

CUT AND PASTE POST MAY, 2019

U.S. Supreme Court to Resolve Key Discrimination Questions

On April 22, 2019, the Supreme Court of the United States (SCOTUS) agreed to hear the following cases:

- [*R.G. & G.R Harris Funeral Homes v EEOC*](#)– In this case, the Court will decide whether Title VII of the Civil Rights Act bars discrimination against *transgender* people based on status as transgender people or sex stereotyping under the standards established in [*Price Waterhouse v. Hopkins*](#).
- The Court has consolidated [*Bostock v. Clayton County, GA*](#) with [*Altitude Express Inc. v. Zarda*](#) and, in so doing, will decide whether discrimination “because of . . . sex” includes discrimination based on *sexual orientation* within the meaning of Title VII.

Wage Data Due to EEOC by September 30, 2019

The U.S. Equal Employment Opportunity Commission (EEOC) has announced that EEO-1 filers should plan on submitting employee wage data for calendar years 2017 and 2018 by September 30, 2019. This is in response to a District of Columbia Court decision in *National Women’s Law Center, et al., v. Office of Management and Budget, et al.* The EEOC anticipates that employers will be able to begin reporting this data in mid-July 2019, but it will notify filers of the precise date the survey will open.

Wage data for
Calendar Years
2017 **and** 2018
will be due

Why is this data being requested? Statistics show an ongoing pay gap between males and females. While some of this pay disparity can be attributed to education level, previous experience in the labor force, occupation and industry, collecting this data will help the EEOC identify the not-so-obvious causes of wage disparity and, in turn, help identify and address pay discrimination.

Keep in mind the 2018 Component 1 data (mostly demographic information) **is still due May 31, 2019.** The [EEO-1 survey portal](#) is open and accepting your Component 1 data!

VMC Drivers are Not Employees

On April 29, 2019, the U.S. Department of Labor announced that it has issued a new [FLSA Opinion Letter \(FLSA2019-6\)](#) addressing whether a service provider for a virtual marketplace company (VMC) is an employee of the company or an independent contractor under the FLSA. The letter responds to a request on behalf of a particular VMC and concludes that the workers who

























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provide services to consumers through this company's virtual platform are independent contractors, not employees. It is widely believed that Uber is the VMC in question.

Montana Legislative Wrap Up

The Montana 2019 Legislative Session has concluded. The following bills of general interest to GVHRA members have or will become 'the law of the land'. Stay tuned for more information at a future GVHRA meeting. The next page lists the HR Bills that didn't quite make it through the legislative process.

Bill Type – Number	Primary Sponsor	Short Title
HB 16  	Dave Fern (D) HD 5	Establish affordable housing loan program
HB 67  	Thomas Winter (D) HD 96	Revise unemployment insurance benefits for members of the military
HB 343  	Bradley Hamlett (D) HD 23	Extend retention of (State) employee settlement documents
HB 543  	Zach Brown (D) HD 63	Revise laws related to misdemeanor expungement
HB 631  	Kimberly Dudik (D) HD 94	Create public private partnership to help workers in targeted industries
HB 732  	Derek J Harvey (D) HD 74	Provide workers' compensation premium offset in certain learning programs
HB 751  	Willis Curdy (D) HD 98	Generally revise licensure of plumbers
HB 757  	Derek J Harvey (D) HD 74	Generally revise workers' compensation laws
SB 150  	Bryce Bennett (D) SD 50	Revise ethics laws
SB 160  	Nate McConnell (D) SD 48	Provide workers' compensation for presumptive diseases of firefighters
SB 218  	Steve Fitzpatrick (R) SD 10	Exempt certain students from minimum wage and overtime compensation requirements
SB 295  	Tom Richmond (R) SD 28	Generally revise public employee death benefits

Comment Deadlines Loom for Department of Labor Proposed Rules

Proposed Rule	Comment Deadline	Links
White Collar Rule (See March, 2019 <i>Cut N Paste Post News Flash</i>)	May 21, 2019 (<i>Next week!</i>)	https://www.dol.gov/whd/overtime2019/index.htm
Calculating Regular Rate of Pay	June 12, 2019 (Note New Date!)	https://www.dol.gov/whd/overtime/regularrate2019.htm
Joint Employer Status	June 25, 2019	https://www.dol.gov/whd/flsa/jointemployment2019/



Submit your comments by the deadlines, using the links provided!

Montana 2019 Legislative Wrap Up: HR Bills that Died in the Process

Bill Type - Number	Primary Sponsor	Status	Short Title
HB 171  	David Bedey (R) HD 86	(H) Died in Standing Committee* -- (H) Education	Create career and technical education and workforce development commission
HB 214  	Vince Ricci (R) HD 55	(S) Died in Standing Committee* -- (S) Business, Labor, and Economic Affairs	Revise laws relating to the State Fund
HB 216  	Kimberly Dudik (D) HD 94	(H) Died in Process*	Revise tax laws related to student loan reimbursements by employers
HB 295  	Fred Anderson (R) HD 20	(S) Died in Standing Committee* -- (S) Finance and Claims	Create grant program to encourage work-based learning
HB 313  	Andrea Olsen (D) HD 100	(H) Died in Process*	Allow worker to choose treating physician in workers' compensation cases
HB 323  	Brad Tschida (R) HD 97	(H) Vetoed by Governor*	Provide for free association for non-union public employees
HB 345  	Mary Ann Dunwell (D) HD 84	(H) Died in Process*	Provide a stepped increase in minimum wage to a living wage
HB 465  	Kim Abbott (D) HD 83	(H) Died in Process*	Generally revise the Montana human rights act
HB 468  	Jade Bahr (D) HD 50	(H) Died in Process*	Involve certain state agencies in disability integrated employment programs
HB 547  	Laurie Bishop (D) HD 60	(S) Died in Standing Committee* -- (S) Business, Labor, and Economic Affairs	Revise laws related to employee disclosure of wage information
HB 565  	Casey Schreiner (D) HD 26	(H) Died in Process*	Create the Montana apprentice utilization and investment act
HB 588  	Mary Caferro (D) HD 81	(H) Died in Process*	Prohibit subminimum wages for workers with disabilities
HB 628  	Mary Ann Dunwell (D) HD 84	(H) Died in Process*	Restrict sales to youth of flavored products under tobacco control laws
HB 679  	Jessica Karjala (D) HD 48	(H) Died in Process*	Clarify workweek for overtime-eligible employees
HB 772  	Thomas Winter (D) HD 96	(H) Died in Process*	Providing protections, clarifications regarding employment contracts
HJ 6  	Kimberly Dudik (D) HD 94	(S) Died in Standing Committee* -- (S) Judiciary	Study resolution on post incarceration employment opportunities
HJ 59  	Jessica Karjala (D) HD 48	(H) Died in Standing Committee* -- (H) Business and Labor	Interim study of overtime wage laws and wage exploitation in Montana
SB 15  	Carlie Boland (D) SD 12	(S) Died in Standing Committee* -- (S) Business, Labor, and Economic Affairs	Allow certain state funds to be used for affordable housing infrastructure
SB 18  	Margaret (Margie) MacDonald (D) SD 26	(S) Died in Process*	Establish workforce housing tax credits
SB 23  	Keith Regier (R) SD 3	(H) Died in Process*	Require accommodations to employer-mandated vaccinations to be uniformly offered
SB 53  	Jon C Sesso (D) SD 37	(H) Died in Process*	Revise meal reimbursement for public employees
SB 54  	Fred Thomas (R) SD 44	(S) Vetoed by Governor*	Revise laws governing multiple employer welfare arrangements
SB 78  	Mary McNally (D) SD 24	(H) Died in Process*	Require workers' comp insurers to provide notice to worker of claim closure
SB 122  	Sue Malek (D) SD 46	(S) Died in Standing Committee* -- (S) Public Health, Welfare and Safety	Revise clean indoor air act to include vaping
SB 168  	Brian Hoven (R) SD 13	(H) Died in Process*	Restrict certain initial employment applications regarding criminal history
SB 233  	Terry Gauthier (R) SD 40	(S) Died in Standing Committee* -- (S) Business, Labor, and Economic Affairs	Establish the small business retirement program
SB 272  	Steve Hinebauch (R) SD 18	(S) Died in Standing Committee* -- (S) Business, Labor, and Economic Affairs	Revise zone pay and dispatch cities for prevailing wages
SB 294  	Brian Hoven (R) SD 13	(S) Died in Standing Committee* -- (S) Judiciary	Revise laws related to employing individuals with criminal records
SB 313  	Nate McConnell (D) SD 48	(H) Died in Standing Committee* -- (H) Judiciary	Generally revise enforcement of discrimination laws