

State labor legislation enacted in 1990

Important new labor standards legislation covered a variety of subjects, including minimum wage, parental leave, child labor, employee drug testing, and door-to-door sales by children

Richard R. Nelson

A significant amount of legislative activity occurred in the States during 1990, covering a variety of subjects in the field of employment standards.¹ Major laws enacted concerned traditional issues such as minimum wage protection, collection of unpaid wages, bans on employment discrimination, and regulation of child labor. Also receiving considerable attention were newer issues such as parental leave and child care, door-to-door sales by children, employee testing for drug or alcohol abuse, and employment discrimination against persons with AIDS.

Wages. Hourly minimum wage rates rose under Federal law, and in 24 States and 4 jurisdictions as the result of new laws, wage orders, administrative actions, or as provided for in prior legislation. Among the more significant developments, a first-time law was enacted in Missouri and a new law was enacted in Utah, replacing one applicable only to women and minors. New measures also provided for increases in Idaho, Indiana, Kentucky, Minnesota, New Jersey, New York, Ohio, South Dakota, and Wisconsin, and for employees in certain occupations in the District of Columbia and Puerto Rico. An amendment provides for an increase in Rhode Island (effective April 1, 1991). Prior legislation resulted in increases in the Federal rates (on April 1, 1990, with an additional increase April 1, 1991), and also in the rates for Alaska, Delaware, Guam, Illinois, Iowa, Maryland, Montana, Nevada, New Hampshire, Oklahoma, Oregon, Pennsylvania, Vermont, and the Virgin Islands.

Kentucky, Maryland, Ohio, and South Dakota adopted sub-minimum training wages for employees under age 20. Utah adopted a learner rate and Wisconsin adopted an adult probationary rate.

By April 1, 1991, four States and three other jurisdictions² will exceed the \$4.25 Federal rate for some or all employees. Subsequent scheduled increases will raise the hourly minimum in Iowa to \$4.65 on January 1, 1992, and in New Jersey to \$5.05 on April 1, 1992.

A 50-percent tip credit against the minimum wage was enacted as part of the new Missouri law. Tip credit changes were adopted in Idaho, Indiana, Maryland, Ohio, South Dakota, and Utah.

Minimum wage coverage was extended to public sector employees in Wisconsin; to employers of two or more (previously, four or more) in Indiana (which also lowered the minimum age for coverage from 17 to 16); and to college students employed by their own institutions in Washington. The Idaho law was amended to require overtime pay after 40 hours a week.

Kentucky authorized the commissioner of the Department of Workplace Standards Laws to impose civil penalties of from \$100 to \$1,000 for violation of various labor standards laws, including wage payment, minimum wage, prevailing wage, rest period, child labor, and wage discrimination because of sex. In Wisconsin, the secretary of the Department of Industry, Labor and Human Relations was authorized to enter into reciprocal agreements with agencies in other States for the collection of wage claims (20 States now have this authority³).

In contrast to recent years when most prevailing wage activity was to repeal or reduce coverage of the State laws,⁴ Hawaii and New Jersey extended coverage to additional types of publicly funded construction projects. Also, first-time rules and regulations were adopted under the Ohio prevailing wage law, and revised rules and regulations were adopted in New Mexico.

Family issues. Comprehensive new parental leave laws were adopted in the District of Columbia and New Jersey. The District law will require certain public and private sector em-

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ployers to grant employees up to 16 weeks of unpaid leave during any 24-month period for the birth, adoption, or foster care of a child, for the care of a family member with a serious health condition, or for their own serious health condition; the New Jersey act entitles public and private sector employees to up to 12 weeks of unpaid leave in any 24-month period for the birth or adoption of a child, serious health condition of a family member, or serious illness of the spouse or parent of the employee or of the employee's spouse. Both States, with certain exceptions, guarantee returning employees reinstatement to the same or similar job. Rhode Island amended its law to permit unpaid parental leave due to the serious illness of a parent, spouse, in-law, or the employee's own serious illness; and the Minnesota law was amended to permit employees to use personal sick leave to care for a sick child, and to require employers to provide up to 16 hours of unpaid leave each year for an employee to attend school conferences or classroom activities that cannot be scheduled during nonwork hours. Certain employers in California are now required to provide time off for parents to visit school. Parental leave laws passed the legislatures, but were vetoed in California and Illinois.

South Carolina State employees may now use up to 6 weeks of accrued sick leave to care for an adopted child, and in Vermont, the maternity leave act now explicitly covers the public sector, as well as the private sector.

Colorado, Iowa, Louisiana, and Utah all passed laws designed to encourage employer-sponsored child care.

Child labor. New legislation and regulations continued to reflect a growing concern for the academic performance of minors who are employed during the school year. Indiana's restrictions on maximum daily and weekly hours and requirements for employment certificates now apply to 17 year-olds. Nightwork limits were adopted for these minors, and a new provision authorizes revocation of an employment certificate issued to any student if there is a significant drop in his or her grades following issuance of the permit. Ohio and Tennessee now restrict nightwork for 16 and 17 year-olds during school weeks, and Washington adopted comprehensive employment standards rules for minors under age 18 employed in agriculture. Florida and Hawaii will study their child labor laws; restrictions on nightwork preceding school days for minors older than age 15, and a prohibition on work during school hours for students suspended from school are among the items to be considered in the Hawaii study.

Oregon revised its rules covering daily, weekly, and nightwork hours of 14 and 15 year-olds to conform with those under Federal law. Among several amendments to Utah's child labor law, the Industrial Commission was authorized to commence administrative proceedings and impose a penalty of up to \$500 per violation. Wisconsin and Ohio now restrict the employment of children in door-to-door sales (an activity with frequent child labor law violations). Mississippi, New York, and West Virginia lowered the starting age for compulsory school attendance.

Agriculture. The most notable changes in laws regulating farm labor contractors or migrant labor camps occurred in Wisconsin, where prior limited coverage was expanded to

include almost all employers of migrant workers; in Florida, where (beginning July 1, 1991) applicants for farm labor contractor certificates of registration must pass an examination demonstrating knowledge of farm labor contractor duties and responsibilities; and in California, where all licensed farm labor contractors must now register with the agricultural commission of the county or counties in which the licensee has contracted with a grower.

Washington's State Board of Health is to develop rules for labor camps which include, at a minimum, standards for sanitation and temporary labor camps.

Equal employment opportunity. Laws banning discrimination based on age, sex, or handicap were the most common this year. The age 70 upper limit for protection from age discrimination or mandatory retirement provisions was eliminated for State and local government employees in Arkansas (in late 1989) and Ohio. Laws prohibiting discrimination on the basis of physical handicap were amended in Kentucky to specifically include persons with AIDS or related conditions, and in Tennessee, to remove the exception for contagious or transmittable diseases or conditions.

Nebraska barred discrimination on the basis that an individual is or is suspected of suffering from HIV virus infection or AIDS, and Wisconsin prohibited the use of an HIV test as a condition of public sector employment. In New York, employment discrimination is prohibited on the basis of a person's unique genetic disorder, unless the disorder prevents performance of a particular job.

Drug and alcohol testing. The issue of testing employees for drug or alcohol abuse continued to receive considerable legislative attention. The laws enacted reflected concern regarding employee right of privacy and workplace safety. Thirteen States passed some form of legislation on this subject: California, Georgia, and South Carolina passed acts requiring employers who receive a grant or contract from any State agency to certify they will provide a drug-free workplace; Florida must implement an approved program including notice, education, and testing for drugs or alcohol. Utah authorized testing State employees when there is reasonable suspicion of unlawful drug or alcohol use during work hours, and random testing for employees in highly sensitive positions; Louisiana's public employers may test employees following an accident, test applicants as a condition of hiring, and randomly test employees in safety- or security-sensitive positions; South Dakota is authorized to test State employees in safety-sensitive positions; Georgia may test State employees in certain high-risk positions; Arizona may test transportation employees of school districts; Hawaii and Louisiana enacted laws regulating employer drug testing procedures; and the Georgia law which required applicants for State or public school systems jobs to submit to drug testing was struck down by a U.S. District Court which held that an individual's fourth amendment privacy rights are not outweighed by a government's general interest in maintaining a drug-free workplace. Committees to study drug abuse issues, including workplace testing programs, were created in Mississippi and New Hampshire.

Private employment agencies. Agencies whose fees are paid

entirely by employers are now exempt from the Wisconsin employment agency regulatory law, except for an annual registration requirement. New Jersey replaced its existing law with one that specifically applies to career counseling and resume services, increases the amount of the required surety bond, and authorizes the issuance of cease and desist orders upon violation. The Washington law was expanded to include employment listing or referral services and resume services, and unlicensed agencies are subject to court action for return of any fees paid to the agency and the award of treble damages and attorney's fees. The Tennessee law now covers employee leasing services, temporary help services, and contract labor firms; licensing is no longer required, but agencies must be registered.

Occupational safety and health. New laws dealing with control of asbestos and the training and accreditation or certification of persons engaged in asbestos abatement work were enacted in Arizona, the District of Columbia, and Maryland. California enacted a law providing for certification of asbestos consultants and site surveillance technicians working on abatement projects. New Hampshire's new Indoor Smoking Act restricts smoking in private and government workplaces. In Tennessee, State agencies were authorized to establish a policy on smoking in State buildings. Kentucky made it unlawful for an employer to fail to hire, discharge, or otherwise discriminate against a smoker or non-smoker, or to require an employee or applicant to abstain from smoking outside of employment. Rhode Island and South Carolina also prohibit employment discrimination because of the use of tobacco products outside the workplace. Other noteworthy laws include a California measure requiring a field sanitation standard applicable to all agricultural places of employment; a

North Carolina amendment increasing the amount of civil money penalties the labor commissioner may assess for violations of the State occupational safety and health act; and a Minnesota law requiring certain specified employers to establish and implement a written workplace accident and injury reduction program.

Other legislation. Indiana and Kentucky authorized State grants for organizations promoting improved labor-management relations. Several States passed or amended laws requiring background clearance checks of prospective employees in occupations involving supervision of children. Tennessee adopted a "whistleblower" law protecting employees from discharge for reporting law violations, and Wisconsin now prohibits disciplinary action against an employee based on the use of wiretaps, electronic surveillance, or one-way mirrors. Kansas repealed its law providing for regulation and licensure of polygraphists. California and Florida established telecommuting programs designed to permit State employees to perform job functions at home or elsewhere away from their usual place of work, through use of computers or telecommunications. Certain Iowa employers with more than 10 percent non-English speaking employees who speak the same language will be required to provide an interpreter at the work site for each shift, and an employee to serve as a referral agent to community services. Illinois enacted a law permitting employers with 25 or fewer employees to purchase group health insurance policies that provide basic coverage, but with fewer mandated benefits and therefore at a lower cost.

The following is a summary, by jurisdiction, of labor legislation enacted during 1990.

Alaska

Wages. The State minimum wage law sets the State rate at 50 cents per hour above the Federal minimum rate. As a result, the State rate rose from \$3.85 to \$4.30 on April 1, 1990, and will increase to \$4.75 on April 1, 1991.

The Alaska School Bus Safety Act passed. It provides a minimum wage for public school bus drivers of two times the State's basic minimum rate, and sets the minimum age for obtaining a school bus driver license at 21 (previously, 19). School bus safety instruction for drivers and students, specific school bus safety equipment, bus inspections, and recordkeeping are also mandated.

Line haul truck drivers employed for a trip that exceeds 100 road miles one way now do not have to be paid time and one-half after 8 hours worked per day or after 40 hours per week if their compensation includes overtime pay for such hours and also includes a pay rate comparable to that required by law.

Labor relations. For 2 years, the Public Employment Relations Act will classify public school employees as class (a)(3) employees and as such, they will have the right to strike without time limits following a majority vote to do so (the parties must first submit collective bargaining impasses to advisory arbitration). Previously, these employees were class (a)(2) and were entitled to

strike, after mediation, for a limited time as determined by the interests of the health, safety, or welfare of the public.

Resident preference. In December 1989, the Alaska Supreme Court affirmed a superior court ruling holding as unconstitutional, in violation of the equal protection clause of the State constitution, a State law mandating a hiring preference of certain public works jobs (*State v. Enserch Alaska Construction, Inc.*). The law established underemployment and economically distressed zones within the State and required contractors of public construction projects in those zones to hire a specified percentage of their work force from residents of the zone.

Other laws. Employees who are members of the organized militia will receive leave to perform active State service ordered by the governor. Upon returning from such service or from hospitalization resulting from such service, the employee is entitled to his or her former position, or a comparable position, at the pay, seniority, and benefit level the employee would have accrued had the absence not occurred. An employee unable to perform his or her former duties because of permanent disability sustained during service is to be offered a position he or she is qualified for and capable of performing. Parties to a collective bargaining agreement may not negotiate terms contrary to these provisions.

Arizona

Child labor. The provision of the child labor law exempting those minors employed by a parent from restrictions on hours of work and minimum age for various occupations was amended to also exempt work for a grandparent, brother, sister, aunt, uncle, first cousin, or stepparent.

Drug, alcohol testing. Transportation employees of school districts and their transportation contractors are now subject to drug and alcohol testing if the supervisor has probable cause to believe that their job performance has been impaired by the use of alcohol or drugs or that an employee's accident involving a vehicle used to transport pupils or involving equipment used in the performance of duties was influenced by the use of alcohol or drugs. School districts are to develop procedures for testing such employees, and positive test results or refusal to submit to testing may result in termination from employment.

Occupational safety and health. The Industrial Commission's Division of Occupational Safety and Health is to develop and implement standards for certification and training of employees and supervisors who work with asbestos.

Arkansas

Equal employment opportunity. In late

1989, the law prohibiting age discrimination in State and local government employment was extended to cover all persons over age 40, instead of only those between 40 and 70. Mandatory retirement because of age is permitted only for certain executive and high-policymaking employees and, until January 1, 1994, for tenured employees at institutions of higher education.

California

Wages. Employers who willfully fail to maintain required payroll data or the names and addresses of all employees and the ages of all minors, or fail to allow the Division of Labor Standards Enforcement or the Industrial Welfare Commission to inspect such records are now subject to a civil penalty of \$500. Payroll records must now be kept for at least 2 years (previously, 1 year). The civil penalties for violations of laws regulating wages, hours, and working conditions do not restrict the local police from handling these matters in a more stringent manner.

The penalty to employers for failing to furnish employees with itemized wage statements, including deductions; failing to keep such records; and failing to permit current and former employees access to their records was increased from \$100 to \$250 per employee for a first violation and \$1,000 for each subsequent violation. The labor commissioner can waive the penalty if a first violation was due to clerical error or inadvertent mistake.

Employers may now mail wages due to employees who quit their jobs without notice, or quit after giving 72 hours notice, and the date of mailing constitutes the date of payment for purposes of the requirement to pay within 72 hours.

Family issues. An employer (except the State) of 25 or more employees at the same location may not discharge, discipline, or discriminate against an employee who is a parent or guardian of a child in grades kindergarten through 12th for taking off 4 hours per child each school year (after giving reasonable notice) to visit the child's school. The employee is to use existing vacation, personal leave, or compensatory time, unless other time is provided by a collective bargaining agreement. An aggrieved employee is entitled to reinstatement and reimbursement for lost wages and work benefits. Employers are subject to a civil penalty equal to three times lost wages and benefits if they willfully refuse to rehire, promote, or otherwise restore employees or former employees determined by a grievance or other procedure to be eligible for such action.

Agriculture. Licensed farm labor contractors must now register with the agricultural commissioner of the county or counties in which the licensee has contracted with a grower. A civil fine may be levied by the commissioner for each violation of the requirements to register, to carry and display the proof of registration, and to file notification of a permanent change of address.

Garment industry. Local public agencies which issue business licenses or permits must now require any garment manufacturing business applying for such license or permit to furnish proof of having registered with the State Labor Commissioner.

Drug, alcohol testing. The Drug-Free Workplace Act of 1990 applies to employers

awarded a contract or grant by any State agency for the procurement of property or services. The employers must notify their employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and subject to specified penalties, and must establish a drug-free awareness program for employees. Violations may result in suspension or termination of the contracts or grants, and debarment.

The Employee Assistance Consortium Demonstration Project was established under the Department of Alcohol and Drug Programs to provide a public-private partnership where the State provides financial and technical resources to nonprofit consortiums of small businesses with a goal of achieving and maintaining a drug-free workplace. The project will provide employees services such as problem assessment and referral, management consultation and training, case management services, program promotion, and education. An Employee Assistance Advisory Council, with the assistance of the Department, will review and approve applications from consortiums for program funding.

Private employment agencies. The employment agency regulatory law was amended to expressly include in the definition of employment agency persons who for a fee procure or obtain babysitting or domestic employment for others. The definition of job listing service was also revised to exempt domestic and babysitting services owned primarily by accredited colleges or universities or their alumni associations which meet other specified criteria.

Occupational safety and health. By December 1, 1991, the Occupational Safety and Health Standards Board is to adopt a standard for field sanitation applicable to all agricultural work sites. The standards must be at least as effective as the current Federal standard and the existing State requirements. A special emphasis program for enforcement is to be developed and implemented by the Division of Occupational Safety and Health for at least 2 years after adoption of the standard. Employers failing to provide facilities required by the standard will be assessed a civil penalty of not less than \$750 for each violation. Until the new State field sanitation standard is adopted and approved, the Division is authorized to enforce the Federal standards.

A new "Corporate Criminal Liability Act of 1989" requires corporations or managers of a business entity to give a written notice to the Division of Occupational Safety and Health in the Department of Industrial Relations and a written warning to affected employees within 15 days of acquiring knowledge of a serious concealed danger subject to the regulatory authority of specified State or Federal agencies, or immediately in cases of great imminent risk. Knowingly failing to comply may result in fines of up to \$25,000 (up to one million dollars for corporations), and/or imprisonment.

A new "Refinery and Chemical Plant Worker Safety Act of 1990" requires the Occupational Safety and Health Standards Board to adopt, by July 1, 1992, process safety management standards for refineries, chemical plants, and other manufacturing facilities. Employer obligations include developing and maintaining written safety information regarding processes involving acutely

hazardous and flammable material; performing hazard analysis of the process; developing and implementing written operating procedures; and training employees, emphasizing specific safety and health hazards, procedures, and safe practices.

The Division of Occupational Safety and Health is to establish a safety program for tower cranes, including annual certification and semi-annual inspection. Civil penalties are established for serious violations of any tower crane standard, order, special order, or for serious injury or death caused by serious or willful repeated violations or by failure to correct a serious violation within the time specified.

Asbestos consultants and site surveillance technicians working on asbestos abatement projects must be certified by the Division of Occupational Safety and Health in the labor department, starting July 1, 1992. Certification criteria include education, training, experience, possession of a Federal certificate, and successful completion of an examination. Noncertified persons performing such work are subject to civil and criminal penalties.

Employers and supervisors whose willful violation of any occupational safety or health standard, order, special order, or provision dealing with the spraying of asbestos results in an employee's death may now be prosecuted for both manslaughter and willful violations of the Labor Code.

April 28, 1990, was proclaimed Worker's Memorial Day to pay tribute to victims of workplace hazards.

Employment and training. Proposition 139, on the November general election ballot, was approved, permitting private industry employers in the State to contract with prison inmates for production and construction jobs and to receive a 10-percent tax credit for hiring them. Inmates are to be paid the prevailing wage, with up to 80 percent of their salary deducted for room, board, restitution, taxes, and their families.

Other laws. A late 1989 enactment directs the Department of Commerce to assist other public agencies, nonprofit corporations, or foundations in the development and facilitation of employee-owned businesses through specified activities, including technical assistance on establishing and managing such businesses; sponsorship and participation in seminars, workshops, and conferences; and research and education.

A State Employee Telecommuting Program was established under which State agencies were authorized to incorporate a telecommuting option as an element of their transportation management programs, which are designed to reduce the number of commute trips by State employees. An experimental telecommuting and teleworking program had been previously authorized and implemented.

Colorado

Family issues. As part of an effort to encourage employer-sponsored child care, the Department of Social Services will assist employers seeking licensure for onsite child care centers. The Department is to prescribe separate licensing standards for such centers, restricting the standards to safety and general adequacy of the premises and procedures for establishing a parental advisory board. Also, enterprise zone tax credits

are now available for contributions to promote child care in enterprise zones.

Equal employment opportunity. It is now a discriminatory or unfair employment practice for a State agency to terminate an employee for engaging in a lawful activity away from the worksite during nonworking hours, unless such restriction relates to a bona fide occupational requirement or is necessary to avoid either the appearance of or an actual conflict of interest.

Occupational safety and health. The Department of Public Safety was designated to carry out the State's functions as stated in the Federal Emergency Planning and Community Right-to-Know Act under the Superfund Amendments and Reauthorization Act of 1986. An Emergency Planning Commission was created to assess available resources, identify methods to utilize such resources to react to emergency response situations, to investigate and evaluate local jurisdictions' capabilities, to recommend administrative and legislative changes, and to assist in emergency response training.

Economic development. An Office of Business Development was created within the office of the governor to encourage the expansion and retention of State businesses through such activities as business recruitment, retention, and expansion assistance and job training. An Economic Development Advisory Board was also created to advise the governor and general assembly on economic development policies, goals, and priorities.

Connecticut

Wages. Motor vehicle or farm implement mechanics employed by nonmanufacturing firms and exempt from overtime pay under the Federal Fair Labor Standards Act are also exempt from overtime pay under State law if their earnings meet specified tests.

The labor commissioner's authority to institute action to collect unpaid fringe benefits for employees upon termination of employment was made more explicit.

Hours. The law requiring employers to allow employees a meal period of at least 30 minutes within a work period of 7½ or more consecutive hours, was amended to specifically permit employers and employees to enter into written agreements providing for a different schedule of meal periods, and to exclude those employers who provide 30 or more total minutes of paid rest or meal periods within each 7½ hours worked.

Equal employment opportunity. The provisions in the human rights, municipal employees, and insurance laws prohibiting the reduction of group hospital, surgical, or medical insurance coverage for persons reaching the age of 65 and qualifying for medicare benefits were conformed to the Federal Age Discrimination in Employment Act.

Labor relations. Private nonprofit corporations having valid fire protection contracts with any town, city, borough, or district will now be considered municipal employers for purposes of coverage under the municipal collective bargaining law.

Occupational safety and health. New safety precautions are required for railroad employees working in maintenance of way crews or in the area of double or multiple train tracks. Precautions include assigning a flag person to warn of approaching trains, notifying train engineers, in

writing, of the location of work crews, and speed limit restrictions on trains operating on such tracks. No work is to be conducted and all workers shall stand clear while a train is approaching and passing through a work area.

Delaware

Wages. As the result of a provision automatically increasing the State minimum wage rate to match any Federal increase, the State hourly rate rose from \$3.35 to \$3.80 on April 1, 1990, and will increase again to \$4.25 on April 1, 1991. Employers may pay less than the minimum, but not less than \$3.35 per hour, to learners or apprentices age 18 or younger who have been with the employer for 90 days or less. Although the allowable tip credit percentage is to be the same as that set under the Federal Fair Labor Standards Act, a requirement that the cash wage be not less than \$2.23 per hour results in a cash wage for tipped employees higher than under the Federal law.

Child labor. Sections of the child labor law providing for the issuance of provisional employment certificates for nonhazardous work outside of school hours now applies to all children 14 years or older. Previously, the certificates applied to boys 12 years or older and girls 14 years or older.

Background clearance. Persons seeking employment or who volunteer to provide direct child care service or have regular direct access to children and/or adolescents at residential child care facilities under contract to or operated by the Department of Services for Children, Youth and Their Families must submit their fingerprints and other necessary information. The Department is to set the criteria for unsuitability for employment in child care services, including a prohibition against employment of any individuals convicted of a sexually related offense or offenses against children or adolescents.

Labor relations. The law granting public employees, with certain exceptions, the right to organize and bargain collectively, now mandates coverage without election for local jurisdictions employing 100 or more full-time employees. Previously, the law applied to the State, counties, and municipalities which, by affirmative legislative act, elected coverage.

The Public School Employment Relations Act, will now cover any public school employee, except administrators and confidential employees. (Previously, only certified professional employees of public schools, except administrators, were covered.) The Public Employment Relations Board is to establish separate bargaining units for supervisory and nonsupervisory employees.

District of Columbia

Wages. The minimum wage in retail trade occupations was increased from \$3.50 to \$4.50 per hour on April 1, 1990, by issuance of a revised wage order. Other changes include increases in lodging, meal, and uniform allowances.

Family issues. The "District of Columbia Family and Medical Leave Act of 1990," effective in April 1991, requires public and private sector employers of 50 or more (20 or more after April 1994) to grant employees up to 16 weeks of unpaid leave during any 24-month period for the birth of a child; placement of a child for adoption,

foster care, or when the employee permanently assumes and discharges parental responsibility of a child; or for the care of a family member with a serious health condition. Family member includes a relative by blood, legal custody, or marriage; any child living with the employee; or a person with whom the employee shares or has shared within the last year a mutual residence and with whom the employee maintains a committed relationship. Employees are also entitled to a maximum of 16 weeks of unpaid medical leave in a 24-month period when unable to work because of their own serious health condition. While on family or medical leave, employees will not lose any employment benefits or accrued seniority, will have their group health benefits continued, and, upon return, are entitled to the same or equivalent employment, including equivalent benefits, pay, seniority and other terms and conditions of employment. Under specified circumstances, employers may deny restoration of employment to certain higher salaried employees. Employers are prohibited from discharging or discriminating against an employee for opposing any unlawful practice, for filing a complaint, or for providing information or testimony in connection with an inquiry or proceeding. Administrative enforcement procedures are to be developed.

Occupational safety and health. Under a new "Asbestos Licensing and Control Act of 1990", asbestos abatement businesses and private and public sector workers must be licensed to perform such work in the District, and businesses must apply for a permit before beginning each project. Among prerequisites for licensure, a business must train employees and agents to comply with Federal standards for asbestos abatement, certify that employees have completed an approved course of instruction on such work, and provide certification of ability to comply with applicable Federal standards and applicable District environmental, safety, and health laws or rules. The mayor is to promulgate rules for asbestos abatement.

Florida

Agriculture. Beginning July 1, 1991, under a program of education and examination, applicants for farm labor contractor certificates of registration must successfully complete an examination in the applicant's language demonstrating knowledge of the duties and responsibilities of a farm labor contractor. Certificates will be subject to suspension or revocation if a contractor violates any Federal or State statute, rule, or regulation for the protection or benefit of labor, including those providing for wages, hours, fair labor standards, social security, workers' compensation, child labor, and transportation.

Drug, alcohol testing. Drug-free workplace provisions were enacted under which employers implementing a program that includes notice, education, and testing for drugs and alcohol pursuant to rules developed by the Division of Workers' Compensation may require employees to submit to testing, and may terminate employees whose drug or alcohol content are at a prescribed level. Standards for tests were established, including required prior notification of the employer's policy to all employees and job applicants, procedures for collecting and handling specimens, chain-of-custody, confirmation of positive tests, and confidentiality.

Employers may not discharge or discipline an employee who voluntarily seeks treatment for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered an alcohol and drug rehabilitation program. Employees discharged as the result of positive test results forfeit eligibility for medical and indemnity benefits under workers' compensation.

Background clearance. Owners of nonpublic schools must now be fingerprinted and checked for criminal background, and those who have been convicted of a crime involving moral turpitude may not own or operate a school. Owners may require school employees to file a set of fingerprints with the Department of Law Enforcement for processing and criminal records checking.

Private employment agencies. The law regulating talent agents was amended to specifically exempt manager agents of artists and to prohibit the charging of any registration fee (previously, only fees exceeding \$35 were prohibited). A talent agency must now maintain a permanent office, with regular operating hours.

Nurses registries must now be licensed annually by the Department of Health and Rehabilitative Services. Requirements are established for making referrals to perform services in private homes, and specific recordkeeping requirements are mandated. The Department is authorized to deny, revoke, or suspend licenses, to impose administrative fines, and to institute injunctive proceedings in court.

Occupational safety and health. A Trench Safety Act was enacted; it adopts the Federal Occupational Safety and Health Administration's excavation safety standards as the State standard, and provides procedures for adopting updated or revised versions. All contract bids for trench excavations exceeding 5 feet in depth must provide information on the trench safety standards that will be in effect, and also must provide written assurance by the excavation contractor that the standards will be complied with.

Employment and training. Under a new Constructive Youth Act, district school boards are authorized and encouraged to coordinate programs to enable unemployed youth ages 16 to 24 who are economically disadvantaged or who are school dropouts to obtain the education, employment, and leadership skills necessary to be economically self-sufficient. Construction or rehabilitation programs approved for funding are to include educational services, including basic skills instruction and remedial education, programs leading to the attainment of a high school diploma or its equivalent, and classroom training in construction terminology and concepts; and employment services, including job skills training, placement in unsubsidized employment, and follow-up counseling. The programs are to be consistent with applicable Federal, State, and local labor laws and standards. Youth employed under the act are to be paid at least the Federal minimum wage.

Other laws. An employee subpoenaed to testify in a judicial proceeding may not be discharged from employment because of the nature of the testimony or because of absences from employ-

ment resulting from compliance with the subpoena.

Under a new State Employee Telecommuting Act, the Department of Administration is to establish and coordinate a program under which selected State employees are permitted to work at home or elsewhere away from their usual place of work through the use of computers or telecommunications. State agencies may design such programs and, upon approval, conduct pilot programs beginning August 1, 1991, and terminating no later than August 1, 1993. Agencies must submit an evaluation of their pilot programs to the Department of Administration, which is to make recommendations to the legislature by October 1, 1993.

The Division of Vocational Rehabilitation of the Department of Labor and Employment Security is directed to establish and maintain a "Limiting Disabilities Program," which is to provide rehabilitation services to persons with a limiting disability who are unable to obtain such services elsewhere. The program will include an education and information service, a coordinated referral and follow-up system, the adoption of rules, and reports to the governor and the legislature.

Georgia

Drug, alcohol testing. Several laws relating to drug abuse in the workplace were enacted. Among the provisions: persons with State agency contracts amounting to \$25,000 or more must certify that a drug-free workplace will be provided during performance of the contract; any job applicant who refuses to take a drug test or who tests positive is disqualified from employment with the State or a public school system, and the regulations requiring such applicants to submit to a drug test, were struck down by a U.S. District Court (*The Georgia Association of Educators v. Harris*, October 19, 1990) which held that a generalized governmental interest in maintaining a drug-free workplace is not sufficiently compelling to outweigh an individual's fourth amendment privacy rights. State employees in high-risk positions requiring certification or those in similar positions under a personnel services contract with the State or a public agency now are subject to random drug testing—failure to comply or a positive test will result in termination; an employee of the State or public school system convicted for the first time of a criminal offense involving controlled substances or dangerous drugs is to be suspended for at least 2 months and must complete a program of drug abuse treatment and education—a second conviction results in termination; candidates seeking to qualify for nomination or election to specified State offices must file a certificate from a certified laboratory stating that the candidate has been tested for illegal drugs and the test results are negative.

Guam

Wages. As the result of prior legislation providing that the minimum wage rate will automatically match any higher Federal rate, the Guam rate rose from \$3.35 per hour to \$3.80 on April 1, 1990, and will increase to \$4.25 on April 1, 1991.

By Executive Order promulgated September 26, 1989, the Wage and Hour Commissioner in the Department of Labor was directed to establish

and maintain a Wage and Hour Trust Fund. Back wages collected from employers and litigated judgments on behalf of employees will be deposited into the Fund, enabling the Department to expeditiously process disbursements for employee back wage claims found to be due. Collections not disbursed after 2 years are to be deposited into the general fund.

Hawaii

Wages. Developers of Housing Finance and Development Corporation housing projects will now be considered governmental contracting agencies for purposes of the prevailing wage law and must pay laborers and mechanics employed on the project in compliance with that law, unless the entire cost of the project is less than \$500,000 and the eligible bidder or developer is a private nonprofit corporation.

Child labor. A resolution was adopted requesting a study of the desirability of amending the child labor law to reflect a commitment to quality education. Items to be considered include restrictions on nightwork preceding school days for minors older than age 15, and a prohibition on work during school hours for students suspended from school.

Equal employment opportunity. To eliminate potential conflict between the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and State employment practices law barring employment discrimination on the basis of arrest or court record, the State law was amended to allow federally insured financial institutions to deny employment to or to discharge persons convicted of any criminal offense involving dishonesty or a breach of trust, unless prior written consent of the Federal agency having jurisdiction over such institution is obtained.

Drug, alcohol testing. Substance abuse testing by employers and others must meet specified requirements including the use of State-licensed laboratories, sampling procedures that ensure privacy and prevention of tampering, methods that ensure reliable testing results, chain of custody procedures, and confidentiality of test information. Prior to testing, individuals must receive a written statement of the specific substances to be tested for and a medical disclosure form to permit the reporting of prescription and nonprescription drugs taken. The requirements are administered by the Department of Health.

Idaho

Wages. Three significant changes were made in the minimum wage law: the minimum rate was increased from \$2.30 to \$3.80 per hour on April 1, 1990, with an increase to \$4.25 scheduled on April 1, 1991; for the first time, employers are required to pay overtime pay, at time and one-half the employee's regular rate after 40 hours a week, applicable to employers not exempted or excepted by the overtime provisions of the Federal Fair Labor Standards Act; and a tip credit against the minimum wage is now permitted, up to 25 percent for employees receiving more than \$30 per month in tips.

The provision allowing for recovery of attorneys' fees in successful employee suits for collection of unpaid wages under the wage-pay-

ment and collection law was amended to specify that such fees may also be recovered in actions brought on behalf of an employee by the director of the Department of Labor and Industrial Services.

Illinois

Wages. As the result of prior legislation providing that the State minimum wage rate not be less than the Federal rate, the State rate rose from \$3.35 per hour to \$3.80 on April 1, 1990, and will increase to \$4.25 on April 1, 1991. Wages paid to employees under age 18 may not be more than 50 cents below the adult minimum wage.

Equal employment opportunity. The Department of Human Rights now is to require State agencies which fail to meet their affirmative action and equal employment opportunity goals to establish necessary training programs for preparation and promotion of the category of individuals affected by the failure.

A program is to be developed and implemented among State agencies for the trial employment of persons with severe physical or mental disabilities. Successful completion of a 3- to 12-month trial employment period may result in permanent employment.

Other laws. The law requiring employers to grant time off to employees summoned to jury duty and prohibiting them from discharging such employees was amended to also prohibit the threat of discharge, intimidation, or coercion of the employees. Violators are liable for the employee's loss of wages and benefits, are subject to injunction from further violations, and may be ordered to reinstate the employees.

Certificated school employees are not to suffer a loss in pay as the result of a subpoena to appear as a trial witness or to have a deposition taken in any school related matter.

Firefighters of a municipality with less than one million population, of a fire protection district, and of the University of Illinois who are elected to Statewide union office are now to be granted leave without loss of pay or benefits or being required to make up for lost time in order to perform the responsibilities of the elected State office, provided the firefighter arranges for a qualified replacement from the same jurisdiction.

The Small Employer Group Health Insurance Law was enacted to address the problems of the high cost of group health insurance for small employers and the resultant number of uninsured workers. Employers with 25 or fewer employees may now purchase group policies that provide basic coverage, but with fewer mandated benefits.

Indiana

Wages. Several significant changes were made in the State minimum wage law including an increase in the hourly rate from \$2 to \$3.35 on July 1, 1990, and enactment of a tip credit provision permitting employers an allowance of up to 40 percent of the minimum wage for tipped employees. Coverage under the law was extended to employers of two workers or more, rather than the previous four or more, and the minimum age for coverage was lowered from 17 to 16. The law now exempts persons employed for no more than 4 weeks in a 3-month period, rather than 10 weeks

as before. Penalties for employers who consistently discharge and replace employees without a work stoppage will now apply to those who do so within 4 weeks of employment, rather than 10 weeks, and penalties were added for other types of violations.

Child labor. Maximum daily and weekly hours restrictions and employment certificate requirements under the child labor law, previously applicable to minors under age 17 were extended to cover 17 year-olds. New restrictions also prohibit these 17 year-olds from working before 6 a.m. or after 11:30 p.m. on nights followed by a school day (work later than 11:30 p.m. may be allowed with written parental consent for up to two nonconsecutive nights per week). The minimum age for employment in specified hazardous occupations remains at 17. An employment certificate issued to any minor may now be revoked if it is determined that there has been a significant drop in the student's grades after issuance of the permit.

Labor relations. A local labor-management grant fund was established to provide matching grants to local labor-management councils. The grants may be used to offset general operating expenses, expenses related to the development of specialized training programs that directly benefit labor and management initiatives, or expenses incurred in research and development projects relating to labor-management issues.

Iowa

Wages. By prior law, the minimum hourly wage rate was increased from \$3.85 to \$4.25 on January 1, 1991. A further increase to \$4.65 is scheduled for January 1, 1992. The hourly minimum for the first 90 calendar days with an employer rose from \$3.35 to \$3.85 effective January 1, 1991, with an increase to \$4.25 scheduled for January 1, 1992.

The wage collection law was amended to authorize the labor commissioner to request expenses and reasonable attorneys' fees in addition to wages and liquidated damages in a civil action to recover unpaid wages for an employee.

Employers of 100 or more having more than 10 percent non-English speaking employees who speak the same language must provide an interpreter at the work site for each shift, and an employee whose primary responsibility is to serve as a referral agent to community services. Also, employers who recruit non-English speaking residents of other States more than 500 miles from the work site for hourly paid jobs must furnish the employees with written job information including minimum weekly hours, hourly wage, description of work, and known health risks. If such an employee resigns within 4 weeks and requests return transportation to a place of recruitment more than 500 miles from the work site, the employer must provide it at no cost to the employee. The provisions relating to non-English speaking employees are not applicable to agricultural workers, except those hired by farm owners to work on another farmer's cropland. Employers of 100 or more are prohibited from deducting from an employee's wages costs of \$20 or more for an employee's relocation to the place of employment. All employers are now prohibited from deducting from an employee's wages the cost of personal protective equipment needed for protection from job-re-

lated hazards.

Family issues. The Department of Human Services is to administer a Statewide grant program for child day care resource and referral services, including grants to agencies which provide specialized services to employers such as technical assistance to develop employer-supported child care programs operated on or near the work site. The Department is also to examine the feasibility of establishing a pool with private insurers to provide reasonably priced umbrella insurance coverage of child day care facilities.

Background clearance. Persons convicted of a crime against a person or having a record of child abuse may now be restrained by injunction from providing unregistered, registered, or licensed child day care.

Worker privacy. Employees were given the right to access and copy all information in their personnel files, except employment references. Employers may have a representative present and may charge a reasonable fee up to \$5 for all copies.

Private employment agencies. The maximum placement fee that employment agencies may charge to job applicants was increased from 8 to 15 percent of annual gross earnings of the job in which the applicant is placed.

Occupational safety and health. For purposes of the occupational safety and health law, employees also include volunteers involved in responses to hazardous waste incidents.

The labor commissioner is now authorized to assess civil penalties of up to \$500 for operating a boiler in violation of a safety order.

The State Board of Regents is to establish a Center for Agricultural Health and Safety at the University of Iowa in a joint venture with the Iowa State University of Science and Technology. The Center is to establish programs designed to reduce the number of disabilities, suffered by persons engaged in agriculture, which result from disease or injury.

Kansas

Worker privacy. The law providing for regulation and licensure of polygraphists was repealed, thereby terminating the Kansas board of polygraphists.

Other laws. The provision for inmate work assignments was amended to specify that assignments, other than work for State agencies, may not result in the displacement, including partial displacement (such as a reduction in hours or wages), of any currently employed worker or position, or impair existing collective bargaining agreements or contracts for services. Inmates may not be used to fill an opening when an individual is on layoff from the same or a similar job or on a project, except to the extent that its cost exceeds the funds available and budgeted.

Kentucky

Wages. The minimum wage was increased from \$3.35 to \$3.80 per hour on July 15, 1990, with a further increase to \$4.25 scheduled for July 15, 1991. A training wage of \$3.35 per hour is authorized for employees under age 20 for the first 90 days of employment, and for a second 90-day training period with another employer, both such periods under conditions similar to

those under the Federal Fair Labor Standards Act. The training wage will increase to \$3.61 on July 15, 1991, and will expire on April 1, 1993.

The law requiring employers engaged in construction work or the severance, preparation, or transportation of minerals to post a bond to assure payment of all wages due, was amended to establish a fine of from \$100 to \$500 for each day of violation and to make corporate officers personally liable for the penalty.

The Commissioner of the Department of Workplace Standards is now authorized to impose civil penalties of from \$100 to \$1,000 for violation of various labor standards laws including wage payment, minimum wage, prevailing wage, rest period requirements, child labor, and the prohibition against wage discrimination because of sex. The civil penalties replace former provisions for fines of \$10 to \$500 and/or imprisonment.

Equal employment opportunity. The law prohibiting discrimination on the basis of physical handicap was amended to specifically include persons with AIDS or related conditions. Employers are now prohibited from discriminating on the basis of the results of an AIDS (HIV) related test or from requiring such a test as a condition of hiring, promotion, or continued employment, unless the absence of HIV infection is a bona fide occupational qualification. Employment discrimination against licensed health care professionals on the basis of their treatment of or caring for persons infected with the AIDS virus was also prohibited. The law also bans discrimination in housing, public accommodations, government services and State financial assistance because an individual is, or is regarded as being infected with HIV.

Labor relations. Subject to availability of funding from public or private sources, the Office of Labor-Management Relations is to provide grants-in-aid to labor-management relations organizations to be used for improving labor-management relations or improving communication between the parties on subjects of mutual interest. Grants may not be made to any organization that interferes with collective bargaining in any plant or industry.

Occupational safety and health. It is now an unlawful practice for an employer to fail to hire, to discharge, to discriminatory classify or otherwise discriminate against an individual because he or she is a smoker or nonsmoker, or to require, as a condition of employment, that any employee or job applicant abstain from smoking outside of employment, as long as the person complies with any workplace smoking policy.

All mines using conveyor belts must have one or more persons to examine them while in operation in the mine to determine that coal or mine refuse is not being transported in a manner posing a threat to the health and safety of the employees or to the safety of the mine.

All coal miners will be required to wear safety glasses as needed, supplied by coal operators at no cost to the miners.

Other laws. Among amendments to provisions regulating time off for voting, employers may now specify the hours during which an employee may be absent for voting, and it is prohibited to penalize an employee for taking reasonable time to vote unless the employee takes the time off, but fails to vote under circumstances which did not prohibit exercising the vote.

Louisiana

Wages. The law requiring that employees in certain industries be paid at least once every 2 weeks was amended to specifically exclude bona fide executive, administrative, or professional employees.

Family issues. A 12-member Child Care Challenge Committee was created to develop recommendations for implementation of a program to encourage employers to participate in the provision of child care and to explore and present to employers the advantages of voluntarily providing child care options.

Drug, alcohol testing. A new law was enacted regulating the testing of individuals, including employees, for the use of specific drugs. All testing covered by the law must be performed in certified laboratories if mandatory or discretionary consequences for the individual tested may result from the test. Provisions for privacy, chain-of-custody and confirmation of positive test results were adopted. Except in pre-employment drug screening, the results of an initial drug screening may not be used as a basis for a permanent mandatory or discretionary action against an employee.

Public employers are specifically authorized to require, as a condition of continued employment, the drug testing of employees following an accident, the testing of applicants as a condition of hiring, and the random testing of employees in safety-sensitive or security-sensitive positions.

Employment and training. An Employment and Training Council was created and assigned, among its duties, to plan, coordinate and monitor the programs and services under the Federal Job Training Partnership Act.

A Displaced Workers Retraining Program is to be administered by the State Employment and Training Council. Individuals will be eligible to participate in the program if they are unemployed, not full-time students or participants in other specified training programs, and their last employment was terminated because either the employer relocated to another State to avoid compliance with State environmental protection laws and regulations or instituted technological changes to comply with such laws.

Other laws. The law regulating "noncompetition" employer-employee agreements was amended to specifically authorize an employee to enter into an agreement that, for up to a 2-year period after termination of employment, the employee will not engage in work relating to any computer program that directly competes with a confidential computer program owned, licensed, or marketed by the employer.

Maine

Wages. The wage payment and collection law was amended to provide that an employer who has overcompensated an employee through employer error may not, without the employee's written permission, withhold more than 10 percent of the net pay of any subsequent pay in order to recover the overcompensation. Violations by employers with more than 25 employees, and knowing violations by those with 25 or fewer, result in the employer forfeiting any claim to the excess compensation.

The definition of employer under the law re-

quiring severance pay if an employer relocates an establishment 100 or more miles away or terminates operations, was amended to specify that a parent corporation is considered the indirect owner and operator of any covered establishment that is directly owned and operated by its corporate subsidiary.

Parental leave. The family medical leave law, scheduled to terminate July 1, 1990, was continued, and the law now must be posted accessible to employees.

Drug, alcohol testing. Among changes to the law regulating substance abuse testing in the workplace, the required employer written policy may now designate that for job applicants and for probable-cause testing of employees, all positions are subject to testing. Employees returning to work after a confirmed positive test result, whether or not they have participated in a rehabilitation program, may now be required to submit to a subsequent test anytime between 90 days and 1 year after their return. Employers may now take action against an employee enrolled in a rehabilitation program if notified that the employee has failed to comply with the prescribed program.

Occupational safety and health. Rules for safe and healthful working conditions adopted by the Occupational Safety Rules and Regulations Board now include monitoring and recordkeeping. At a minimum, the rules must conform to Federal standards so that the State program can be federally approved as an occupational safety and health program for public employees only.

Any person who performs a public function either as a volunteer or for minimal compensation, or any public employee responding to or acting in a life-threatening situation who makes a judgment calculated to save a life, was exempted from the 1989 law holding persons guilty of manslaughter for intentional and knowing violation of an occupational safety or health standard causing an employee's death.

Other laws. The law protecting employees from threatened or actual loss of employment because of receiving a summons for jury service or serving on jury duty was amended to also protect employees from threatened or actual loss of health insurance coverage because of such service. Also, new provisions were adopted prohibiting providers of health care insurance from terminating coverage for any person summoned for or engaging in jury service.

Maryland

Wages. The State minimum wage law adopts the Federal Fair Labor Standards Act rate by reference, thereby conforming to Federal changes on a continuing basis. As a result, the basic State rate rose from \$3.35 to \$3.80 per hour on April 1, 1990, and will increase again to \$4.25 on April 1, 1991.

The tip credit allowance was increased from 40 to 45 percent of the minimum wage, with an increase to 50 percent scheduled March 31, 1991. A training wage containing the conditions and limitations authorized under the Federal Fair Labor Standards Act amendments of 1989, was also adopted.

Occupational safety and health. Persons engaged in various occupations involving asbestos-related work in schools must now be accredited

by the Department of the Environment. Such accreditation requires successful completion of an approved training program, an examination, and annual refresher training.

Among changes to the Access to Information About Hazardous and Toxic Substances Act, various provisions were conformed to the U.S. Department of Labor, Occupational Safety and Health Administration's "Hazard Communication Standard" including requiring employers, chemical manufacturers, importers, and distributors to comply with all applicable provisions of the Federal standard.

After April 1, 1992, each employer of more than 5 employees who hires workers to operate specified nonagricultural power equipment must either develop and implement an employee safety training program related to such equipment or adopt and implement the model training program to be developed by the Commissioner of Labor and Industry in consultation with a new Advisory Committee on Safety Training Programs for Power Equipment Operators, and must satisfy other recordkeeping and posting requirements.

Massachusetts

Wages. Beginning January 1, 1992, employers must furnish employees with a statement each pay period showing hours, rate of pay, and all deductions. At present, statements must be furnished only upon request, with the first wage payment, and at other specified times.

Other laws. Under a late 1989 law, a program of employee involvement and ownership was established. Among its purposes are the promotion of employee involvement in decisions involving their work, employee ownership, assistance to private businesses in exploring the feasibility of establishing employee involvement programs, and providing grants to local governments and to schools for employee involvement startup efforts.

Michigan

Equal employment opportunity. The Handicappers' Civil Rights Act was amended to expand coverage to employers of one or more employees, instead of four or more. For the purpose of employment, handicap does not now include a determinable physical or mental characteristic caused by the current illegal use of a controlled substance or alcohol which prevents the individual from performing his or her job. The maximum costs that an employer may be required to incur to purchase equipment or devices or to hire readers or interpreters to accommodate employees' disabilities were established on a scale based upon the total number of employees.

Employment and training. Funds were appropriated to develop a partnership between business, labor, and government to link work force training, retraining, and skill upgrading with economic development efforts in order to maximize job creation and retention. A job opportunity bank will link existing training resources with State economic development efforts, develop coordinated training programs in conjunction with confirmed plant location decisions, and develop new innovative training approaches where existing State and Federal resources are inadequate or lack flexibility to meet economic development needs.

Also, a legislative job training program oversight committee was created.

Minnesota

Wages. Effective January 1, 1991, the minimum wage rate structure was changed and the rates increased. The minimum wage is now \$4.25 per hour for large employers (annual receipts of \$362,500 or more) and \$4 for small employers (less than \$362,500). The two-tier schedule with a minimum of \$3.95 for employers covered by the Federal Fair Labor Standards Act and \$3.80 for others, and lower rates for minors under age 18 were eliminated. The law specifically bans the use of lower rates based on a training wage or full-time student status permitted under Federal law, and continues to prohibit tip credits.

The law requiring political subdivisions to establish equitable compensation relationships among its employees in order to eliminate sex-based wage disparities was amended. Each jurisdiction now must submit an implementation report to the Commissioner of Employee Relations by January 31, 1992, which includes identification of each job class in the political subdivision as male-dominated, female-dominated, or balanced; the comparable work value of each class determined by job evaluation; and specified salary data. The Commissioner is to determine if a jurisdiction has established equitable compensation relationships, and if not, must notify the subdivision of the findings and necessary actions to achieve compliance and the estimated cost of compliance. Failure to comply may result in a 5-percent reduction in aid or a fine of \$100 per day, whichever is greater.

Parental leave. The law requiring the granting of up to 6 weeks unpaid leave for the birth or adoption of a child was amended to permit employees to use personal sick leave benefits provided by the employer to care for a sick child, and to require employers to provide up to 16 hours of unpaid leave per year for an employee to attend school conferences or classroom activities related to the employee's child if the conference or activities cannot be scheduled during nonwork hours. The school leave provision is applicable to employees of one or more employees, whereas the other types of leave provisions continue to apply to employers of 21 or more at at least one site.

Equal employment opportunity. An amendment to the Human Rights Act stipulated that if a complainant shows that an employment practice is responsible for a statistically significant adverse impact on a particular protected class, it is the employer who must then prove that the practice is manifestly related to the job or significantly furthers an important business purpose. The law also now provides that the first application of an unfair discriminatory practice, employment policy, or seniority system to a new person establishes a basis for the filing of a claim by that person.

Labor relations. Protective agents and security guards were prohibited from engaging in certain activities during a labor dispute, strike, or lockout. These activities include inciting or encouraging unlawful acts against another person or property, photographing or otherwise conducting surveillance of participants when not on the premises being protected, and stopping or detaining any vehicle not on the premises being protected.

Where a collective bargaining agreement between an employer and a labor organization contains a clause regulating the rights and obligations of a new (successor) employer, as defined, that clause will be binding and enforceable against any new employer until the expiration date of the agreement (not to exceed 3 years from the effective date). The existence of such a clause is to be disclosed to a new employer, although failure to meet this requirement does not affect the enforceability of the collective bargaining agreement.

Occupational safety and health. Employers in certain standard industrial classifications who are covered by the State occupational safety and health law must now establish and implement a written workplace accident and injury reduction program that promotes safe and healthful working conditions and is based on clearly stated goals and objectives.

Plant closings. The governor is to appoint a commission to study and make legislative recommendations regarding worker displacement caused by corporate takeovers, buy outs, and other similar actions. Also, effective January 1, 1991, an employer-financed dislocated worker fund is to be created to provide for special programs, including vocational guidance, training, placement, and job developments.

Other laws. Employers of 20 or more must grant up to 40 hours of paid leave to an employee who seeks to undergo a medical procedure to donate bone marrow. The employer may not retaliate against the employee for requesting or obtaining such leave.

Mississippi

School attendance. As part of a public education law, the compulsory school attendance law, which had required attendance from age 6 through age 16, was amended to require attendance at age 5. However, a 5-year-old will not be required to enroll if the parent and the superintendent of the child's school district determine that the child is at risk of not performing at a kindergarten level.

Drug, alcohol testing. A Select Senate Committee on Drug Abuse was created to consider legislation relating to drug abuse, including workplace drug testing programs.

Missouri

Wages. A first-time minimum wage law was enacted, with the Federal minimum wage rate adopted by reference. Time and one-half overtime payment is required after 40 hours per week, except after 52 hours for employees of seasonal amusement or recreational establishments, which are exempted from the Federal Fair Labor Standards Act. A 50-percent tip credit is permitted; exemptions include employees subject to the Federal minimum wage, agricultural workers, and employees of retail or service businesses whose annual gross sales volume is less than \$500,000.

Montana

Wages. In accord with a 1989 law, a rule was adopted increasing the State minimum wage from \$3.35 to \$3.80 per hour effective April 1, 1990, with a further increase to \$4 scheduled for April 1, 1991 (employers may pay newly hired employees a wage of at least \$3.35 an hour for the first 120 calendar days). Unlike the Federal law,

the State law does not allow a tip credit allowance against the minimum wage.

Nebraska

Equal employment opportunity. Employment discrimination, as well as discrimination in housing, school admissions, and public accommodations, on the basis that an individual is suffering or is suspected of suffering from HIV virus infection or AIDS is now prohibited. Enforcement is through private civil action.

Other laws. A labor and material payment bond for public works construction contracts will no longer be required for State contracts of \$15,000 or less or for county, local, or school district contracts of \$5,000 or less, unless it is required in the project specifications.

Nevada

Wages. By law, the labor commissioner is to prescribe increases in the State minimum wage in accordance with increases in the Federal rate, except when the commissioner determines that such increases are contrary to the public interest. Accordingly, the minimum wage rate for employees 18 years or older was increased from \$3.35 to \$3.80 per hour on April 1, 1990, and for employees under age 18, from \$2.85 to \$3.23.

New Hampshire

Wages. The State minimum wage rate rose to \$3.85 per hour on January 1, 1991, and will increase to \$4.25 on April 1, 1991, as the result of the adoption of any higher Federal minimum wage as the State rate.

Drug, alcohol testing. A committee was established to study all issues relevant to drug and alcohol testing in the workplace and to report on findings, including recommendations for legislation.

Labor relations. A new law was enacted giving the Public Employee Labor Relations Board jurisdiction over collective bargaining by licensed race track operators and their employees in the dog and horse racing industry. Among the provisions adopted, employers and certified employee organizations are required to bargain in good faith over wages, hours, and other conditions of employment not within the scope of management rights; procedures were enacted for selection and certification of bargaining units; and employer unfair labor practices and employee organization prohibited practices are specified. Strikes or lockouts during the term of the existing agreement are prohibited.

Occupational safety and health. As part of a new Indoor Smoking Act, smoking is prohibited in enclosed private or government workplaces with four or more persons. The prohibition will not apply to segregated smoking-permitted areas. If smoking cannot be effectively segregated, it will be totally prohibited. The person in charge of a facility may declare it nonsmoking in its entirety. It is unlawful to retaliate or otherwise discriminate against an employee for exercising any rights under this act.

New Jersey

Wages. On May 3, 1990, the minimum wage applicable to both nonfarm and farm em-

ployment increased from \$3.35 to \$3.80 per hour, with additional increases to \$4.25 and \$5.05 scheduled for April 1, 1991, and April 1, 1992, respectively.

Prevailing wage payment requirements on public works construction projects will now apply to work performed on property or premises leased or to be leased by a public body. To be considered leased property for this purpose, at the time of entering into the contract, at least 55 percent of the property or premises must be either leased by a public body or be subject to an agreement to be subsequently leased by the public body, and the leased area must measure more than 20,000 square feet.

Family issues. A new Family Leave Act was approved under which public and private sector employees are now entitled to 12 weeks of unpaid family leave in any 24-month period for the birth or adoption of a child, serious health condition of a family member, or serious illness of the spouse or parent of the employee or of the employee's spouse. Coverage in the private sector applies to employers of 100 or more for the first year, 75 or more for the following 2 years, and 50 or more thereafter. Employees taking such leave are entitled to the same or an equivalent position upon their return. Employers must continue health insurance coverage for employees during their absence and continue to provide any employee benefits pursuant to the employer's policy with regard to benefits for employees on temporary leave. An employer is prohibited from discharging or discriminating against a person who opposes any practice forbidden by the law, or files a complaint, testifies, or assists in a proceeding. Family leave may be denied if the employee is salaried and among the highest paid 5 percent of employees or one of the seven highest paid employees, whichever is greater; if the denial is necessary to prevent substantial economic injury to the employer; and if the employer notifies the employee of the denial at the time it is determined that denial is necessary. Family leave granted under the law is specifically in addition to rights under the State's Temporary Disability Benefits Law.

Private employment agencies. A new employment agency regulatory law was enacted, replacing the existing law. The law now specifically applies also to career counseling and resume services. The amount of the surety bond required of agencies was increased from \$2,000 to \$10,000. The Administrator is now authorized to issue a cease and desist order upon a finding of violation, and to bring a summary proceeding in the Superior Court to enforce such order. Each violation of these orders may result in a civil penalty of \$1,000-\$25,000.

Employment and training. A State Employment and Training Commission was created to develop and assist in implementing a State employment and training policy. The goal is to create an integrated system of employment and training programs and services which, along with efforts of the private sector, will provide individuals equal access to learning opportunities needed to attain and maintain high levels of productivity and earning power.

The Hispanic Women's Demonstration Resource Centers Act was approved under which the Division on Women of the Department of

Community Affairs is to establish from two to five such resource centers. Among many services, the centers are to provide vocational training, job counseling, programs to overcome barriers to employment, career information, job training, and placement.

Whistleblower. The law prohibiting employer retaliation against private and public sector employees for disclosing to a supervisor or public body any practice of the employer that is believed to be a violation of law or regulation, was amended to also protect the disclosure of such practices of another employer with whom there is a business relationship. Employees are also now protected against retaliation for objecting to or refusing to participate in any practice the employee believes could endanger the environment.

New Mexico

Wages. Revised rules and regulations under the "public works minimum wage act" (the prevailing wage law) were adopted in 1989. Among the changes, surveys for purposes of wage determinations will now be conducted annually rather than semiannually. Also, the hours of working foremen are to be included in the determination of the prevailing wage for most crafts. Some new classifications including electrician classifications were established, and laborer, equipment operator and truck driver classification groups and wage spreads were amended to include residential construction.

New York

Wages. The State minimum wage rate for non-agricultural workers was increased from \$3.35 per hour to \$3.80 effective April 1, 1990, with a further increase to \$4.25 scheduled for April 1, 1991. The rate for farmworkers was increased from \$3.35 to \$3.80 on January 1, 1991, with an increase to \$4.25 scheduled for January 1, 1992.

Employers engaged in the sale or service of food or beverages are to post in the establishment, in a place accessible and visually conspicuous to the employees, a copy of the law and regulations under the wage payment law relating to illegal deductions from wages and tips received by employees.

School attendance. The minimum age for compulsory school attendance was reduced from 7 to 6.

Equal employment opportunity. Unless it can be clearly shown that a person's unique genetic disorder would prevent performing the particular job, no person who is otherwise qualified is to be denied equal opportunities to obtain or maintain employment or to be promoted solely because of the condition. Unique genetic disorder is defined as sickle cell trait, carriers of Tay-sachs disease, or carriers of Cooley's anemia.

Worker privacy. The definition of "patient information," under provisions of the public health law restricting access to such information, was expanded to specifically include a health assessment for insurance and employment purposes.

Occupational safety and health. Among changes to the public employee occupational safety and health law, requests for an inspection in situations alleging imminent danger of injury or death must now be given the highest priority by the Department of Labor and the inspection must be

carried out immediately; the Safety and Health Hazard Abatement Board now has the authority to hold public hearings, take testimony, and contract for expert assistance in the formulation of standards being recommended to the Commissioner of Labor; the Commissioner is authorized to promulgate rules and regulations recommended by the Board.

Among several changes in the transportation law relating to commercial vehicle safety, specific limitations on hours of driving time and consecutive hours of required rest for truck and bus drivers were eliminated and left to the Commissioner of Transportation to regulate. It is now unlawful for an employer to take retaliatory personnel action against a driver or operator of a motor vehicle of 18,000 pounds or more, who has objected to or refused to operate a vehicle he or she reasonably believes fails to comply with safety requirements after first bringing the violations to the employer's attention and allowing a reasonable opportunity to make corrections. Licensing requirements were revised requiring an applicant for a commercial driver's license to be at least 21 years of age. Other classes of licenses were also established with minimum ages ranging from 16 to 18.

Provisions dealing with the inspection of boilers were amended to define unfired pressure vessels and to require owners and lessees of such vessels to ensure that they are constructed in accordance with regulations adopted by the labor commissioner.

Employment and training. A youth opportunity program act was enacted to provide employment and training directed at career assessment and exploration in health and human service fields for economically disadvantaged youth 16 to 21 years and a limited number of other youth who have barriers to employment or have been identified as at risk of dropping out of school. Funds for the program are to be made available to the Office of Mental Health and the Office of Mental Retardation, and training is to take place in State centers, funded through these Offices, which employ individuals in direct care, clinical, and laboratory positions. Youth in employment and training may participate for a maximum of 1,200 hours per year including both work and nonwork activities, and must receive at least the State minimum wage for all time engaged in program activities, not to exceed 20 hours weekly during the school year and 30 hours weekly during school vacation periods.

The Job Opportunity Demonstration Program established in 1987 was abolished, and the Job Opportunities and Basic Skills Training Program was established. The new program will furnish education, training, and employment opportunities, and necessary services to individuals receiving aid to dependent children, home relief, or veteran assistance to enable them to obtain unsubsidized employment that will assist them in achieving economic independence.

Other laws. The labor commissioner is to annually compile and publish all regulations and notices required to be posted by employers for the benefit of their employees pursuant to the labor law, the workers' compensation law, and any other State or Federal law, rule, or regulation.

North Carolina

Occupational safety and health. Civil money penalties assessable by the Labor Com-

missioner under the State occupational safety and health act were increased from \$10,000 to \$14,000 for each willful or repeated violation, from \$1,000 to \$2,500 for each serious violation citation, and from \$1,000 to \$1,500 for each non-serious violation.

Ohio

Wages. The State basic minimum wage rate, applicable to the private and public sectors and to agriculture, was increased from \$2.30 to \$3.80 per hour on September 24, 1990, with a future increase to \$4.25 scheduled for April 1, 1991; lesser increases were prescribed for small businesses. For employers with gross annual sales of \$150,000 to \$500,000, the basic rate increased from \$2.30 to \$3.35; for employers with less than \$150,000 gross annual sales, it increased from \$1.50 to \$2.50 on September 24, 1990, and will increase to \$2.80 beginning April 1, 1991. Employers with more than \$500,000 gross annual sales may pay tipped employees 55 percent (previously 50 percent) of the basic rate effective September 24, 1990, and 50 percent beginning April 1, 1991; other tipped employees are to receive a minimum cash wage of \$2.01 per hour. The definition of a tipped employee was changed to a person receiving more than \$30 (previously, \$20) per month in tips. The provision for a lower 80-percent learner rate was replaced with a provision for a training wage for workers under age 20, set at \$3.35 per hour or 85 percent of the applicable minimum wage, whichever is greater, for a period not to exceed a cumulative total of 90 days by one employer and 180 days by all employers.

Eligibility criteria for employer use of the training wage were established. The training wage provision will be repealed April 1, 1993.

For the first time, rules and regulations were adopted as provided for in the prevailing wage law. These rules deal with clarification of the meaning of numerous terms used in the law; fringe benefits; permissible payroll deductions; computation of overtime compensation; procedures for determination of wage rate schedules; duties of contractors; use of apprentices, serving laborers, assistants, helpers, and trainees; kickbacks; recordkeeping; hearing procedures; and subpoenas and stop-work orders.

Child labor. An amendment to the child labor law added restrictions on nightwork hours of 16- and 17-year-olds during any week that school is in session. These minors may not work after 11 p.m. preceding a schoolday, or after 1 a.m. before non-schooldays. Work is prohibited before 7 a.m. on Mondays through Fridays and before 6 a.m. on Saturdays and Sundays. Also added to the law was a prohibition on employment of minors under age 16 in any for profit door-to-door sales activity, unless the employer is registered annually by the Director of Industrial Relations. Registration requirements include certification of compliance with all applicable Ohio and Federal laws and regulations relating to the employment of minors and with other applicable Ohio laws, including motor vehicle financial responsibility, workers' compensation, and unemployment compensation. Employers must also certify that they meet supervision, age and schooling certificate, and vehicle safety requirements. At least one supervisor over age 18, in visual

contact with each minor, must be provided for each six minors employed. Minors are to be issued an identification card containing their picture and name, the employer's name, address and registration number, and a statement that the employer is registered. Minors must work at least in pairs and may not be employed during school hours or before 7 a.m. or after one-half hour prior to sunset. The Director may refuse to renew or may revoke a registration in the event of violation.

Equal employment opportunity. The prohibitions against employment discrimination based upon age were amended to extend coverage to persons over age 40, instead of only those between ages 40 and 70. Provisions with respect to mandatory retirement of executive and high policymaking personnel, and tenured employees at institutions of higher education were changed, and now coincide with those in the Federal Age Discrimination in Employment Act.

Labor relations. The Public Employees' Collective Bargaining law was amended to permit teacher bargaining agreements to include a provision authorizing a peer review plan, and to provide that teacher or representative participation will not be considered an unfair labor practice. Under such a plan, teachers in a bargaining unit, or their employee organization representatives, may participate in assisting, reviewing, or evaluating and making recommendations or decisions with respect to the retention, discharge, renewal, or non-renewal of other teachers of the same bargaining unit or represented by the employee organization.

Employment and training. Every State agency administering a federally funded employment and training program, including the Job Training Partnership Act, is to include in the program a priority system to provide maximum employment and training opportunities to veterans and other eligible persons within targeted groups.

To the extent that resources are available, in addition to the provision of sheltered employment and work activities, county boards of mental retardation and developmental disabilities are now authorized to provide or arrange for job training, vocational evaluation, and community employment services to mentally retarded and developmentally disabled individuals.

Oklahoma

Wages. The State minimum wage law adopts the Federal Fair Labor Standards Act rate by reference, thereby conforming to Federal changes on a continuing basis. As a result, the basic State rate rose from \$3.35 to \$3.80 per hour on April 1, 1990, and will increase again to \$4.25 on April 1, 1991.

Equal employment opportunity. Persons filing a charge of employment discrimination on the basis of disability may now commence court action if the complaint is not satisfactorily resolved within 180 days. Courts may award actual damages including reinstatement or hiring, with or without back pay.

Drug, alcohol testing. The Horse Racing Commission is now authorized to require any occupation licensee to submit to a substance abuse test if there is probable cause to believe that the licensee possesses or uses any controlled dangerous substance, or any other drug in violation of Federal or State law.

Background clearance. Owners or administrators of a child care facility, other than a foster family home or a day care center, providing full-time care or 24-hour supervised care must arrange, prior to employment, for a criminal history investigation of job applicants. Owners or administrators of day care centers, other than family day care homes, may arrange for such investigations. Persons convicted of a crime are not to be barred from employment, but are to be considered in relation to specific employment duties and responsibilities.

A nursing facility, a specialized facility, or a residential care home must provide for a criminal arrest check before employing nurses aides or other persons not specifically excepted. Such persons may not be hired permanently until the result of the check is received, and may not be hired if the check reveals a conviction of such offenses as rape, incest, murder, assault, robbery, arson, child abuse, and so forth. A facility or home may request an arrest check on current employees at any time. Persons addicted to certain drugs may not be employed, unless they produce evidence of successfully completing a drug rehabilitation program.

Oregon

Wages. By prior law, the State minimum wage rate was increased from \$4.25 per hour to \$4.75 on January 1, 1991.

Administrative rules relating to minimum wages, overtime pay, and working conditions were revised. New sections define the terms administrative, executive, and professional employees; require that homeworkers be paid the minimum wage and overtime and that their employers comply with recordkeeping requirements; deal with waiting time, sleep time, travel time, and other special situations; and authorize employers to include bonus payments to employees in the pay periods when they are earned when computing the minimum wage.

Child labor. Revised rules were promulgated by the Wage and Hour Commission pursuant to the State child labor law, effective September 1, 1990, to bring them into conformance with Federal Child Labor Regulation Number 3 with respect to restrictions on the daily, weekly, and nightwork hours of 14- and 15-year-olds.

Pennsylvania

Wages. As the result of prior legislation providing that the State minimum wage rate match any Federal increase, the State rate rose from \$3.35 per hour to \$3.80 on April 1, 1990, and will increase to \$4.25 on April 1, 1991.

The section of the minimum wage law authorizing payment of less than the minimum wage to persons impaired by physical or mental deficiency or injury under a wage-rate license from the Secretary of Labor and Industry was amended to also permit payment of a lower wage where a Federal certificate has been issued under the Fair Labor Standards Act. Also, added to those exempt from the overtime provisions is any employee of a motor carrier for whom the Federal Secretary of Transportation may establish qualifications and maximum hours of service.

Equal employment opportunity. Discrimination in employment, matriculation, and contract-

ing on the basis of disability is now prohibited in the State System of Higher Education. The System's Board of Governors will develop and promulgate by regulation a plan assuring equal opportunity in employment, educational access, and contracting.

Labor relations. The Labor Mediation Act was amended to specify that information disclosed by a party to a mediator in the performance of mediation functions is not to be divulged, and that the mediator's files, reports, or other papers received or prepared while serving as such are to be confidential. The mediator may not produce any confidential records of, or testify in regard to, any mediation conducted by him or her, on behalf of any party in a civil proceeding.

Occupational safety and health. Employers are prohibited from discharging or otherwise discriminating against an employee for refusing to operate a commercial motor vehicle which is not in compliance with State motor vehicle or safety laws, when such operation constitutes a violation of Federal commercial motor vehicle or safety laws, or because of the employee's reasonable apprehension of serious self injury or injury to the public because of the unsafe condition of the vehicle. Employees are also protected against retaliation for filing a complaint or participating in a proceeding relating to a safety violation. The law is enforced by the Public Utility Commission which is authorized to receive complaints, conduct investigations, and order relief, including abatement of the violation and reinstatement of the complainant with back pay, terms, conditions and privileges of employment, and all costs and expenses including attorney fees.

Puerto Rico

Wages. Several mandatory decrees relating to minimum wages and related standards were revised. Minimum wage rates increased in the manufacturing phase of the tobacco industry effective July 7, 1990, from a range of \$1.20-\$2.50 per hour to \$6.50 for cigarette manufacturing employees, \$3.80 for filler tobacco processing and general employees, and \$2.50 for all employees of enterprises not covered by the Federal Fair Labor Standards Act; for medical articles and accessories employees in the plastic products industry, from \$2.15 to \$4.25 for employees of enterprises covered by the Act, and \$3.80 for employees not so covered, effective March 24, 1990; in the wholesaling and warehousing industry, from \$2.20 to \$3.80 effective February 3, 1990; in the textile and textile products industry from a range of \$1.67-\$1.90 to a range of \$3.35-\$3.75, depending on length of time with the employer, effective December 21, 1989; in the leather, leather goods, and related products industry from a range of \$1.40-\$2.29 to \$3.60 effective May 31, 1990; in the corsets, brassieres, and related products industry, from \$1.90 to a range of \$3.40-\$3.50, depending on length of time with the employer, effective October 11, 1989; and in the button, jewelry, lapidary work, artificial flower, decoration and party favor industry, from a range of \$1.85-\$2.30 to \$3.35, effective September 4, 1990. Rates of accrual of vacation time increased for some or all employees in all of these industries (except wholesaling and warehousing and textile and textile products), and provision for sick leave

was included for employees in the button, jewelry, lapidary work, artificial flower, decoration and party favor industry.

A revised regulation was issued, effective July 29, 1990, defining the terms administrator, executive, and professional for the purpose of determining their eligibility for exemption from the minimum wage act. Exempted are administrators and executives earning \$200 a week and professionals earning \$250 a week provided they also satisfy other specified criteria, relating primarily to level of responsibility. Those earning \$295 a week need satisfy fewer of these criteria.

Rhode Island

Wages. The State minimum wage law was amended to increase the hourly minimum rate from \$4.25 to \$4.45 effective April 1, 1991.

Complaints of violation of overtime pay for voluntary Sunday/holiday retail work, of the provision which prohibits retaliation for refusal to work, or other requirements for retail licensure under this business law may now be filed with the director of the department of labor by the employee's collective bargaining representative in addition to the employee as before.

Contracts for the construction of public works projects undertaken by the Public Buildings Authority must comply with provisions of any other applicable State law or ordinance, including prevailing wage, public works arbitration, and contract bonds laws.

The section of the payment of wages law pertaining to filing of claims with the director of the department of labor was amended to specify that a claim may be filed by the person owed wages, the parent or guardian if a minor, or the person's collective bargaining representative.

Additional penalties were enacted for employers who fail to transfer funds deducted from employee wages to the appropriate person entitled to the deductions. Previously, if funds were not transferred within 21 days following the end of the month in which the deduction was made, the employer was liable in a civil suit brought by the employee for any loss sustained because of the violation. Now, in addition, an employer who intentionally or after written notice fails to transfer these funds within 30 days following the end of the month in which the deduction was made will also be liable for a \$50 penalty payable to the employee for each day beyond the 30-day period that the funds are not transferred.

Family issues. The law requiring the granting of unpaid parental leave upon the birth, adoption, or serious illness of a child was amended to also include leave for the serious illness of a parent, spouse, in-law, or the employee's own serious illness. The definition of serious illness was made less restrictive to now include conditions that involve inpatient care in a hospital, nursing home, or hospice, or continuing outpatient care by a health care provider, instead of only more severe conditions. The total unpaid parental and family leave entitlement remains at 13 weeks in any two calendar years. Employers willfully failing to post required notices to employees pertaining to the leave requirements and the filing of complaints are subject to a civil penalty of \$100 for each separate offense.

Labor relations. An employer may not re-

fuse to hire an applicant, or discharge or otherwise discriminate against any employee with respect to compensation, terms or conditions of employment because the individual is a union member or representative.

The definition of "fire fighter" for purposes of the Fire Fighters' Arbitration law was expanded to include fire dispatchers of any city or town.

The section of the Arbitration of School Teacher Disputes law granting certified public school teachers the right to organize and bargain collectively was amended to extend coverage to personnel licensed by the Department of Health as physical therapists or occupational therapists.

The law regulating arbitration of labor controversies was amended to specify that unless otherwise agreed to in writing, in the arbitration of matters relating to employee discipline, the arbitrator may modify the penalty imposed by the employer and/or otherwise fashion an appropriate remedy.

Occupational safety and health. Employees are now prohibited from requiring that, as a condition of employment, any current or prospective employee refrain from smoking or using tobacco products outside of the workplace, or otherwise discriminating because of such use with respect to compensation, terms, conditions, or privileges of employment. This prohibition will not apply to nonprofit organizations that as a primary purpose or objective discourage the use of tobacco products by the general public. The new provisions are not to affect those of the Workplace Smoking Pollution Control Act.

A new holiday, "Workers' Memorial Day," is to be observed annually on the fourth Friday of April, with appropriate ceremonies. The holiday is in remembrance of the courage and integrity of American workers, particularly those killed or injured in the course of their employment. Additionally, the observance is to call attention to the importance of healthy and safe workplaces, thereby preventing workplace illness and injury.

South Carolina

Wages. Among several changes in the payment of wages law, the commissioner of labor may no longer decide disputes arising from claims of unpaid wages or deductions from wages; severance payments were deleted from the scope of the law; criminal penalties for an employer's willful failure to pay wages were eliminated and 3-year limits were added for commencing an employee's civil action for recovery of wages due and for the employer's retention of wage records.

Family issues. State employees may now use up to 6 weeks of accrued sick leave to care for an adopted child, and may not be penalized for requesting or obtaining this time off.

Child labor. It is not a violation of the law which prohibits the dissemination of harmful material to minors to employ a minor in a theater, provided the minor's parent consents and the minor is not allowed in the viewing area when the harmful material is shown.

Drug, alcohol testing. A Drug-Free Workplace Act was approved which provides that no person may receive a grant or contract for \$50,000 or more from any State agency unless the contractor or grantee certifies that it will provide a drug-free workplace. Such employers must notify

employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited and that specified actions will be taken against violators. Employers must also establish a drug awareness program, require employees to notify the employer of any criminal drug statute conviction, and impose sanctions or require satisfactory completion of drug abuse assistance or rehabilitation by convicted employees.

Background clearance. Persons applying for initial certification to become certified education personnel must undergo fingerprint reviews to determine any criminal history.

Occupational safety and health. The use of tobacco products outside the workplace may not be the basis of personnel action, including employment, termination, demotion, or promotion.

An individual, partnership, corporation, or other business entity will not be required to be represented by an attorney when appearing in a proceeding before the State Occupational Health and Safety Review Board.

South Dakota

Wages. The State minimum wage was increased on April 1, 1990, from \$3.35 per hour to \$3.80, with an increase to \$4.25 scheduled on April 1, 1991. A training wage as defined in the Federal Fair Labor Standards Act may be paid to employees age 18 or 19 (those under 18 are exempt from the State law). The tip credit allowance was increased from 30 percent to 40 percent with a further increase to 50 percent scheduled for April 1, 1991. Tipped employees are now defined as persons receiving \$30 rather than \$25 a month in tips, a sum that will be increased to \$35 on April 1, 1991.

Drug, alcohol testing. The Commissioner of the Bureau of Personnel was directed to establish and implement a drug screening program for applicants for a safety-sensitive position in State government defined as a law enforcement officer authorized to carry firearms and custody staff employed by agencies responsible for rehabilitation or treatment of adjudicated adults or juveniles. The Commissioner also was authorized to implement a program for current employees in such positions, based upon reasonable suspicion of illegal drug use. The Commissioner may adopt rules to carry out the act, including testing procedures and consequences resulting from a valid positive test result or from failure to submit to a test. Individual test results and medical information collected are confidential and may be revealed only as authorized by the Commissioner.

Occupational safety and health. In conformance with the State's obligations under the Federal Emergency Planning and Community Right to Know Act, the State Emergency Response Commission was directed to, among other things, assist with local emergency planning committee plan development, to review local plans, and to prepare recommendations concerning emergency response capabilities.

Tennessee

Wages. The composition of the five-member prevailing wage commission was changed by replacing the State transportation engineer with

the commissioner of transportation, or a designee. The commissioner of labor serves as chairperson of the commission, which determines prevailing wage rates for State construction.

Child labor. The child labor law was amended to add nightwork hours restrictions for 16- and 17-year-olds who are enrolled in school. Such minors may not be employed before 6 a.m. or after 10 p.m. Sunday through Thursday evenings preceding school days. Work until midnight on these evenings may be permitted with written and notarized parental consent, but not on more than three occasions a week. Parents can rescind this consent at any time.

Equal employment opportunity. The law prohibiting employment discrimination on the basis of handicap by public or private sector employers was amended to eliminate the exception for infectious, contagious, or transmittable diseases or conditions.

Private employment agencies. The Personnel Services Act, formerly the Personnel Recruiting Services Act regulating private employment agencies, was expanded to specifically include employee leasing services, temporary help services, and contract labor firms. Licensing is no longer required; however, all agencies covered by the law must register with the Department of Commerce and Insurance. Investigations will now be conducted by the Department upon receipt of a written complaint. The Department may assess a civil penalty of up to \$500 and may institute legal action to restrain or enjoin violations. Personnel services, temporary help services, contract labor firms, and employee leasing organizations are required to notify each employee in writing of all employment benefits provided by such firm or a third party employer.

Occupational safety and health. The administrative heads of each State department, agency, board, commission, and other entities of the State, including public institutions of higher education, were authorized to establish a policy on smoking in the building. The policy must protect the rights of smokers and nonsmokers, and must provide at least one indoor smoking area in the building. If a policy permits smoking in the workplace, a nonsmoking area must be provided.

Whistleblower. The Public Protection Act of 1990 provides that no employee is to be terminated solely for refusing to participate in, or for refusing to remain silent about any violation of a State or Federal law or regulation intended to protect the public health, safety, or welfare.

Other laws. It is now unlawful to terminate an employee solely for the use of an agricultural product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law, if such use is during nonwork times or is in compliance with employer policies during working hours.

Utah

Wages. A new minimum wage act of general application to the private and public sectors was enacted, replacing a law applicable only to women and minors. The minimum rate for adults was initially established at \$3.35 per hour and increased to \$3.80 on April 1, 1990. Subsequent to July 1, 1990, the Industrial Commission of Utah may establish the minimum rate but the rate must not be higher than that of the Federal Fair

Labor Standards Act. Exemptions from the law include employees covered by the Federal Act, agricultural workers, casual and domestic employees, and registered apprentices or students employed by the educational institution in which they are enrolled. The Commission, on April 1, 1990, established a \$3.55 rate for learners not to exceed the first 160 hours of employment and a rate of \$3.23 for minors. A 45-percent tip credit was authorized. Administrative and criminal penalties are provided for violation. In addition, minors were authorized to bring civil action to enforce their minimum wage rights.

Family issues. An Office of Child Care was created within the Department of Community and Economic Development. Among its duties, the Office is to provide a central location for the collection and dissemination of information to employers for the development of options for child day care in the work place. A Child Care Advisory Committee, including corporate and small business representation, will assist the Office in fulfilling its statutory obligations.

Child labor. Among several amendments to the child labor law, the Industrial Commission was authorized to commence administrative proceedings and impose a penalty of up to \$500 per violation. The Commission may also prosecute a misdemeanor criminal action in the name of the State for violations including knowingly employing a minor in a repeated violation of the child labor law, failing to provide the Commission with requested information, failing to keep required records, refusing the Commission access to the place of business, or retaliating against an employee for testifying. With parental consent, age limitations or restrictions will not apply to work for which a specific, written authorization has been made by the Commission.

Drug, alcohol testing. State employees are prohibited from manufacturing, possessing, using, distributing, or being under the influence of controlled substances or alcohol during work hours or on State property. The Department of Human Resource Management is to make rules regulating disciplinary actions for employees who violate the act, testing of employees, confidentiality of testing and test results, and minimum blood levels of alcohol or drug content for work effectiveness of employees. Testing is authorized when there is a reasonable suspicion of unlawful drug or alcohol use during work hours, and random testing may be used for highly sensitive positions.

Background clearance. A public or private agency or individual licensed to provide child care or placement services must submit to the Department of Social Services the name and other identifying information, including fingerprints of prospective employees, providers of care, or volunteers, in order to obtain or renew a license. The Bureau of Criminal Identification is to determine whether these individuals have been convicted of any crime. Convicted felons may not be employed or provide care in a licensed facility; persons convicted of a misdemeanor may be employed at the discretion of the executive director. The previously required Statewide Central Register for child abuse reports was eliminated.

Employment and training. A Utah Conservation Corps was created with responsibility for conserving and developing the State's natural re-

sources and for providing educational work opportunities and enhancing educational opportunities and employability of youth. The Corps is to cooperate with the local service delivery area, designated under the Federal Job Training Partnership Act to obtain employment and training services including job search assistance, skills training, and transitional employment.

Vermont

Wages. The State minimum wage law was amended to make a scheduled rate increase from \$3.75 to \$3.85 per hour effective after April 1, 1990, rather than after July 1, 1990. The State will adopt the Federal increase to \$4.25 on April 1, 1991.

Family issues. Coverage of the Maternity Leave Act, previously applicable to the private sector, was explicitly extended to the public sector by adding an organization or governmental body to the definition of employer.

Labor relations. Provisional, temporary, seasonal, on-call, and part-time employees are no longer exempted from the Municipal Labor Relations Act, but probationary employees are still exempted.

Occupational safety and health. An 11-member State Emergency Response Commission was created to carry out the requirements of Title III of the Federal Superfund Amendments and Reauthorization Act of 1986 and various other duties, including emergencies involving hazardous materials.

An employee, aggrieved by a violation of a section of the Occupational Safety and Health Act which protects employees from employer retaliation for filing a complaint or otherwise exercising rights under the Act, may bring an action in Superior Court for relief, including reinstatement, triple wages, damages, costs, and reasonable attorney's fees. Such action may be brought in addition to or in lieu of the existing provision for filing a complaint with the Commissioner of Labor and Industry and having the Commissioner initiate court action to restrain violations and obtain appropriate relief.

Virginia

Family issues. The Governor's Personnel Advisory Board was requested to study the feasibility and desirability of implementing a parental leave policy in public sector employment.

Agriculture. The law regulating the operation of migrant labor camps was amended to exempt small businesses which are exempt under the Federal Fair Labor Standards Act and the Migrant and Seasonal Worker Protection Act. This provision is scheduled to expire December 31, 1991.

Equal employment opportunity. Each sheltered workshop established by the Department for the Visually Handicapped must now have a nine-member advisory board, including at least two blind persons or parents of blind persons, to advise workshop managers on budgetary matters, product development, and other business matters.

Background clearance. Counties that have adopted the urban county executive form of government and cities surrounded by such counties may by ordinance provide for the regulation and licensing of facilities and persons providing child-care services for compensation. The local ordinances may

require certification that persons providing care have not been the subject of a founded complaint of abuse or neglect or convicted of certain sexual abuse offenses involving children.

Worker privacy. Prospective employees of State, county, city, and town law enforcement agencies may not, as a condition of employment, be required to answer questions in a polygraph test concerning sexual activities unless such activity has resulted in a State criminal conviction. These public sector agencies were previously exempt from this prohibition applicable to private sector employees.

Virgin Islands

Wages. By prior law, the minimum wage rate rose from \$4.25 an hour to \$4.65 on January 1, 1990. Beginning January 1, 1991, and each January 1 thereafter, an indexed rate took effect equal to 50 percent of the average private, non-supervisory, nonagricultural hourly wage, as determined by the Virgin Islands Wage Board for the previous November, rounded to the nearest multiple of 5 cents. The rate for minors under age 18, full-time high school students, and employees of businesses with gross annual receipts of less than \$150,000 increased from \$3.90 per hour to \$4.30 on January 1, 1990, and to 35 cents an hour below the basic minimum rate on January 1, 1991. Tipped employees in the tourist service and restaurant industries are subject to a separate law.

Washington

Wages. College students who are employed by the institution in which they are enrolled will no longer be exempt from State minimum wage requirements.

Child labor. Comprehensive rules, developed in conjunction with the Advisory Committee on Agricultural Labor, cover hours of work, prohibited occupations and other employment standards for minors under age 18 employed in agriculture, except for immediate family members. A 14-year minimum age is established for employment, except that 12- and 13-year olds may be employed in the hand harvest of berries, bulbs, and cucumbers and in the hand cultivation of spinach during weeks when school is not in session. Restrictions were adopted for daily, weekly, and nightwork hours and number of days of work permitted per week for minors under age 16 and for 16- and 17-year-olds both when school is in session and when it is not. Minors under 18 may not be employed in specified dangerous work including handling or using dangerous pesticides; transporting, transferring, or applying anhydrous ammonia; handling or using blasting agents; or harvesting crops after pesticide application and prior to the time permitted by the Environmental Protection Agency. Other hazardous occupations similar to those prohibited under Federal law are prohibited for minors under age 16. Employers must apply for a permit to employ minors and must have written school and parental authorization. The allowed number of hours per day and week will be based on an evaluation of the impact of work on the student's academic performance. A paid 10-minute rest break must be provided for every 4 hours worked. Employees working more than 5 hours must receive a meal period of at least

30 minutes. Other regulations deal with posting, lifting weights, recordkeeping, revocation of permits, and procedures for granting variances. The rules became effective on November 1, 1990, except for the meal and rest break requirements that became effective August 1, 1990.

Agriculture. The Department of Health was designated as the primary inspector of labor camps and farmworker housing, but the Department of Labor and Industries was delegated authority for inspecting all farmworker housing not covered by the authority of the State Board of Health. The Departments of Health, Labor and Industries, Community Development, and Employment Security and the State Board of Health were directed to develop an interagency agreement defining the rules and responsibilities for farmworker housing inspection. The State Board of Health is to develop rules for labor camps including, as a minimum, the standards developed for sanitation and temporary labor camps under the State Industrial Safety and Health Act. A Farmworker Housing Inspection Fund was established to administer the program and to receive funds received from labor camp license fees.

Equal employment opportunity. Joint apprenticeship programs receiving any State assistance must now include entrance of women in the program, when available, as well as racial minorities as before, in a ratio of not less than their percentage of the labor force in the program sponsor's labor market area.

Labor relations. The Open Public Meetings Act, applicable to public agencies, was amended to make an exception for the privacy of collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement.

Private employment agencies. Coverage of the law regulating employment agencies was expanded to specifically include employment listing or employment referral services and resume services that provide resumes to individuals and provide a list of names to whom the resume may be sent or provide preaddressed envelopes to be mailed. Agencies operating without a license are subject to court action for the return of any fees paid to the agency and the award of treble damages plus attorney's fees and costs.

West Virginia

School attendance. The beginning age for compulsory school attendance was changed from age 7 to the school year during which a child reaches age 6 prior to September 1, or upon enrolling in a publicly supported kindergarten program.

Worker privacy. An officer of a financial institution may provide employment information about an employee or former employee to another financial institution, provided the information is limited to that individual's active participation in a violation of a State or Federal law or regulation related to financial institutions and such violation has been reported to the proper prosecutorial authorities.

Wisconsin

Wages. The State basic minimum wage rate was increased by administrative rule from \$3.65

to \$3.80 per hour effective April 1, 1990. The rate for minors under age 18 was increased from \$3.30 to \$3.45. Rates of \$3.50 for adults and \$3.25 for minors will be applicable to probationary employee who have been in employment status for a cumulative total of 60 days or less within a 3-year period (probationary rates previously applied to employees who had worked for an employer not more than 120 days within a 3-year period). Rates for agricultural workers increased from \$3.45 to \$3.60 for adults and from \$3.10 to \$3.25 for minors and probationary rates were eliminated. Rates for tipped employees were not changed, but a provision was added that the rate for these workers be the higher of 55 percent of the basic rate or the rate established in the administrative code.

A late 1989 amendment to the wage payment law authorized the Secretary of the Department of Industry, Labor and Human Relations to enter into reciprocal agreements with agencies in other States for the collection of wage claims and wage deficiencies.

Public sector employees will now be covered by State minimum wage and overtime provisions and by the prohibition on the use of an HIV test as a condition of employment.

Child labor. A law approved in December 1989, requires those who employ minors to engage in house-to-house sales to be certified annually by the Department of Industry, Labor and Human Relations. Information to be provided in applications for certification includes the name of the applicant and the business address and telephone number; the names and home addresses of principal officers of the applicant; employer identification numbers; and names, home addresses and birth dates of any employee who supervise minors. House-to-house employers' duties include having a copy of the street trade permit issued for the minor stamped or endorsed by the clerk of any municipality where the minor is to work; keeping a copy of the permit for at least 3 years after the employee becomes 18 or leaves the employment of the employer, whichever occurs first; informing minors in writing of the terms and conditions of employment; notifying the local police department or office of the sheriff that minors will be conducting house-to-house sales; providing the Department, upon request, with a list of the municipalities where the employer intends to employ minors within 6 months after the date of the request; and demonstrating financial responsibility by maintaining a \$5,000 bond, certificate of deposit, escrow account, or letter of credit. The Department may suspend or revoke a certificate in the event of employer violation.

The prohibition on work by minors under 14 years of age was amended to permit 12- and 13-year-olds to be employed as sideline officials for high school football games, and to permit 11- to 13-year-olds to be employed as ball monitors at these games and at practices. Prior exceptions also exist for a limited number of other types of employment.

Agriculture. Coverage of the migrant labor law was expanded to include almost all employers of migrant workers. Previously, the law covered only fruit and vegetable farmers and processors, nurseries, sod farmers, and Christmas tree growers, and their migrant workers. The law's require-

ments include contractor registration, vehicle insurance, written work/wage agreements to the employee, and certification and pre-occupancy inspection of migrant labor camps.

Equal employment opportunity. At the request of an appointing authority and an employee, the probationary period of a disabled State employee may be extended up to one additional year to allow the employee to complete any necessary rehabilitation program, obtain or adapt to special modifications made to the workplace to accommodate the employee's disability, or to achieve the knowledge, skills, and abilities to competently perform the required tasks for the appointed position.

Worker privacy. Appointing authorities are prohibited from taking disciplinary action against an employee based on wiretapping, electronic surveillance, or one-way mirrors unless such surveillance is authorized, or produces evidence that the employee has committed a crime. Such devices may be used for security or public safety purposes at a State institution.

Private employment agencies. Agencies whose fees are paid entirely by employers are now exempt from the employment agency regulatory law except for a requirement that they register annually with the Department of Industry, Labor and Human Relations. The Department is authorized to order other covered agencies operating without a license or after their license has been suspended or revoked to refund all fees and charges collected while unlicensed.

Other laws. The prohibition on the sale of prison made goods in the open market was modified to permit prison industries to provide a manufacturer or distributor with products, components, or services if they have been supplied to the manufacturer or distributor for the previous 12 months by a facility outside the United States.

Wyoming

Wages. The commissioner of labor standards and fair employment was granted specific authority to promulgate rules and regulations. Also, under the wage payment law, the commissioner may now take assignment of wage claims without the former restriction that assignment authority be limited to the claims of persons unable to obtain the services of a private attorney. The commissioner is to process, investigate, and determine the validity of claims, order payment, and with the assistance of the county attorney, prosecute if necessary. Failure to comply with a Commissioner's order is punishable by a civil fine of up to \$200 for each day of noncompliance. The required time for payment of wages to an employee who quits or is discharged was changed to within 5 working days of the date of termination of employment from 72 hours after voluntarily quitting or 24 hours after involuntary discharge. Sections of the minimum wage law empowering the commissioner to take assignments of unpaid minimum wages for persons financially unable to prosecute such claims and providing that wages collected by the commissioner and unclaimed for more than 2 years be forfeited and made part of the general fund of the State were repealed.

Footnotes

¹ Legislatures did not meet in Arkansas, Nevada, and North Dakota and met in special session only in Montana, Oregon, and Texas to consider subjects outside the scope of this article. Alabama did not enact significant legislation in the fields covered by this article. Information on the Virgin Islands was not received in time to include in the article. Separate articles on unemployment insurance and workers' compensation, which are not within the scope of this article, are published in this

issue of the *Monthly Labor Review*.

² Alaska, Connecticut, the District of Columbia, Oregon, Puerto Rico, Rhode Island, and the Virgin Islands.

³ Arkansas, Alaska, California, Hawaii, Idaho, Illinois, Iowa, Kansas, Maryland, Montana, Nevada, New York, North Carolina, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

⁴ Prevailing wage laws are in effect in 32 States: Alaska, Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Washington, West Virginia, Wisconsin, and Wyoming. Guam and the Virgin Islands also have such laws.

Managing Editor

The *Monthly Labor Review* is recruiting to fill the position of *MLR* Managing Editor. The position involves supervision of the magazine staff and requires a background in economics, writing and editing, and computer-assisted publishing. Applications (experience résumé and Federal SF-171) should be sent to BLS Personnel, room 2827, GAO Building, Washington, DC 20212. Additional information may be secured by contacting BLS Personnel at (202) 523-1591.
