

Virginia's 2026–2028 Employment Law Changes: What Employers Need to Know

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KEY POINTS

- Virginia's HB 636/SB 215 will bar employers from seeking or relying on wage or salary history and will require good-faith wage or salary ranges in all job postings beginning July 1, 2026.
- SB 170 and HB 627/SB 128 will make noncompetes unenforceable after without-cause discharge absent disclosed severance and will sharply limit restrictive covenants for health care professionals as of July 1, 2026.
- HB 1/SB 1 will raise Virginia's minimum wage to \$12.77, \$13.75, and \$15.00 per hour in annual steps through January 2029, with later increases set by the commissioner.
- HB 238 will expand Virginia wage statutes by broadening the definitions of "employer" and "wages," enhancing remedies and collective actions, and imposing new public-works recordkeeping and joint-and-several liability requirements.
- HB 1207/SB 2 will create a statewide paid family and medical leave insurance program effective April 1, 2028, requiring employer contributions to a state fund unless the employer qualifies for an exemption with a comparable private plan.

The Virginia legislature has been hard at work this year, especially in the realm of employment law. Under the approval of Governor Abigail Spanberger, Virginia has drafted multiple new laws that will go into effect as 2026 continues. These laws directly affect employers, and many businesses may find that they are required to adjust internal policies to remain in good standing. Below is a list of new laws, their requirements, and some issues to consider going forward.

WAGE OR SALARY HISTORY AND TRANSPARENCY (EFFECTIVE JULY 1, 2026)

Under House Bill (HB) 636/Senate Bill (SB) 215, Virginia employers will no longer be permitted to seek wage or salary history of prospective employees and must provide wage or salary range transparency. Specifically, employers:

1. May not seek the wage or salary history of a prospective employee;
2. May not rely on the wage or salary history of a prospective employee in considering that employee for employment;
3. May not rely on the wage or salary history of a prospective employee in determining the wages or salary to be paid to that employee upon hire;
4. May not refuse to interview, hire, employ, promote, or otherwise retaliate against a prospective or current employee for (a) declining to provide wage or salary range history, or (b) requesting a wage or salary range from the employer;

5. Must disclose in both public and internal job postings in all jobs, promotions, transfers, or other employment opportunities, the wage, salary, or wage and salary range for the posting; and
6. Must set wage or salary ranges in good faith.

A prospective employee may voluntarily provide the above; and if that happens, the employer may use such information to either (1) support a wage or salary higher than the employer's initial offer, or (2) confirm the wage or salary history of the prospective employee to support a wage or salary higher than the employer's initial offer.

What does this mean for employers? Employers cannot ask about wage and salary histories of prospective employees or current employees. Employers must provide wage and salary ranges in all postings. Failure to abide by these requirements may result in civil action or civil penalties.

What should employers do now? Ensure that all postings have wage and/or salary ranges. Ensure that ranges are established in good faith. Ensure that recruiters and hiring personnel are properly educated on what they may and may not ask prospective employees and current employees about their wage or salary histories.

RESTRICTIVE COVENANTS (EFFECTIVE JULY 1, 2026)

Under SB 170, noncompetes are wholly unenforceable if an employer discharges an employee without cause and has not included a provision allowing for severance benefits or other monetary payment in that circumstance. This provision does not apply if the employee is discharged for cause or resigns voluntarily. Severance benefits or monetary payment must be disclosed in the agreement at the same time the employee signs the noncompete.

SB 170 additionally removes the provision that only a "low wage" employee may bring a civil action. Under SB 170, any employee may bring a civil action in the event of a violation.

HB 627/SB 128 all but prohibits restrictive covenants as they apply to health care professionals (those licensed, registered, or certified by the Board of Medicine, Nursing, Counseling, Optometry, Psychology, or Social Work) except when (1) the covenant is signed in connection with the sale of a health care business, (2) the covenant requires repayment of recruitment related costs and/or costs related to recruiting, educating, or training a health care professional who departs within five years of employment, or (3) the covenant relates to patient non-solicitation of patients whom the employee had "material contact" with during their employment so long as the employee may still disclose (a) their continuing practice of medicine, (b) their new contact information, and (c) the patient's right to choose a health care professional.

What does this mean for non-health care employers? All employers must add severance benefits or payments in consideration for requiring an employee to sign a noncompete after June 30, 2026.

MINIMUM WAGE (EFFECTIVE JANUARY 1, 2027)

HB 1/SB 1 raised the minimum wage to \$12.77/hour (January 2026-January 2027), \$13.75/hour (January 2027-January 2028), and \$15.00/hour (January 2028-January 2029). Any additional increments thereafter will be determined by the commissioner, and employers will be obligated to follow the same.

What does this mean for employers? Employers should already be abiding by the current requirement of

\$12.77/hour.

What should employers do now? Employers should prepare for the planned increases each calendar year.

VOLUNTARY EMERGENCY RESPONDERS AND RETALIATION (EFFECTIVE JULY 1, 2026)

SB 100 prohibits retaliation against employees who are absent from work due to serving as voluntary emergency responders actively responding to an emergency alarm or serving during a state of emergency. Employers are not required to pay these employees during their absence, but such employees must be allowed to take sick or other paid leave where applicable. Employees are required to provide notice each day of absence and must provide a copy of the incident report that they were responding to upon return to work.

What does this mean for employers? Employers must ensure that they are not discharging, disciplining, threatening, discriminating against, or otherwise penalizing employees who act in their capacity as voluntary emergency responders. Employers should note, however, that SB 100 does not apply to any employee that has been deemed an essential employee by either statute or contract.

What should employers do now? Employers should revise employee handbooks, where applicable, and should educate their employees on these provisions.

EMPLOYMENT OF MINORS (EFFECTIVE JULY 1, 2026)

HB 275/SB 10 provides an additional exception to prior child labor laws in the state of Virginia. Under the new code, an employer may hire a child of 16 years and older into an apprenticeship program or other work-based learning experience related to the culinary arts or information technology, so long as: (1) the child remains enrolled in school and receives written support by a school counselor or administrator for each semester the child is hired, (2) the apprenticeship is registered as required by Virginia law or the work-training program is administered as required by Virginia law, and (3) the work performed by the child does not otherwise violate the Fair Labor Standards Act (FLSA) or local laws.

What does this mean for employers? Employers have been granted additional avenues by which they may hire minors, with strict guidelines on administration.

What should employers do now? If desired, employers may create an apprenticeship or work-based learning experience and hire children older than 16.

WAGE STATUTES (EFFECTIVE JULY 1, 2026)

HB 238 provides revisions to Virginia's already existing wage statutes. HB 238:

1. Expands the definition of "employer" to be consistent with the FLSA and include anyone who acts, indirectly or directly, in the interest of the employer;
2. Expands the definition of "wages" to include hourly wages, legally required prevailing wages, piece rate wages, day rates, salaries, overtime wages, commissions, tips, and bonuses, as well as employee damages due to misclassification in violation of Virginia law;
3. Provides additional remedies for employees who have been misclassified by allowing additional damages,

providing a statute of limitations for three years, giving greater strength to collective actions, and other enhancements; and

4. Provides new requirements for those within public works, requiring mandated site postings of prevailing wages, requiring employers to maintain payroll and classification records for six years, requiring employers to provide sworn pay scale certifications, and by expanding joint and several liability for general contractors and increasing ways in which a general contractor may be responsible for a subcontractor's wage violations.

What does this mean for employers? Employers should be aware of how these laws strengthen employee rights and expand their liability.

PAID FAMILY AND MEDICAL LEAVE (EFFECTIVE APRIL 1, 2028)

HB 1207/SB 2 enacts a statewide paid family and medical leave insurance program with administrative obligations beginning on April 1, 2028. Paid leave will be provided to those (1) birthing, adopting, or fostering a new child within a year of such event, (2) caring for a family member with a serious health condition, (3) experiencing a serious health condition, (4) caring for a covered service member or in relation to the covered service member's service, or (5) seeking safety services for themselves or a family member. Employers will be required to contribute to the state fund in amounts to be decided by the commissioner. Additionally, employers may apply for an exemption under this law if they have a private insurance plan with benefits equal to or greater than the benefits provided under HB 1207/SB 2.

What should employers do now? Employers should familiarize themselves with the specifications of HB 1207/SB 2 and determine whether they wish to apply for an exemption or whether they will be required to contribute to the state fund.

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