

Weekly Digest

• April 16, 2024 •

Human Resources

Should Job Applicants be Permitted to Use Artificial Intelligence?

“As employers explore ways to use Artificial Intelligence (AI) within the bounds of existing and emerging legislation and guidance, and as government agencies, states, and municipalities seek to regulate AI in employment and other areas, the use of AI by job applicants has proceeded largely under the radar.” [Full Article](#)

K & L Gates, LLP

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DOL Announces Contractor Portal Will Open For AAP Certification On April 1

“On March 25, 2024, the U.S. Department of Labor (“DOL”) announced that its Contractor Portal will open to receive Affirmative Action Program (“AAP”) certification submissions on April 1, 2024. Certifications must be made by July 1, 2024.” [Full Article](#)

Proskauer Rose, LLP

Employers Beware: Worker Misclassification May Be Seen as Anticompetitive Conduct

"Speaking at the Global Competition Review: Law Leaders Global Summit last month, Commissioner Alvaro M. Bedoya of the Federal Trade Commission (FTC) argued that the FTC could — and should — combat worker misclassification under Section 5 of the FTC Act, as an unfair method of competition." [Full Article](#)

Troutman, Pepper, Hamilton & Sanders, LLP



Chamber of Commerce v. NLRB and the Reimplementation of the 2020 Joint-Employer Rule

"In Chamber of Commerce of the United States of America v. National Labor Relations Board, U.S. District Judge J. Campbell Barker of the Eastern District of Texas struck down the National Labor Relations Board's ("NLRB") October 2023 rule determining the standard for joint-employer status and the NLRB's rescission of the 2020 joint-employer rule." [Full Article](#)

Worklaw Network

The Department of Labor Has Your Business in Its Sights: Act Now to Prevent Costly Penalties Later

"President Joe Biden has signed off on the most recent government funding bill, which allocates \$13.4 billion to the United States Department of Labor (DOL), including \$260 million earmarked for the DOL's Wage and Hour Division. This indicates that while there is a divided Congress, we can still expect a continued increase in the DOL's already robust Wage and Hour Division's investigatory team." [Full Article](#)

Baker & Hostetler, LLP



Pregnant Pause: The EEOC's Delay In Issuing Final Regulations For The Pregnant Workers Fairness Act Should Not Delay Compliance

"You're not alone in wondering where the Equal Employment Opportunity Commission's ("EEOC") final regulations to implement the Pregnant Workers Fairness Act ("PWFA") are. In fact, they are well past their due date." [Full Article](#)

Baker & McKenzie, LLP

STATE COMPLIANCE UPDATES

ILLINOIS

Illinois Temp Agencies Will Not Be Required To Pay Temp Workers Benefits Equal to Directly Hired Employees



"Illinois temp agencies that were gearing up to pay temp workers benefits equal to directly hired employees starting April 1, 2024, can now table those efforts. The federal court in Chicago has halted the benefits-related part of the amendments to the Day and Temporary Labor Services Act (the "DTLSA" or the "Act"), preventing it from taking effect." [Full Article](#)

Taft, Stettinius & Hollister, LLP

CALIFORNIA

California Supreme Court Clarifies Whether Employers Must Pay for Certain Pre-Shift Activities



"In *Huerta v. CSI Electrical Contractors*, No. S275431 (March 25, 2024), the California Supreme Court issued an important decision relating to whether California employers must pay non-exempt employees for certain pre-shift activities, including time spent traveling on-premises before they begin productive work. The decision announced three core holdings." [Full Article](#)

Paul Hastings, LLP

VIRGINIA

Virginia Governor Vetoes "Salary History Ban" Statute Legislation



"On March 14, 2024, Virginia Governor Glenn Youngkin (R) vetoed identical bills passed by the Virginia legislature barring employers from asking about a job applicant's salary history and requiring pay information to be included in job listings." [Full Article](#)

Reed Smith, LLP

WISCONSIN

Wisconsin Signs Earned Wage Access Bill into Law



"On March 21, Wisconsin enacted into law Assembly Bill 574, positioning it as the third state, following Nevada and Missouri, to establish a comprehensive regulatory framework for earned wages access (EWA) services and products. The legislation is set to take effect September 1, 2024." [Full Article](#)

Sheppard, Mullin, Richter & Hampton, LLP

WASHINGTON

Washington State Imposes Further Restrictions on the Use of Noncompetition Agreements



"On June 6, 2024, new amendments to Washington State's noncompetition statute (RCW 49.62) will go into effect, which place further limitations on the use of noncompetition agreements in Washington. Substitute Senate Bill 5935 introduces several modifications to RCW 49.62 that Washington employers (and employers with Washington employees) should be aware of." [Full Article](#)

Buchalter