

LEAVE AND DISABILITY REGULATORY COMPLIANCE

# Summary of legislative and regulatory changes

*Private employer sector | Third Quarter 2021*

TABLE OF CONTENTS

California .....3  
    SB 639 (subminimum wage).....3  
Colorado .....4  
    SB 039 (subminimum wage).....4



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# California

## *SB 639 (subminimum wage)*

Enacted Sept. 27, 2021

Effective Jan. 1, 2022

California has amended its [minimum wage laws](#) for persons with disabilities. Under the law, the Industrial Welfare Commission may issue a special license to a person with a physical or mental disability that authorizes their employer to pay them less than the state minimum wage. The license can then be renewed annually. The amended law states that no new licenses may be issued after Jan. 1, 2022. Current license holders may renew existing licenses under certain limited circumstances.

The amended law also includes a multi-year, phase-out plan so that by Jan. 1, 2025, employees with disabilities will receive at least the minimum wage and no further renewals will be issued.

Certain non-profit organizations such as sheltered workshops and rehabilitation facilities may pay employees with disabilities less than the minimum wage without the need for each employee to obtain an individual license. The amended law repeals this provision as of Jan. 1, 2025.

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# Colorado

## *SB 039 (subminimum wage)*

Enacted June 29, 2021

Effective July 1, 2021

Colorado law permits payment of less than the minimum wage to employees with intellectual and developmental disabilities. This [amendment](#) eliminates that subminimum wage. Beginning July 1, 2021, if an employer does not hold a special certificate, the employer may not pay an employee at a wage rate below the minimum wage. Further, employers may not hire any employee at a rate below the minimum wage. “Special certificate” means a certificate issued by the U.S. Department of Labor to an employer that authorizes the employer to pay wages that are less than the minimum wage to employees whose earnings or productive capacity is impaired by age, physical or mental disability or injury.

An employer that holds a special certificate issued on or before July 1, 2021, must submit the following data to the Department of Health Care Policy and Financing concerning individuals who are paid a subminimum wage: the number of individuals currently employed in subminimum wage jobs; the number of hours per week each of these individuals work; and the wages per hour or piece rate earned by these individuals.

These employers must submit a transition plan by June 30, 2022, to the department detailing how the employer plans to phase out the subminimum wage by July 1, 2025. The transition plan must include measurable benchmarks, be informed by evidence-based practices and effective employment models, and be updated and resubmitted to the department until the employer is no longer paying subminimum wages.

Beginning July 1, 2025, no employer may pay an employee with a disability less than the highest applicable minimum wage.

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company’s attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

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