

Rhode Island Legislative Update

Description

By [Morgan E. Hedly](#) and [Michael A. Gamboli](#)

It is that time of year again, when the Rhode Island legislature ends its session and passes a number of laws that affect businesses with Rhode Island-based employees. While 2024 was no different, this year was also notable for the legislation that failed in the 2024 session or was properly vetoed by the Governor. Following is a short summary.

Passed

Temporary Caregiver Expansion. H.7171 SubA and S.2121 SubA. Signed by the Governor on June 26, 2024. Currently, TCI leave is available for up to six weeks. This legislation increases available leave to seven weeks beginning January 1, 2025, and to eight weeks beginning January 1, 2026. These increases represent a significant reduction of the original proposals to expand the available leave to twelve weeks. However, for larger employers, the availability of this leave in addition to FMLA leave will continue to be potentially problematic, particularly when an employee qualifies for TCI but not FMLA and an employer finds itself provided both types of leave for an employee, sometimes within the same year. This bill took effect upon passage.

Data Privacy. H.7877 SubA and S.2500 SubA. Effective without the Governor's signature on June 28, 2024. This legislation requires entities that process personal data to identify all categories of information the controller collects, when the controller may disclose such information, how a customer may exercise their customer rights, the purpose for processing the personal data, categories of personal data shared with a third party, and means to contact the controller. Entities that control or process personal data of not less than 35,000 customers or at least 10,000 customers and derive more than twenty percent (20%) of gross revenue from the sale of personal data are subject to additional disclosure requirements and must allow customers the right to opt out of the collection of personally identifiable information. There is an exemption for entities subject the federal Gramm-Leach-Bliley Act. This legislation does not become effective until January 1, 2026.

Arbitration Provisions and Agreements. H.7952 and S.2671. Effective without the Governor's signature on June 29, 2024. This legislation amends the General Laws in Chapter 10-3, "Arbitration," to clarify the enforceability of arbitration agreements, stating that they are irrevocable except on grounds that would revoke any contract. This legislation also introduces a requirement for a notice of intention to arbitrate and sets a 20-day deadline to apply for a stay of arbitration upon receiving such notice. New section 10-3-22 guarantees the right to attorney representation in arbitration and prohibits any agreement that discriminates against or penalizes a party for retaining counsel. New section 10-3-23 mandates that, in employment or consumer arbitration, unless otherwise specified, the drafting party must pay certain fees and costs before arbitration can proceed and failure to do so within 30 days results in a waiver of the right to compel arbitration. This legislation also allows courts to impose various sanctions on drafting parties that breach arbitration agreements. While this bill took effect upon passage, legal challenges are expected on the grounds that it is preempted and invalidated by the Federal Arbitration Act because it treats arbitration agreements less favorably than other contracts.

Failed

Family Leave. H.7793 and S.2467. This legislation sought to increase the number of weeks of unpaid family leave from thirteen weeks every two years (which is the current rule), to twenty-four weeks every two years. Federal FMLA, which almost always overlaps with the Rhode Island Family Leave law, provides (with certain

exceptions for military related issues) for up to twelve weeks of leave in any twelve-month period.

Noncompetition Agreements. H.8059 SubA and S.2436 SubA. This anti-business legislation would have eliminated almost every form of noncompetition agreement and would have greatly expanded the definition of what constitutes a so-called noncompetition agreement. It would have banned post-employment non-solicitation agreements and even prohibited a company and employee from entering into a noncompetition or non-solicitation agreement at the end of the parties' relationship. Simply stated, this would have been one of the most restrictive and broad bans on restrictive covenants designed to protect company assets in the country, broader than even the pending FTC legislation on this topic. The legislation overwhelmingly passed both the House and Senate. Fortunately, the legislation was vetoed by the Governor on June 26, 2024.

Minimum Wage. Various bills seeking to increase the minimum wage died in committee. The current law provides that the state minimum wage will increase to \$15 per hour beginning January 1, 2025.

Payment Stubs and Mini Handbook. H.7790 and S.2123 SubA. This legislation generally sought to expand the information an employer must provide on a paystub, including adding in the last four digits of the social security number, employer address information and explanations for certain deductions. The legislation also would have required employers to create and provide a so-called "mini handbook" to include policies on items such as wages, benefits, holidays, sick time, and expense policies. The legislation died in committee.

Individual Liability Employment Liability. S.2203. This legislation created individual liability under the State's Fair Employment Practices Act (FEPA). The legislation would have overturned a 2017 Rhode Island Supreme Court decision finding that, as with Title VII (FEPA's federal counterpart), there is no individual liability under the law. This bill died in committee. Note that while there is no individual liability under FEPA or Title VII, there is currently mixed authority (and no Supreme Court decision) as to whether individual liability exists under the State's Civil Rights Act.

Captive Audience. H.7106 and S.2785. This legislation would have limited the first amendment rights of employers, prohibiting employers from requiring non-managerial employees to attend meetings about legislative proposals or regulatory issues. The legislation died in committee.

Anti-Bullying Bill. S.2473 SubA and H.8044. This legislation – which it seems has been proposed in various years, in one form or another, for more than a decade – would require employers to provide a work environment free from all forms of "psychological abuse" and to ensure that all employees are treated "respectfully and with dignity." The legislation would have required employers to adopt policies, perform manager training, and annually report on the same. The legislation died in committee.

Next Steps

As with any new set of laws, there is likely to be some confusion over the scope and/or meaning of various provisions. Rhode Island businesses should review, and if necessary, revise their existing policies and practices to ensure compliance with these new requirements.

The [Partridge Snow & Hahn](#) Employment & Labor team is ready to answer any questions relating to these new laws. For additional information and resources, visit [Employment & Labor](#).

Date Created

July 1, 2024