CLIENT ALERT: “Grand Bargain” Glitch Preserves Premium Pay for Three Holidays – By Andrea E. Zoia and Keith H. McCown

Under the legislature’s “Grand Bargain” last summer, discussed in greater detail here, many Massachusetts employers were looking forward to ringing in the New Year with reductions in mandatory premium pay for Sundays and holidays. However, an apparent glitch in legislative drafting inexplicably omitted three 2019 holidays from any change in premium pay requirements, including New Year’s Day.

On June 28, 2018, Massachusetts Governor Charlie Baker signed into law “An Act Relative to Minimum Wage, Paid Family Medical Leave and the Sales Tax Holiday,” also known as the “Grand Bargain.” The bargain included a five-year, gradual elimination of mandatory premium pay for work on Sundays and holidays, balanced against increases in the minimum wage, and the creation of an entirely new bureaucratic system implementing paid family and medical leave.

For no apparent reason, mandatory premium pay for non-exempt employees was untouched in 2019 for New Year’s Day, Veteran’s Day, and Columbus Day. Until further notice, employers should ensure they are paying their non-exempt employees one and one-half times their regular rate for work performed on these three holidays.

Before any changes wrought by the Grand Bargain, Massachusetts blue laws required most retailers to pay non-exempt employees at least one and one-half times their regular rate for hours worked on Sundays and various holidays. The new law incrementally reduces and ultimately eliminates the multiplier for Sunday premium pay and holiday pay. Thus, effective January 1, 2019, the premium pay multiplier will drop to 1.4 and continue to drop incrementally until the premium pay is eliminated as of January 1, 2023 – except for the three holidays that were inexplicably omitted. It remains to be seen whether there will be further action to bring all the holidays into line.

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