



LIVINGHR | Q1 2024

The Inside Scoop

By Alexia Benner (she/her)

New year, new laws.

Your favorite compliance nerd is back for more in '24. If you're new here, every quarter I take some current compliance topics and break them down in a way that's hopefully both entertaining and easy to understand.

Oh and hey, if you see something in blue, it means that it's a clickable link that takes you to the source material.



Get a Mimosa Ready, It's OSHA

Starting in January, some companies that are considered “high-hazard” (100 people or more in agriculture, manufacturing, construction, etc.) **will be required to submit** additional information to OSHA directly. Don't worry, it's stuff you should already be tracking on Form 300 – but have never needed to send right to OSHA. The information will be published on OSHA's website, so people can come to their own conclusions about how safe companies are.



So what does this mean for us?

Dust off your Safety Dance moves and make sure you have comprehensive safety programs, are educating your teams, and are providing necessary PPE. We can help with communications, policies, programs – the works. Oh, and please make sure, if you are subject to the requirements, that your OSHA 300A is up from February 1 – April 30. If you don't know what that is – we can help with that too.



Cash Rules Everything Around Me

Wu-Tang was right on the money. It's not a new year if there aren't movements on minimum wage, and now we have pay transparency joining the conversation as well. A whole bunch of states will have new pay transparency laws passing in 2024, joining the crew that already has them in place.

So what now?

Handbook review. Job posting review. Compression analysis. Market analysis. Pay transparency philosophies. Protocols for raises, bonuses, etc. Compensation philosophy. All things you will want to be in front of – not behind. If you need experts for all of these, we happen to have quite a few on our team who can help you get these things sorted out in a timely way.

DOL is Working Overtime

Some things that are pending: the DOL's **proposed changes** to overtime and minimum wage exemptions; the public comment period ended in November of 2023, so expect a rule coming soon. They also released their **independent contractor** rule that I was talking about in Q3 last year, which shifts to a 6-factor test (called a "totality-of-the-circumstances" test) that looks at each of the factors.



Keep in Mind:

- 1 The nature and degree of the company's control over the work (Does the person doing the work really have control, or does the client dictate schedule, etc?)
- 2 The worker's opportunity for profit or loss (Are they in control of how much they can make because of their skills, or are they getting a regular ol' paycheck?)
- 3 Investments by the worker and the employer (Who is supplying all the stuff?)
- 4 The degree of permanence of the working relationship (We keeping it casual, or does it seem like there's no end in sight?)
- 5 The extent to which the work performed is an integral part of the employer's business (Will we survive without you, or are you essential because you do the core services?)
- 6 The degree of skill and initiative exhibited by the worker (Can anyone do this, or do you have fancy skills?)

So what now?

If you said, "Do a deep-dive compliance assessment and make sure people are classified correctly," then you are the winner. If that sounds about as fun as a root canal, you're in luck. I actually find them fun (I'm sure you're shocked, given the content in this newsletter), and there are a couple of other people hanging around [livingHR](#) that do too. And we have processes to make them go super fast, as well as attorney friends that can give us the green light. No – it's not cheap to bring in an attorney and have pros do this, but I can assure you it will be cheaper than having the DOL do it during an audit. And it's never too early to figure out how many employees will be impacted by these new overtime rules and prepare a plan to either reclassify or figure out what raises would look like from a budget standpoint.

Politics, Schmolitics.

No one's favorite workplace topic, I know, but it's an election year and we're not getting through it with our heads in the sand. Now is the time to look at policies tied to voting leave and political speech (if needed), and make sure line managers know beyond a shadow of a doubt how to handle voting leave. No influencing voting decisions, no suggesting or outright telling people that they can just vote by mail.

So what now?

If it's been a bit since you've had a handbook review, now may be the time – we'll want to check for things like voting policies to make sure those are clear and current (and just an overall checkup). Some states have specific rules around voting, so if you're a multi-state employer, it's a good idea to check into those. Sound like too much work? We have a whole entire team of handbook experts who can help.

It's also not too early to start thinking about (and building) communication strategies around how to talk about politics and elections at work. Spoiler alert: can't really ban it, pragmatically speaking, since the range of topics is so wide. But you can encourage respectful and open conversations, and help people learn the difference between personal opinion and harassment, when to go to HR, etc. It might also be a great time to get some workshops for your teams on the books – how to de-escalate conflict that's no longer positive for leaders, and how to have positive conflict for your broad employee base.

Okay, now breathe in....breathe out.....and saddle up for what promises to be an interesting year.



Sources

Improve Tracking of Workplace Injuries and Illnesses

<https://www.federalregister.gov/documents/2023/07/21/2023-15091/improve-tracking-of-workplace-injuries-and-illnesses>

The DOL's proposed changes to overtime and minimum wage exemptions

<https://www.dol.gov/agencies/whd/overtime/rulemaking>

The DOL's Independent Contractor Rule

<https://www.dol.gov/agencies/whd/flsa/misclassification/rulemaking>



LIVINGHR | Q1 2024

Compliance Updates

FOLLOW LIVINGHR ON SOCIAL



livingHR



@livingHRInc



@livingHRInc