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# Massachusetts Employment Law Hot Topics for 2026

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# Introductions



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# Employment Compliance and Why It Matters More Than Ever



# Agenda

- Hot Wage & Hour Basics (Still the #1 Risk in 2026!)
- Pay Transparency & Pay Equity
- Workplace Discrimination & Harassment
- Non-Competition Agreements
- Leave Laws & Reasonable Accommodations
- Remote & Hybrid Work Issues



# Wage & Hour Compliance



# Wage & Hour Compliance

- Minimum Wage
- Overtime
- Vacation/PTO
- Commission/Incentive Plans
- Payment of Final Wages



# Wage & Hour Compliance – Independent Contractors

- **In Massachusetts, the default is an employee — not a contractor.**
- Employers must prove all three parts of the **ABC Test**.
  - **Control:** Worker is free from your direction and control.
  - **Business:** Work performed is outside the usual course of business.
  - **Customarily Engaged:** Individual performs (or has the ability to perform) similar work for others as part of an independent business.



# PEOs and the Wage Act

- A common misconception:
  - *“The PEO is the employer of record, so they are responsible.”*
  - Not in Massachusetts!
  - Even if the PEO is listed as employer of record for tax purposes, the client company controls work, directs supervision, makes termination decisions, and determines compensation structure.
  - That is sufficient to create Wage Act liability.
  - In Massachusetts, presidents and treasurers and others “having management” over pay decisions may be held personally liable.
  - Don't rely on indemnification provisions
    - Client will be on the hook, and then you may need to litigate with the PEO to be made whole, which is an expensive proposition.



# Pay Transparency & Pay Equity

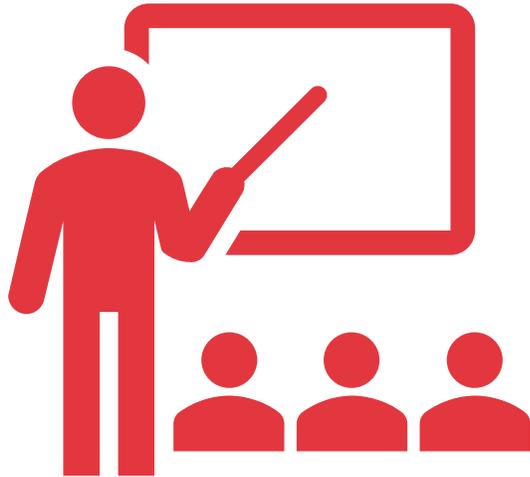
14 states with current pay transparency laws; 10 with active bills

Requires employers to disclose pay ranges in job postings, or upon hire, or when requested by employees

Massachusetts has both Pay Transparency and Pay Equity Acts that require compliance



# Workplace Discrimination & Harassment



Anti-harassment and anti-discrimination cases are on the rise

Protected categories expanding



# Updates in Non-Competition Agreements (and Other Restrictive Covenants)



Confidentiality



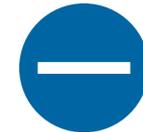
Assignment of  
Intellectual  
Property



Customer  
Non-Solicitation



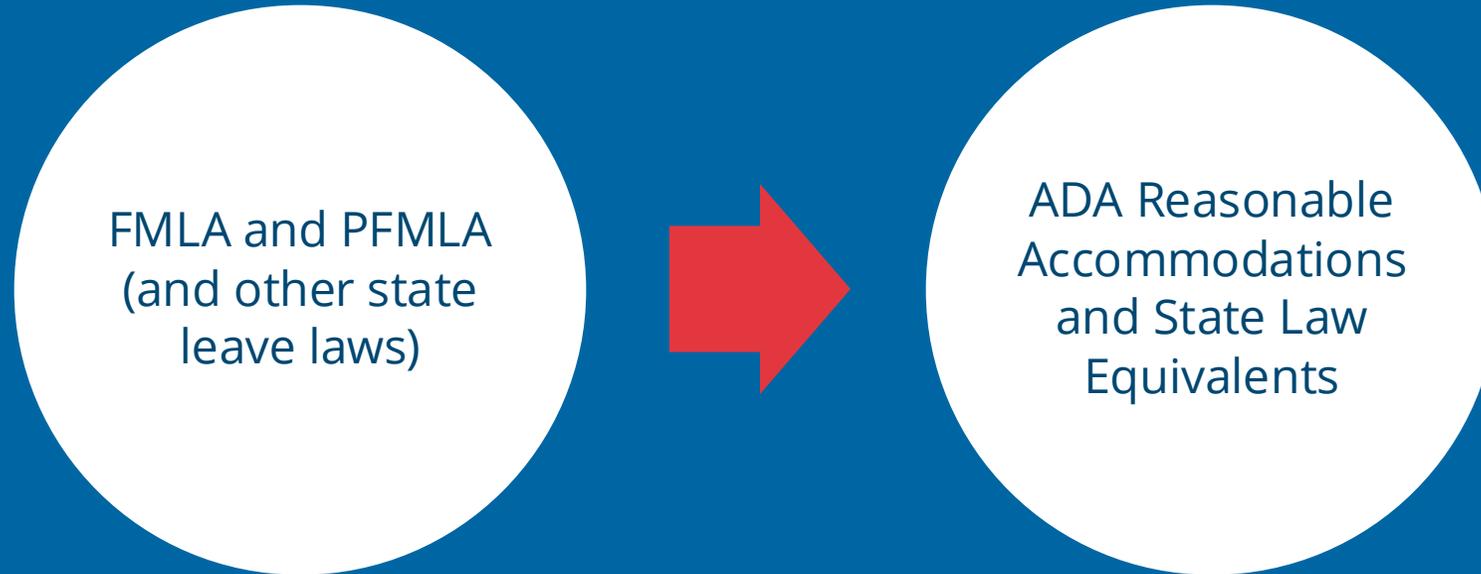
Employee  
Non-Solicitation



Non-Competition



# Leave Laws and Reasonable Accommodations



# Leave Laws and Reasonable Accommodations

- Paid Family and Medical Leave Act (PFMLA)
- Massachusetts Parental Leave Act (MPLA)
- Massachusetts Earned Sick Time Law (ESTL)
- Federal Family and Medical Leave Act (FMLA)
- Other Leaves
  - Military Leave
  - Domestic Violence Leave
  - Jury Duty Leave
  - Voting Leave
  - Small Necessities Leave



# Leave Laws and Reasonable Accommodations

- **Massachusetts Paid Family and Medical Leave**

- Covers:

- Medical leave for self or family
- Bonding with a new child
- Military-related leave

- Employers must:

- Register with MA Department of Family and Medical Leave
- Withhold/pay contributions
- Post notices & include in onboarding

- Applies to all employers in Massachusetts, regardless of size



# Leave Laws and Reasonable Accommodations

- **Massachusetts Paid Family and Medical Leave**
- Length of leave eligibility:
  - 12 weeks (family leave)
  - 20 weeks (own serious health condition)
  - 26 weeks (covered servicemember)
- DFML handles the eligibility and determinations
  - Private plan exemption available
- Rules around employees providing notice, with some flexibility for issues that arise “beyond employee’s control”
- Anti-retaliation provision



# Leave Laws and Reasonable Accommodations

- **Massachusetts Earned Sick Time Law (ESTL)**
- Employer Coverage: Applies to all employers regardless of size
- Employee Benefits & Eligibility:
  - 1 hour earned per 30 hours worked (up to 40/year)
  - Paid if you have 11+ employees
  - Can be used for: Employee or family illness, Medical appointments, Domestic violence-related needs, or (as of November 21, 2024) to care for themselves or their spouse in the event of pregnancy loss or failed assisted reproduction, adoption, or surrogacy.



# Leave Laws and Reasonable Accommodations

- **Americans With Disabilities Act (ADA) and State Law Equivalents**
- Employer Coverage: Applies to all employers with 15 or more employees (federal); MA equivalent applies to employers with 6 or more employees
- Requires an “interactive dialogue” to determine how the employee can perform the essential duties of the job with, or without, accommodation
  - Employer does not need to accept accommodations that cause an undue hardship



# Remote & Hybrid Work Issues



- Remote work does not reduce compliance – it increases it!
  - Multi-state compliance issues
  - Monitoring and privacy issues
- Return to Work (RTO) policies increasing – which adds to leave and reasonable accommodation requests



# When Do You Need An Employment Attorney

- **General Employment Issues:** Hiring, firing, handbooks, performance management, and the like
- **Litigation:** Risk reduction before disputes escalate, or during litigation for subject matter expertise
- **Tax/Real Estate:** Remote work & multistate employment issues
- **Healthcare/Cannabis/Regulatory:** Regulated industries have specialized rules that affect normal employment practices
- **IP & Licensing:** Protection of trade secrets and IP through restrictive covenants

**Everyone Else:** Every business has employees and has a need for good employment counsel from the start!



# Reduce Your Legal Exposure with CommPayHR's Fractional HR Service Plans

- Stop problems before they become legal issues
- Get real-time, expert HR guidance when it matters most
- Protect your business with compliant policies and documentation
- Make smart HR decisions with confidence, not guesswork
- Know when to "Call the employment attorney!"

**Take the next step to explore your HR options**



Strong employment counsel is essential.  
Strong HR is what keeps you from needing it as often.



Thank You!



# Thank You!

Whether you have a question or want to learn more, we're happy to speak with you.



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