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Northeast Labor Regulation Update: Several States Issue New Labor Rules

Northeast state legislatures and departments of labor have had a busy year. While a complete discussion of all the relevant rules and regulations ag employers need to know is beyond the scope of this article, here are a few relatively new rules to be aware of.

Connecticut

Pay history inquiries banned as of 1/1/19. Connecticut joins eight U.S. states in prohibiting employers from asking applicants about salary history. This law is intended to help remedy the pay gap between men and women as well as minorities. Prospective employees may not be asked about past wages and compensation histories at any point during the hiring process, although the applicant may legally choose to volunteer such information. Existing Connecticut law also does not allow employers to prohibit employees from voluntarily discussing their wages with other employees. For more information, visit CTdol.state.ct.us.

The “Time’s Up Act,” an act combatting sexual assault and sexual harassment, effective October 1, 2019. The law expands sexual harassment training requirements to all employers. Previously only employers with 50 or more employees were required to provide sexual harassment training to supervisory employees. The act requires all employers to provide sexual harassment training to supervisory employees and requires employers of three or more employees to provide sexual harassment training to all employees. Employers must satisfy these new training requirements by October 1, 2020 for all existing employees and for all new hires training must occur within six months. Additionally, employers must provide another round of training at least every 10 years. For more information, visit CT.gov.

Paid family and medical leave effective January 2021 (premiums) and January 2022 (benefits). This policy will provide up to 12 weeks of paid family and medical leave at up to 95% of the worker’s salary, funded by a payroll contribution set by the Paid Family Medical Leave Authority, not to exceed 0.5% of pay. For more information, visit CTdol.state.ct.us.

For more Connecticut state information, visit CTdol.state.ct.us/.

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Maine

Pay history inquiries banned as of 9/17/19. In a similar fashion to Connecticut, Maine now prohibits employers from asking about past pay. Learn more at the following links.

- Mainelegislature.org
- Natlawreview.com

Expanded protections for pregnant or nursing workers. This law creates broad protections for employees who face limitations due to pregnancy, child birth or related medical conditions including lactation. The law requires employers to provide reasonable accommodations for such conditions, such as breaks, modifications in work schedules, seating or equipment, temporary relief from lifting requirements, temporary transfer to less strenuous or hazardous work, and provisions for lactation. Employers may only avoid providing these accommodations if they are able to demonstrate that the accommodation proposed would impose an undue hardship on the operation of their business. Learn more at the following links.

- Mainelegislature.org
- Natlawreview.com

Paid Leave for any reason beginning January 1, 2021. The law requires employers with 10 or more employees who work for more than 120 days in any calendar year to provide paid leave. Employees begin to accrue leave at a rate of one leave hour for every 40 hours worked. Unless an employer chooses a higher annual limit, it must allow employees to accrue up to 40 hours of leave in a 12-month period. Learn more at the following links.

- Legislature.maine.gov
- Natlawreview.com

For more Maine state information, visit Maine.gov/labor/.

Massachusetts

Paid family and medical leave effective October 2019 (premiums) and January 2021 (benefits). This policy will provide up to 12 weeks of paid family and medical leave or as much as 26 weeks to care for a covered military service member. This is funded by a premium of 0.75% of an employee's wages. Employers with 25 or more employees may have to pay a portion of the premiums.

For more Massachusetts state information, visit Mass.gov.

New Hampshire

New rules have been released pertaining to youth (under 18) who work past 8:00 p.m. or before 6:00 a.m. A youth who works more than two nights in respect to these time restrictions is not permitted to work more than eight hours in any shift during that particular week. Learn more: Gencourt.state.nh.us

New reporting requirement for on-the-job serious injuries or death. Learn more: Gencourt.state.nh.us

For more New Hampshire state information, visit NH.gov/labor/.

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New Jersey

Individual Health Insurance Mandate effective 1/1/19. All New Jersey residents are required to have “minimum essential coverage” or pay a tax penalty to the state. Employers must submit health coverage information to the state and distribute statements to employees. The first report is due March 31, 2020. Learn more: NJ.gov/treasury

Paid family and medical leave effective 2009, expanded 2019. This policy provides up to six weeks for family leave, financed by worker payroll deductions. This will increase to 12 weeks on July 1, 2020, and up to 26 weeks for own disability and will be financed jointly by employee and employer payroll contributions. Learn more at the following links.

- NJ.gov/labor
- NJ.gov/labor
- Natlawreview.com

Pay history inquiries banned as of 1/1/20. In a similar fashion to Connecticut and Maine, New Jersey now prohibits employers from asking about past pay. Learn more: Natlawreview.com

For more New Jersey state information, visit NJ.gov/labor/.

New York

Note that Farm Credit East is working with other organizations to provide information about the mandatory overtime and collective bargaining provisions of the Farmworker Fair Labor Practices Act later this fall.

Mandatory sexual harassment prevention training, effective 10/9/19. Employers must adopt a sexual harassment prevention policy and training that meets or exceeds the law's minimum standards. The training must be interactive, and be given to all employees, including part-time, seasonal and temporary workers at least once per year. Learn more: NY.gov

For Farm Credit East members, there are training resources, including information regarding training about New York's sexual harassment law available through the free, confidential customer assistance program. Learn more: Farmcrediteast.com

Paid family leave effective 2018. This policy provides up to eight weeks in 2018 and 10 weeks in 2019, increasing to 12 weeks in 2021, financed by a payroll deduction of the employee's wages. Farmworkers are not currently covered for paid family leave benefits, but with the signing of the Farmworker Fair Labor Practices Act, this will change for eligible farm laborers on January 1, 2020. Additional limitations and exemptions apply. Learn more: Paidfamilyleave.ny.gov

For more New York state information, visit Labor.ny.gov/.

Rhode Island

Paid family and medical leave effective 2014. This policy provides up to four weeks for family leave and up to 30 weeks for own disability, financed by employee payroll contributions. Learn more at the following links.

- Dlt.ri.gov
- Nolo.com

For more Rhode Island state information, visit Dlt.state.ri.us/.

This is not intended to be an exhaustive list of employment rules and regulations. Information is provided as-is and does not constitute legal advice. Individuals and businesses should consult their attorney for information applicable to their own specific circumstances.

Tomato Exports to the US

On August 20, the U.S. Department of Commerce initialed a draft agreement with Mexican tomato growers to suspend its ongoing anti-dumping investigation of fresh tomatoes from Mexico. The U.S. withdrew from a similar agreement back in May of this year, citing “unfair trading practices” on the part of Mexican growers, and placing a 17.6% provisional tariff on tomato imports from Mexico. This new agreement lifts that provisional tariff.

In a press release, Secretary of Commerce Wilbur Ross stated, “For many years, there have been disputes over the roughly \$2 billion worth of tomatoes that are imported from Mexico annually. These disputes led the Department to terminate an earlier suspension agreement and continue an investigation that could have led to duties of 25% for most Mexican tomato producers. After intensive discussions with all parties, we initialed a new draft suspension agreement with the Mexican growers late last night. This draft agreement meets the needs of both sides and avoids the need for antidumping duties.”¹

The draft suspension agreement contains a number of enforcement provisions. It also sets reference prices for rounds and romas at \$0.31/lb., stem-on tomatoes at \$0.46/lb., tomatoes on the vine at \$0.50/lb., specialty loose tomatoes at \$0.49/lb., and specialty packed tomatoes at \$0.59/lb., with organic tomatoes priced 40% higher than non-organics. The agreement closes loopholes from past suspension agreements that permitted some sales below the reference prices, and includes a new inspection mechanism to prevent the importation of lower-quality tomatoes from Mexico, which can have price suppressive effects in the market. In addition, the draft agreement allows the Department to audit up to 80 Mexican tomato producers per quarter, or more with good cause. Inspections were a sticking point in the negotiations, with Mexico arguing they will pose a significant non-tariff barrier to trade.

The statute requires a 30-day notice period after the initialing of the draft agreement. At that point, on September 19, Commerce and the Mexican growers could sign a final agreement. If this occurs, Commerce will suspend the ongoing anti-dumping investigation without issuing a final determination.

U.S. imports of tomatoes from Mexico are significant, having doubled since 2002 and now totaling approximately \$2 billion USD. Mexico supplies about half of the fresh tomatoes consumed in the U.S.

California and Florida are the top tomato growing states in the U.S., but they are also grown (both outdoors and in greenhouses) in the Northeast, with New Jersey alone having more than 3,800 acres in tomato cultivation, according to the 2017 Census of Agriculture.

¹U.S. Department of Commerce, “U.S. Department of Commerce Announces a New Draft Suspension Agreement on Fresh Tomatoes from Mexico”, August 21, 2019. [Commerce.gov](https://www.commerce.gov)

CONTACT INFORMATION

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