's license, before hiring a minor. Determine whether it is necessary to obtain a waiver or any other specific work permit.

Most importantly, employers should provide a safe and healthy working environment for minors free from hazardous conditions and ensure adequate supervision of minors at work.

The penalties for thwarting both state and federal child labor laws can be steep.
Florida businesses should also ensure they comply with the minimums set forth in the Fair Labor Standards Act child labor laws to protect the safety and well-being of young people.

While there is no right to private action for violations under state or federal law, meaning children or their parents do not have an avenue to sue employers for child labor violations, employers may be assessed monetary penalties and may be found to have committed misdemeanors.

Under Florida's child labor law, employers that require, schedule or otherwise employ a minor in violation of the law could be deemed to have committed a second-degree misdemeanor, and could also be subject to a fine of $2,500 per offense.

Violators of the Fair Labor Standards Act could face penalties of up to $10,000 per employee, in addition to criminal prosecution.

Changes to the Florida Retirement System

Now, public retirees in Florida no longer need to wait a year before they can return to work and start drawing pension benefits along with their new paychecks. H.B. 151 makes changes to the Florida Retirement System, or FRS, altering several laws related to retirees and their benefits.

This year, state lawmakers voted to allow public retirees with pensions from the FRS to return to work for any FRS employer and receive both compensation and retirement benefits within six months.

Under H.B. 151, FRS retirees who meet the definition of "termination" may now draw both FRS benefits and a salary from an FRS employer six months after retirement.

Gone is the time when retirees were required to wait 12 months before they could be reemployed by an FRS-participating employer without being required to suspend their retirement benefits.

Prior to July 1, the burden was on retirees to inform the FRS if they worked for an FRS employer during the 12-month limitation period.

Now, simply put, there are no limitations on receiving retirement benefits while working for an FRS-participating employer after an employee has been retired for six calendar months.

The legislation reduced the waiting period for FRS retirees who wish to return to work and supplement their retirement benefits at a time when the cost of living continues to increase. This includes integral public workers in Florida such as retired teachers, bus drivers, firefighters and other state office employees.

Additionally, the new bill closed the Florida Retirement System Preservation of Benefits Plan to new members beginning July 1, 2026.

Heat Exposure and OSHA's Proposed Standard

In part, H.B. 433 prohibits cities or counties in Florida from creating their own heat exposure requirements for private sector employers, instead giving that authority to the state.

Cities or counties may still establish heat exposure requirements for their own employees, but not for private businesses. It has been suggested that this could open the door to new statewide requirements related to heat illness and injury prevention since Florida currently does not have any.

H.B. 433 was a controversial bill, with many pointing to obvious health concerns, including heat stroke, heat exhaustion, dehydration and other heat-related illnesses.

Some argued that lawmakers ignored or overlooked these concerns in enacting H.B. 433, and that the lack of mandated heat protection measures can lead to grave consequences.

However, under the federal Occupational Safety and Health Act, employers remain responsible for providing workplaces free of known safety and health hazards.

This includes protecting workers from heat-related hazards. The U.S. Occupational Safety and Health Administration advises that all employers covered under the Occupational Safety and Health Act should implement a program that outlines steps they will take to protect their employees from heat hazards, including providing access to cool water and shade, allowing new and returning employees to acclimate to the heat, and training for employees and supervisors to recognize the signs of heat illnesses.

While cities or counties may not establish heat guidelines for private employers, private employers in Florida are still subject to the Occupational Safety and Health Act.

Perhaps spurred by recent laws potentially negatively affecting employees working outdoors in very hot locations, on Aug. 30, OSHA published in the Federal Register a notice of proposed rulemaking for heat injury and illness prevention in outdoor and indoor work settings, which is intended to establish a federal heat standard to protect workers.

The proposal would apply to all employers conducting outdoor and indoor work in all general industry, construction, maritime and agriculture sectors where OSHA has jurisdiction, and would require employers to create a plan to evaluate and control heat hazards in their workplaces.

It would clarify employers' obligations to take necessary steps to effectively protect employees from hazardous heat, and to reduce the number of injuries, illnesses and deaths caused by exposure to extreme heat.

The public, including employers and employees alike, are invited to submit comments to OSHA on the proposed standard. OSHA says, "[I]nput will help [OSHA] develop a final rule that adequately protects workers, is feasible for employers, and is based on the best available evidence." Comments must be submitted by Dec. 30.[1]

Takeaways

The long-term implications of these changes remain to be seen. However, it is clear that they will have a significant impact on the relationship between employers, employees and local governments in Florida.

The state's 16- and 17-year-olds may now work more than 30 hours a week and may now work in construction — subject to the limitations discussed above — but be warned that these relaxed teen labor laws do not obviate the requirements of the Fair Labor Standards Act or the monetary penalties for violations.

For example, the Fair Labor Standards Act prohibits minors, those under the age of 18, from working in any occupation that it deems hazardous, including many jobs in the construction industry.

Employers should heavily scrutinize the jobs and working hours assigned to teens to ensure that they are not running afoul of federal child labor laws.

It's critical that public and private employers and employees understand these new requirements and prohibitions to ensure a smooth transition and minimize the risk of noncompliance.

Failure to implement these changes can expose Florida businesses to costly fines, litigation or criminal prosecution. As the state's labor and employment landscape continues to evolve, it will be important to monitor the effects of these legislative changes and consider the need for further adjustments to ensure a fair and equitable employment environment for all.

Immediately on the horizon for Florida employers and employees to consider is OSHA's proposed heat standard. OSHA aims to establish a unified standard for heat safety across multiple industries nationwide, encompassing both indoor and outdoor occupations.

By providing feedback, you can help to ensure that OSHA's final heat standard takes your business or your job's unique circumstances into consideration.

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[1] https://www.osha.gov/heat-exposure/rulemaking?s=35.