



**Labor & Employment Alert
July 2018**

**Governor Baker Signs “Grand Bargain” Bill –
Changes to Minimum Wage, Sunday Overtime Pay, Sales Tax Holiday, and
Establishing Paid Family and Medical Leave**

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On June 28, 2018, Governor Baker signed the “Grand Bargain” bill advanced by the Legislature to address issues relating to minimum wage, Sunday overtime pay, an annual Sales Tax Holiday, and, perhaps most important, establishing paid family and medical leave in Massachusetts. Below is a brief summary of this new legislation.

This law will go into effect in stages and has a number of aspects that will be clarified through regulations and guidance from the state agencies tasked with interpreting and enforcing these new laws. Overall, this bill was touted as a “compromise” between business and labor groups in order to keep corresponding ballot questions off the November 2018 ballot.

Stay tuned for updates on these new measures.

Minimum Wage Increase

Over the next five years, the new law will increase both the regular minimum wage and the tipped employee minimum wage on the schedule as set forth below.

The regular minimum wage will be increased to \$12/hour on January 1, 2019.

- On January 1, 2020, it will be increased again to \$12.75
- On January 1, 2021, it will be increased again to \$13.50
- On January 1, 2022, it will be increased again to \$14.25
- On January 1, 2023, it will be increased again to \$15.00

The minimum wage for tipped employees will increase to \$4.35 on January 1, 2019 and will increase by \$0.60 each subsequent January 1st until January 1, 2023 when the last increase to \$6.75 will occur.

Changes to Sunday Overtime Requirements

The new law will also phase out the requirements that retail employees be paid time and one half (“premium pay”) on Sundays and holidays. This requirement will be phased out over five years, decreasing annually from the current 1.5 times regular rate required for Sunday/holiday pay, to 1.4 (in 2019), 1.3 (in 2020), 1.2 (in 2021), 1.1 (in 2022), and finally to straight time in 2023. The requirement

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that work be voluntary on Sundays and holidays will continue, and it will continue to be unlawful for employers to discriminate, dismiss, or otherwise adversely treat employees who refuse to work on Sundays and/or holidays.

Sales Tax and Annual Sales Tax Holiday

The new law keeps the state sales tax at its current rate of 6.25% and establishes a permanent two-day sales tax holiday for a weekend in August each year, beginning in 2019. The dates of this annual sales tax holiday are to be set by the Legislature. If the Legislature does not act, the Revenue Commissioner would set the dates by July 1st.

Paid Family and Medical Leave

In perhaps the most significant portion of this new law, Massachusetts is establishing paid family and medical leave. Following a handful of other states that have taken this initiative, this new law will require the state to create a new division within the Executive Office of Labor and Workforce Development to administer a new trust fund where employers will contribute in order to fund this new entitlement to paid family and medical leave. Below are highlights about the requirements of the new law:

This law will apply to nearly all private employers in Massachusetts. With regard to municipalities and other public employers, the law must be adopted by the legislative or governing body in order to be effective on that public employer. Eligibility for employees to access leave under this law will have similar work time requirements to the current access to unemployment benefits.

Paid family and medical leave will be implemented over time, with the first mandatory employer contributions required on July 1, 2019, along with notice requirements going into effect at that time. Employees will be able to submit applications for benefits beginning on January 1, 2021. Proposed regulations are expected on March 31, 2019.

This law will allow employees in Massachusetts to access paid family and paid medical leave for reasons similar to those allowed under the federal Family and Medical Leave Act ("FMLA"), but also for reasons beyond the FMLA. For instance, under the new law, employees can access up to 20 weeks of paid leave for their own medical condition. Employees can also access up to 12 weeks of paid family leave to care for a family member (which has a more expansive definition than the FMLA) or for certain military-related leave purposes. In total, employees can access up to 26 weeks of paid leave in a year for both family and medical purposes. Leave taken under this law would run concurrently with other statutorily required unpaid leaves (such as FMLA, Massachusetts Parental Leave, etc.).

This leave will be paid at a rate of up to 80% of the portion of an employee's average weekly wage that is equal to or less than 50% of the state's average weekly wage, and 50% of the portion that exceeds 50%

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of the state average weekly wage, to a total maximum benefit of \$850 per week. This maximum benefit amount will be adjusted annually based on the average weekly wage in Massachusetts.

The leave will be funded through a payroll tax on the employer, which will initially be set at a rate of 0.63% and will be adjusted annually. Part of this contribution will be used to fund medical leave and part of this contribution will be used to fund family leave. The employer can deduct up to 40% of the contribution for medical leave from employees' wages and up to 100% of the contribution for family leave from employees' wages. Employers with 25 or fewer employees are not required to bear any of portion of the contributions.

For planning purposes, employers should keep in mind that law permits employers to apply to meet their obligations under the law through a private plan that meets, or exceeds, all the requirements of the statute.

There are strong anti-retaliation and anti-discrimination protections in the law and the law allows employees a private right of action to bring a claim of alleged violation of the law. There are also strong penalties for employers who do not make the required contributions.

This new law is very detailed and has several aspects that must be clarified through regulations. This alert is meant to cover the highlights of the new law. As updates to the law go into effect, we will be sure to issue subsequent alerts.

If you have any questions about this issue, please contact Sarah Spatafore or the attorney responsible for your account, or call (617) 479-5000.

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