



What's New in 2018? Review and Preview of Hot Topics in Employment Law

Presented by: GORDON&REES
SCULLY MANSUKHANI

Where We've Been

2017



2016



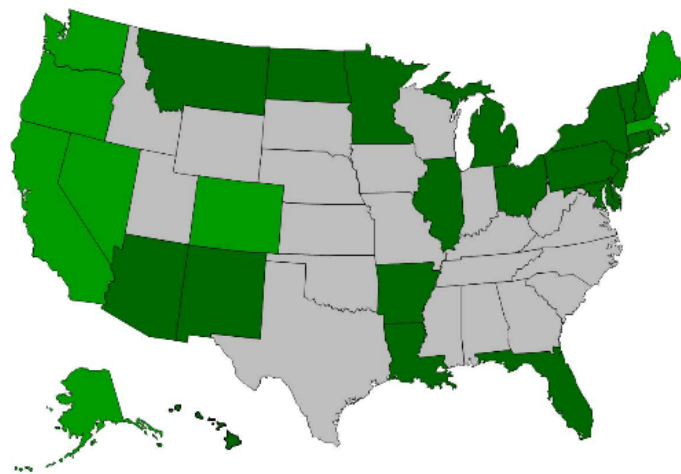
2017



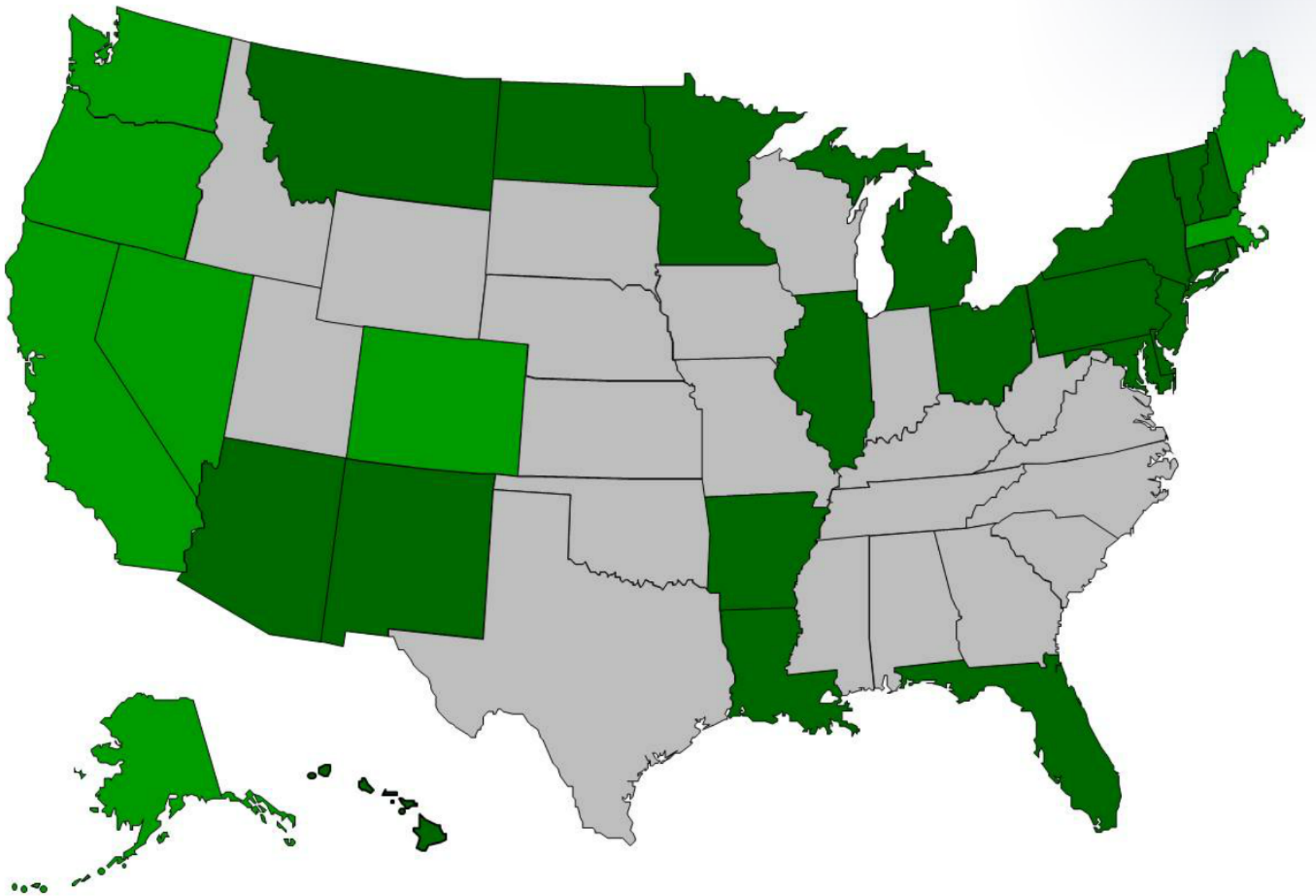


**Social Media
and Bullying in
the Workplace**

Marijuana & Other Drugs



Marijuana Legalization Status
■ Medical marijuana legalized
■ Marijuana legalized for recreational use
■ No laws legalizing marijuana



Marijuana Legalization Status

- Medical marijuana legalized
- Marijuana legalized for recreational use
- No laws legalizing marijuana

Piecemeal Legislation

- Minimum wage increases
- Sick Leave
- Exemptions



Salary Exemptions

- Be prepared

2017



2016



Fair/Equal Pay Acts

Federal

Equal work
Same location

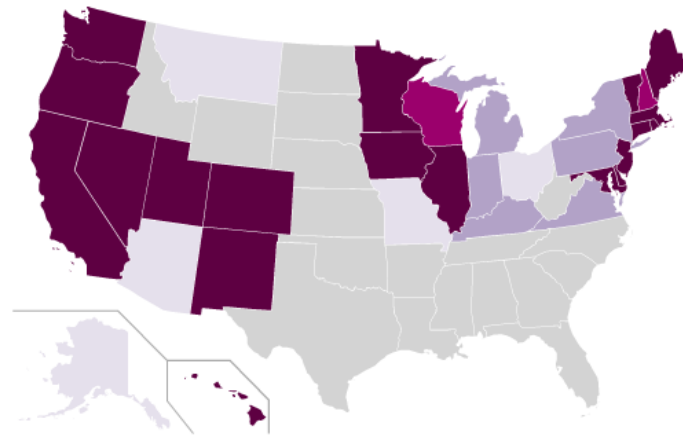
State Trends

Similar work
Other locations

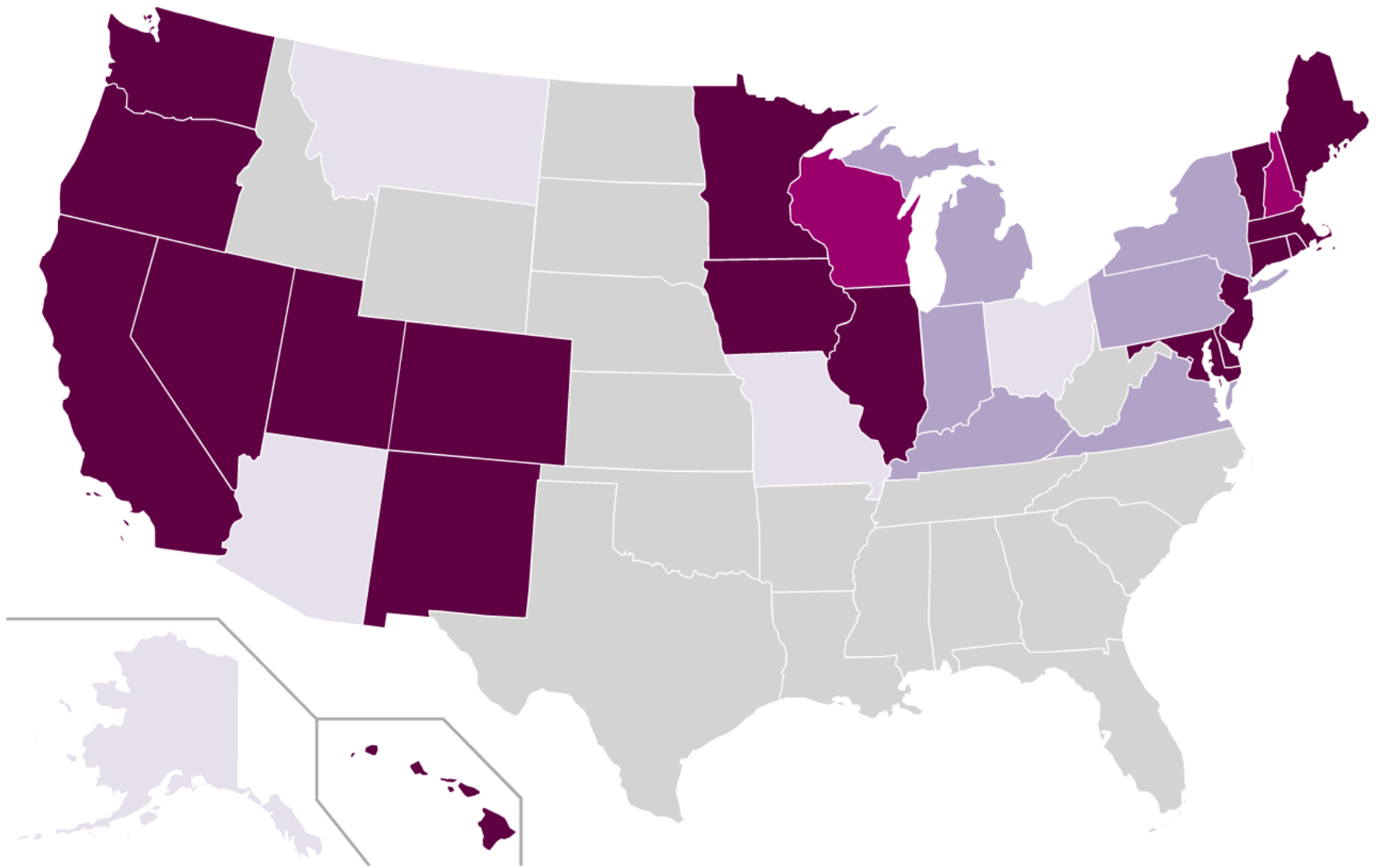
Trend towards increased wage transparency

Same-Sex Issues

Obergefell v. Hodges legalized
same-sex marriage nationwide



19 states bar sexual orientation
and gender identity discrimination
in employment in the public and
private sector.



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Patchwork Jurisdictions

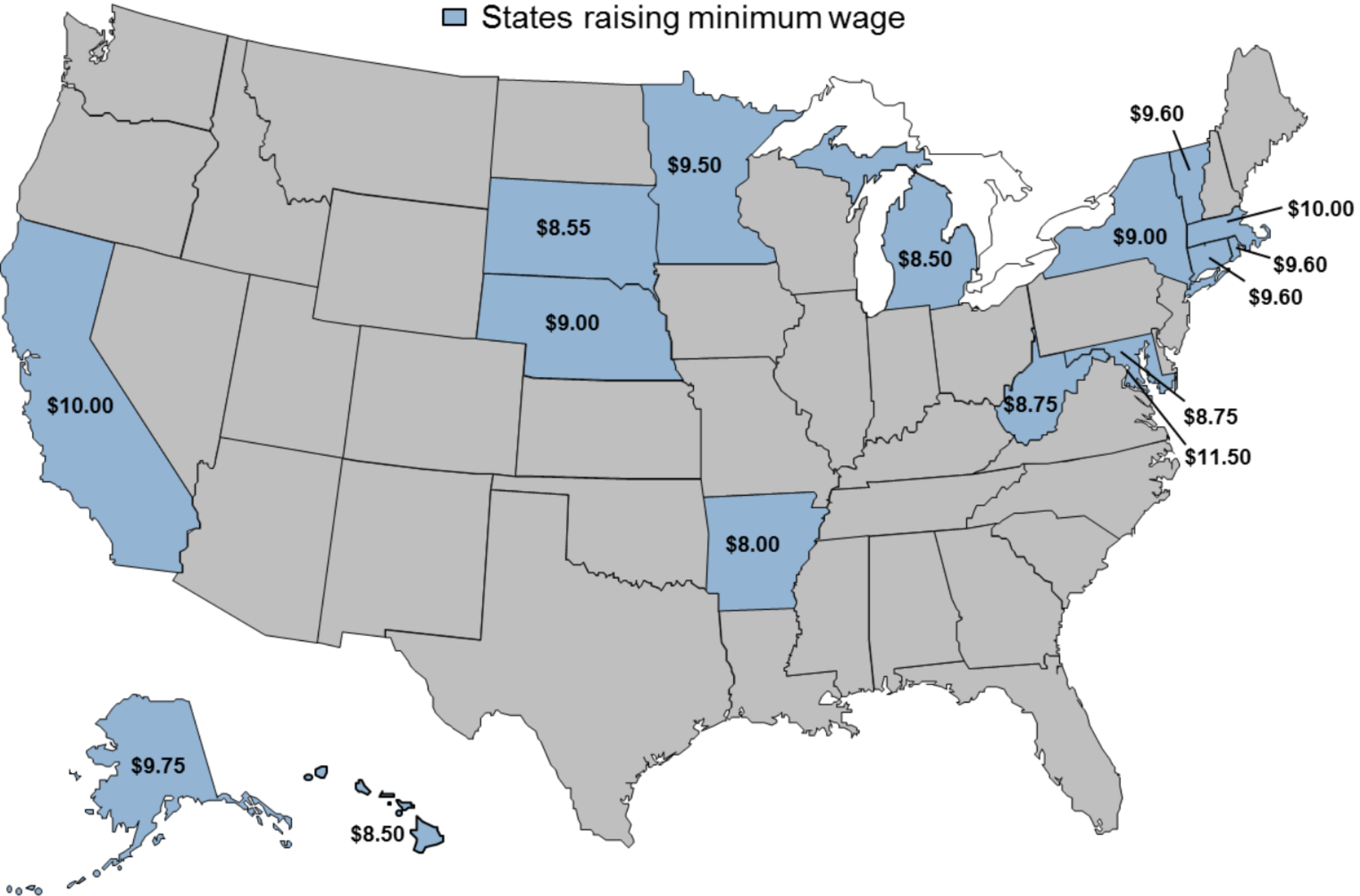
Minimum Wage 

LGBT Employment Rights 

Paid Sick Leave 

State Minimum Wage Increases for 2016

States raising minimum wage

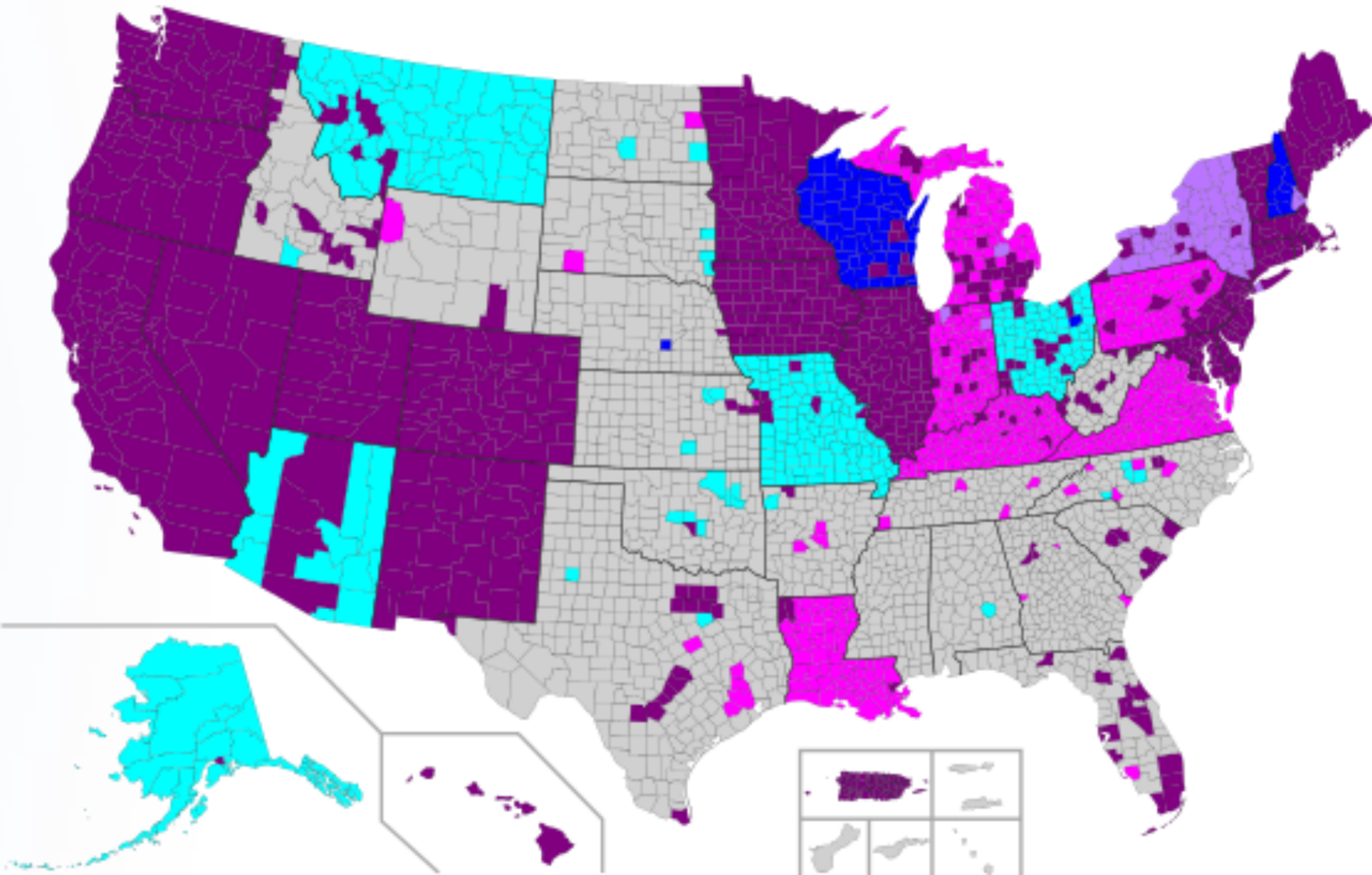


Patchwork Jurisdictions

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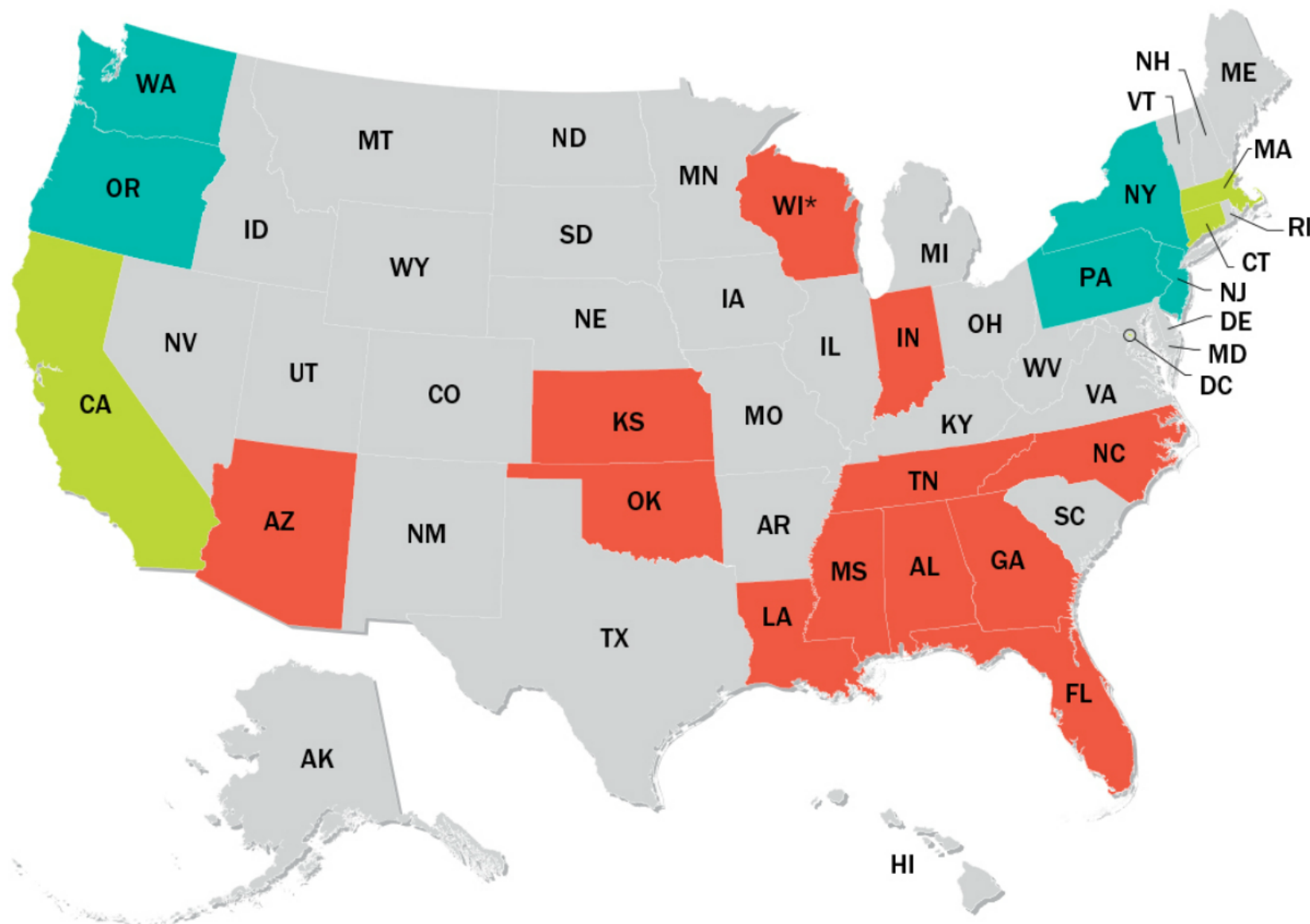


Patchwork Jurisdictions

Minimum Wage 

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Paid Sick Leave 



States/cities mandating paid sick leave

(effective date)

- California** (Jan. 2015)
- Connecticut** (2012)
- Massachusetts** (July 2015)
- Washington, D.C.** (2008)
- Oakland, CA** (March 2015)
- San Diego, CA** (on hold)
- San Francisco, CA** (2007)
- Bloomfield, NJ** (June 2015)
- East Orange, NJ** (Jan. 2015)
- Irvington, NJ** (Jan. 2015)
- Jersey City, NJ** (2014)
- Montclair, NJ** (March 2015)
- Newark, NJ** (2014)
- Passaic, NJ** (Jan. 2015)
- Paterson, NJ** (Jan. 2015)
- Trenton, NJ**** (March 2015)
- New York City, NY** (2014)
- Philadelphia, PA** (May 2015)
- Eugene, OR** (July 2015)
- Portland, OR** (Jan. 2014)
- Seattle, WA** (2012)
- Tacoma, WA** (Feb. 2016)

States with bans against paid sick leave laws

- | | |
|----------------|--------------------|
| Alabama | Louisiana |
| Arizona | Mississippi |
| Florida | N. Carolina |
| Georgia | Oklahoma |
| Indiana | Tennessee |
| Kansas | Wisconsin* |

- States mandating paid sick leave
- States with one or more cities that mandate paid sick leave
- States that prohibit local governments from passing paid sick leave legislation

* Wisconsin's preemption law, enacted in 2011, effectively negated Milwaukee's paid sick leave ordinance that was passed by City of Milwaukee voters in November 2008.
 ** The legality of the Trenton ordinance has been challenged in New Jersey state court.

Politics in the Workplace

- Freedom of speech is not an absolute right
- Difference between political speech and potentially liable speech
- Limitations on speech outside of workplace can be problematic

2016



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2016





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Joint Employer & Independent Contractor Issues

- The NLRB Browning-Ferris Industries Decision has had implications for:
 - Independent Contractors
 - Franchises
 - Staffing Agencies
- 10 to 30 percent of employers may misclassify their employees as independent contractors.

Prescription & Recreational Drugs in the Workplace

- With the rise of legalization of marijuana, drug testing and drug free office policies are becoming a hot topic of discussion for employers and employees alike – the law is convoluted and vague, and it necessarily varies by state
- Prescription Drugs in the Workplace
- Drug Testing



Equal Pay & Gender Equality in the Workplace

<i>Federal</i>		<i>State</i>
Equal work		Similar work
Same location		Other locations

State	Equal Pay Act	Equal Pay Act
Alabama	Yes	Yes
Alaska	Yes	Yes
Arizona	Yes	Yes
Arkansas	Yes	Yes
California	Yes	Yes
Colorado	Yes	Yes
Connecticut	Yes	Yes
Delaware	Yes	Yes
District of Columbia	Yes	Yes
Florida	Yes	Yes
Georgia	Yes	Yes
Hawaii	Yes	Yes
Idaho	Yes	Yes
Illinois	Yes	Yes
Indiana	Yes	Yes
Iowa	Yes	Yes
Kansas	Yes	Yes
Kentucky	Yes	Yes
Louisiana	Yes	Yes
Maine	Yes	Yes
Maryland	Yes	Yes
Massachusetts	Yes	Yes
Michigan	Yes	Yes
Minnesota	Yes	Yes
Mississippi	Yes	Yes
Missouri	Yes	Yes
Montana	Yes	Yes
Nebraska	Yes	Yes
Nevada	Yes	Yes
New Hampshire	Yes	Yes
New Jersey	Yes	Yes
New Mexico	Yes	Yes
New York	Yes	Yes
North Carolina	Yes	Yes
North Dakota	Yes	Yes
Ohio	Yes	Yes
Oklahoma	Yes	Yes
Oregon	Yes	Yes
Pennsylvania	Yes	Yes
Rhode Island	Yes	Yes
South Carolina	Yes	Yes
South Dakota	Yes	Yes
Tennessee	Yes	Yes
Texas	Yes	Yes
Utah	Yes	Yes
Vermont	Yes	Yes
Virginia	Yes	Yes
Washington	Yes	Yes
West Virginia	Yes	Yes
Wisconsin	Yes	Yes
Wyoming	Yes	Yes

Sexual Harassment Claims

- Aftermath of Weinstein
- Impact on negotiations of outstanding sexual harassment claims
- Activity with potentially associated claims - #MeToo movement
- Preventative measures
- Tiered Discipline

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Occupation	Men	Women
Management occupations	\$871	\$719
Food preparation and serving related occupations	\$463	\$419
Building and grounds cleaning and maintenance occupations	\$517	\$413
Personal care and service occupations	\$607	\$455
Sales and related occupations	\$841	\$570
Office and administrative support occupations	\$701	\$637
Production occupations	\$711	\$502

*Change by occupation and sex, 2014 median weekly earnings of full-time, wage and salary workers
Source: BLS.gov, Bureau of Labor Statistics, Bureau of Economic Analysis, Bureau of Economic Analysis

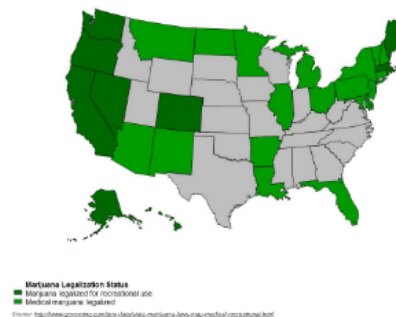
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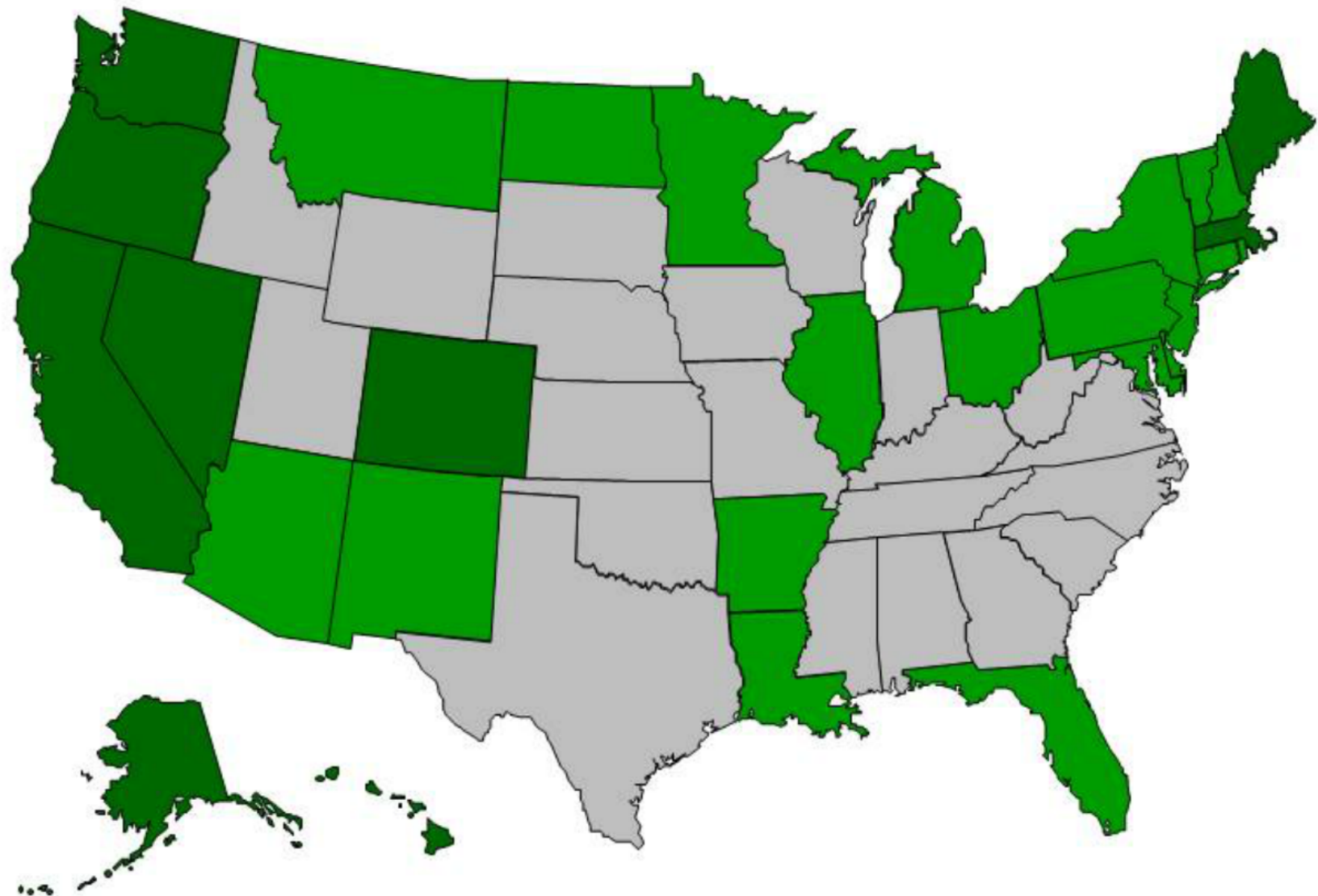
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Source: https://www.dol.gov/wb/stats/earn_occ_sex_14_med_weekly_earn_ft_wsw_2_txt.htm

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Source: <http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html>

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