

Eye on the Session: Labor and Employment bills to watch in the Louisiana Legislature

May 11, 2021

The McGlinchey Stafford Labor and Employment team is monitoring several bills in the 2021 Louisiana Legislative Session as they may impact your business. The session is scheduled to adjourn on June 10.

[House Bill 151](#) provides for administrative penalties up to \$500 per employee for a first offense if an employer willfully misclassifies an employee as an independent contractor as it relates to amounts owed for unemployment compensation contributions. Penalties escalate on subsequent offenses. Currently, the first offense only exposes employers to a warning. House Bill 151 allows the first offense penalty to be waived if the employer comes into compliance within 60 days. This bill recently made it out of the Committee on Labor and Industrial Relations without objection and is pending House floor action.

[House Bill 483](#), which seeks to limit the application of non-competition agreements with physicians, has been and will be hotly contested. HB 483 would limit non-competition contractual provisions that restrict the practice of medicine by primary care physicians. HB 483 makes contracts that restrict any primary care physician from the practice of medicine unenforceable. Primary care physicians are defined as those practicing family medicine, general internal medicine, general psychiatry, general pediatrics, obstetrics, and gynecology. With regard to specialists, non-competition agreements would be unenforceable after three years of employment. HB 483 also limits buyout provisions for specialists and limits the geographical scope of non-competition agreements to the parish of the physician specialist's primary office and up to two contiguous parishes. An amendment excludes rural hospitals from the statute. This bill is scheduled for floor debate on May 11, 2021.

You may have seen our December alert about [New Orleans joining other states and municipalities in banning discrimination on the basis of hairstyles](#). The issue has made its way to Baton Rouge in several bills. [Senate Bill 61](#) would expand current anti-discrimination laws, creating a prohibition on race discrimination on the basis of natural hairstyles. This bill passed the Senate and has been sent to the House for consideration. [House Bill 189](#) proposes a similar expansion of Louisiana's anti-discrimination laws. [House Bill 382](#) would prohibit discrimination in public schools and employment by expanding the definitions of race and national origin to include traits historically associated with race and national origin, including skin color, facial characteristics, and hair texture and styles. The House bills are presently pending before their assigned committees.

Other bills we are watching include **House Bill 245** and **House Bill 480**. Similar to the National Labor Relations Act, [La. R.S. 23:664](#) makes it unlawful for an employer to discriminate, retaliate or take other adverse

employment action against an employee for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee. [HB 245](#) limits La. R.S. 23:664 by excluding employment actions against an employee who has access to wage information of others as part of the employee's essential job function and disclosed the wage information to individuals who do not otherwise have access to such information. HB 245 also makes it unlawful for employers to inquire about or rely on an applicant's wage history for an offer of employment. [HB 480](#), if made law, provides that employers would not be able to inquire about an applicant's criminal history until after an offer of employment is made, and limits consideration of an arrest that did not result in a conviction or was sealed, dismissed, set aside, expunged, or pardoned when making final hiring decisions.

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