

CUT AND PASTE POST APRIL, 2017

Preserving Wellness Programs Act

On March 2, 2017, H.R. 1313, the U.S. House Committee on Education and the Workforce introduced the [Preserving Employee Wellness Programs Act](#). The intent of the act is to reaffirm existing law, to allow employee wellness programs to be tied to responsible financial incentives, bring uniformity to the regulation of wellness programs, and clarify that such programs are consistent with the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA). The act is in response to the Equal Employment Opportunity Commission's (EEOC) 1/1/17 wellness program rules that provided guidance to employers and employees on making workplace wellness programs comply with the ADA and GINA, Health Insurance Portability and Accountability Act, and Affordable Care Act.

The Committee maintains the Act will protect employee wellness plans, reassert congressional intent to encourage the development of employee wellness programs, and encourage lower health care costs, which should all result in the promotion of a healthy workforce.

Read the [Fact Sheet](#), EEOC [final ADA rule](#), and EEOC [final GINA rule](#)

Congress Nullifies OSHA Continuing Obligation Rule

On March 22, 2017, the U.S. Senate narrowly adopted House Joint Resolution 83 (H.J. Res. 83), which nullifies a recent Occupational Safety and Health Administration (OSHA) final rule.

As background, OSHA's longstanding position has been:

- (1) an employer's duty to record an injury or illness continues for the full duration of the record-retention-and-access period, which is five years after the end of the calendar year in which the injury or illness became recordable;
- (2) an employer who initially fails to record a recordable injury or illness has an "ongoing duty" to record that case; and
- (3) if an employer fails to comply with this ongoing duty, it results in an ongoing violation of OSHA's recordkeeping requirements and, therefore, OSHA could cite the employer for the violation for up to six months after end of the five-year retention period.

OSHA developed the "[Continuing Obligation Rule](#)" in response to an unfavorable 2012 federal court decision (*AKM LLC d/b/a Volks Constructors v. Sec'y of Labor*) that limited OSHA's ability to issue recordkeeping/reporting citations to 6 months following the occurrence of the violation. This Rule went into effect on January 18, 2017.





























On March 1, the House of Representatives adopted H.J. Res. 83, to preclude OSHA's ability to enforce the Rule. The Senate concurred on March 22. The resolution now goes to President Trump, who will likely sign it.

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Montana Legislative Update


The following is a list of HR-related bills that are still active. Bills in [blue](#) are new since the *March Cut N Paste*. (or were missed in earlier reviews). The session ends 4/30.

Bill Draft #	Requestor	Status	Status Date	Short Title
HB 63  	Jim Hamilton (D) HD 61	Signed by Governor/ Chapter # Assigned	02/17/2017	Require withholding annual returns, W2s, and 1099s to be filed earlier
HB 88  	Moffie Funk (D) HD 82	Signed by Governor/ Chapter # Assigned	2/17/2017	Revise incumbent worker training program requirements
HB 132  	Nate McConnell (D) HD 89	Signed by Governor/ Chapter # Assigned	2/13/2017	Revise unemployment insurance laws (modifies appeals process)
HB 175  	Jim Hamilton (D) HD 61	3 rd Reading Concurred/returned from Enrolling	3/24/2017	Revise laws related to medical savings accounts
HB 308  	Casey Schreiner (D) HD 26	Hearing – (S) Taxation	3/30/2017	Provide for apprenticeship tax credit with increased amount for veterans
HB 364  	Denley M Loge (R) HD 14	Re-referred to Senate Public Health/Welfare/ Safety Committee	3/23/2017	Revise service animal laws
HB 389  	Kirk Wagoner (R) HD 75	Hearing – (S) Public Health/Welfare/Safety	3/27/2017	Generally revise tele-medicine laws for physicians
HB 449  	Wylie Galt (R) HD 30	Hearing – (S) Business, Labor & Economic Affairs	3/15/2017	Revise the definition of wages in workers' compensation insurance.
HB 496  	Vince Ricci (R) HD 55	(S) Returned to House with Amendments	3/25/2017	Exempt seasonal outdoor recreation providers' employees from certain labor laws
HB 655  	George G Kipp (D) HD 15	(H) Hearing - Taxation	03/29/2017; 8:00 AM, Rm 152	Revising employment laws for affirmative action, hiring incentives for Indians
SB 116  	Mark Blasdel (R) SD 4	Hearing Business and Labor	3/21/2017	Disallowing workers' compensation benefits for certain false statements
SB 129  	Mary Caferro (D) SD 41	Transmitted to Governor	3/16/2017	Require insurance coverage of tele dentistry
SB 325  	Brian Hoven (R) SD 13	Hearing (H) Business & Labor.	3/22/2017	Give safe harbors for employers hiring certain criminals
SB 345  	Cary Smith (R) SD 27	(S) Committee Report-- Bill Passed as Amended -- (S) Business, Labor, and Economic Affairs	3/25/2017	Provide for high deductible health insurance thru reimbursements and tax credits.

This bill was recently delivered to the Requestor, so it might be introduced before the end of the session:

LC1562  	JP Pomnichowski (D) SD 33	(C) Draft Delivered to Requestor	3/20/2017	Revise discrimination laws involving peace officers
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These bills have been tabled since the *March Cut N Paste* and are probably dead:

HB 239  	Bill Harris (R) HD 37	(H) –Tabled in Committee	3/20/2017	Provide income tax benefits to employers and students for higher education costs
SB 72  	Pat Connell (R) SD 43	Tabled in Committee (H) Business and Labor	3/15/2017	Create presumptive illness for public firefighters
SB 371  	Frederick (Eric) Moore (R) SD 19	Tabled in Committee -(S) Business, Labor, and Economic Affairs (Introduced 3/23.)	3/24/17	Revise workers' compensation insurance and dissolve the state fund