

## **XpertHR Names the Top Ten Scariest Employment Challenges of 2016**

### *Same-Sex Marriage, Paid Sick Leave, and Wearables Among the Hottest Issues*

New Providence, NJ (Dec. 17. 2015) – Same-sex marriage, lesbian, gay, bisexual and transgender (LGBT) protections, accommodating a diverse workforce, paid sick leave, workplace wearables, and independent contractor rights are among the biggest challenges facing employers in 2016, says a new XpertHR report. Court cases, legislation and regulatory actions have called into question the very nature of who is considered an employer and who is considered an employee as well as what rights and benefits employees should be entitled to in the workplace.

“From providing paid sick leave to extending equal rights and benefits to same-sex partners, an employer must comply with new obligations,” says Beth Zoller, Legal Editor, XpertHR. “An employer who is not prepared stands to face increased costs, including civil fines and fees, criminal penalties, administrative complaints, potential litigation and harm to its business reputation.”

In 2015, the Equal Opportunity Commission secured \$525 million for victims of discrimination in private, state and local government, and federal workplaces. One in five small and medium-sized businesses will face employment charges with an average cost to defend of \$125,000, according to specialty insurer Hiscox.

The following are XpertHR’s top 10 scariest challenges employers will face in 2016. These challenges are numbered by how likely it is that an employer may be affected by a particular development.

**1. Same-Sex Marriage** - The Supreme Court ruled that same-sex married couples have a constitutional right to marry and are therefore entitled to the same rights and benefits as opposite-sex married couples nationwide.

**2. Expanding Protections for LGBT Individuals** - Federal, state and local developments continue to expand the workplace rights of lesbian, gay, bisexual and transgender (LGBT) individuals. An employer should make sure that its workplace policies and practices are compliant.

**3. Reasonable Accommodations for an Increasingly Diverse Workplace** - As workplaces become more inclusive, an employer must ensure that its workplace policies and practices are legally compliant and provide workers with reasonable accommodations based on pregnancy, religion, disability, sexual orientation etc.

**4. Paid Sick Leave** - In addition to President Obama’s Executive Order providing paid sick leave for federal contractors, paid sick leave laws continue to be passed on the state and local level. An employer should determine whether any of the new laws apply and ascertain whether the leave the employer is required to provide is paid or unpaid.

**5. National Labor Relations Board (NLRB) Pursuit of Workplace Policies** - Based on the National Labor Relations Board's (NLRB) report on employer rule cases, an employer should make sure that its employee handbook policies do not infringe upon the right of employees to engage in protected concerted activity or collective action to improve their wages, hours and working conditions. Workplace policies with respect to social media, confidentiality, investigations and communications among other things, should be carefully drafted and avoid overly broad and ambiguous language that interferes with employee rights.

**6. Workplace Wearables** - There are risks to wearables, including employee access of inappropriate information, harassment and invasion of privacy issues, viruses or malware can be introduced into the employer's private and secure network, etc. It is advisable to implement a carefully worded wearable technology policy and outline the proper and improper [use of wearable technology in the workplace](#).

**7. Redefining and Expanding Who Is Entitled to Overtime and Raising the Minimum Wage** - The Department of Labor's proposed regulations, if made final, would greatly increase the number of employees eligible for overtime.

**8. Providing Independent Contractors with Increased Workplace Rights** - Prudent employers should assess all independent contractor relationships and review the measures in place to reduce the risk of misclassification.

**9. Revising the Joint Employer Standard and Expanding the Pool of Employers** - An employer should closely evaluate its business relationships and contracts to assess whether they have the right to control, either directly or indirectly, the terms and conditions of a contracted employee or another business' employee.

**10. Telecommuting and Flexible Work Arrangements** - Approximately 30 to 45 percent of the US workforce now telecommutes on some basis. If an employer chooses to allow employees to telecommute or enter flexible working arrangements, it should be sure to maintain a firm policy that clearly sets forth guidelines.

**Honorable Mention: Health Care Reform** - Applicable large employers (ALEs) are required to report the terms and conditions of the health care coverage they provide or they could be liable for a total penalty of \$3 million in a calendar year.

“To best protect themselves and avoid expensive lawsuits, employers should review and revise their workplace policies and practices and make sure that they are legally compliant,” says Zoller. “Employers should plan for a myriad of new laws and emerging trends that will impact the workplace, the bottom line and business operations in 2016.”

To read the full whitepaper, **Top Ten Scariest Employment Challenges of 2016**, visit XpertHR (need URL).

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