

Nevada: New Laws Imposing New Requirements on Employers

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At the conclusion of the Nevada Legislature's 81st Session, Nevada Governor Steve Sisolak signed several bills into law affecting every point of the employer-employee relationship, from application to termination. Changes include the statute of limitations for wrongful termination claims, restrictions on wage disclosures, the right of private action on wage claims, and discrimination based on hair type or style.

Nevada employers may need to modify their employment practices or risk hefty penalties.

Statute of Limitations

[Senate Bill 107](#) expressly provides a two-year statute of limitations for common law wrongful termination claims. The statute of limitations is tolled while an administrative complaint with the Equal Employment Opportunity Commission or Nevada Equal Rights Commission is pending and for an additional 93 days after the administrative proceedings conclude. The new law clarifies case law regarding wrongful termination claims and incorporates an official tolling period.

Furthermore, it amends Nevada's catch-all limitations statute to state that all claims without an express statute of limitations period must be commenced within four years after the cause of action accrues "regardless of whether the underlying cause of action is analogous to that of any other cause of action with a statute of limitations expressly prescribed by law."

Wage Claims

The Nevada legal community has long debated whether employees have a private right of action to sue their employers for failing to pay wages when due or whether they are limited to filing a complaint with Nevada's Labor Commissioner. Now, [Senate Bill 245](#) clarifies that employees may sue their former employers for failing to pay their wages, compensation, or salary (but not bonuses or profit-sharing arrangements) within the required timelines (NRS 608.020-608.050) after the voluntary or involuntary termination of their employment. Indeed, the law specifies that the Labor Commissioner has no jurisdiction over such a claim while an employee's lawsuit is pending.

In addition, the new law limits the Labor Commissioner's jurisdiction over union employee wage claims. The Labor Commissioner may not take jurisdiction of the wage claim if the collective bargaining agreement provides an exclusive remedy or other relief for a violation of the agreement unless:

1. The agreement's remedies and appeals have been exhausted; or
2. The Labor Commissioner determines that the remedies provided by the agreement are inadequate, unavailable, or nonbinding.

Further, once the Labor Commissioner assumes jurisdiction, the Labor Commissioner is

required to “determine [the employer’s] compliance with a//labor laws of this State[.]”

Compensation Disclosures

Following the lead of other jurisdictions, [Senate Bill 293](#) imposes new restrictions on when employers and employment agencies may request and use an applicant or employee’s wage or salary history, and requirements for disclosure of the wage range or rate for a position.

Under the law, employers may not:

1. Seek applicants’ “wage or salary history”;
2. Use applicants’ wage or salary history to determine whether to hire them or determine their rate of pay; or
3. Discriminate or retaliate (*e.g.*, refuse to interview, hire, promote, or employ) against applicants for refusing to provide their wage or salary history.

“Wage or salary history” means:

the wages or salary paid to an applicant for employment by the current or former employer of the applicant. The term includes, without limitation, any compensation and benefits received by the applicant from his or her current or former employer.

Employers may ask applicants about their compensation expectations.

The law also requires that employers disclose the wage or salary range or rate for a position to applicants for employment who have interviewed for the position. Further, employers must disclose the wage or salary range or rate for a position to existing employees seeking promotion or transfer to that position if the employee has

1. Applied for promotion or transfer to the position;
2. Completed an interview for or been offered the promotion or transfer; and
3. Requested the wage or salary range or rate for the position.

If an individual believes their rights under the law have been violated, they must first file a complaint with the Nevada Labor Commissioner. The Labor Commissioner may investigate and, if a violation is found, recover its investigative costs and attorneys’ fees and impose an administrative penalty up to \$5,000 per violation. If 180 days have passed since the filing of the complaint, the Labor Commissioner, upon request, must issue the individual a right-to-sue notice. The individual then has 90 days to file suit against the “person named in the complaint” or any such claim is time-barred.

Race Discrimination

Existing law already prohibits employers from discriminating on the basis of race. Now, [Senate Bill 327](#) defines “race” in NRS 613.310 to mean “traits associated with race, including, without limitation, hair texture and protective hairstyles.” “Protective hairstyles” includes, “without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.”

Next Steps for Employers

To ensure compliance with the new statutes, Nevada employers should carefully review their provisions and adjust their employment practices accordingly with the help of an experienced employment attorney. Jackson Lewis attorneys are available to help guide

employers through this process.

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