PHTA 2020 Legislative Recap: Arizona

This past session, the PHTA Government Relations team monitored several bills having to do with licensing, independent contractors, and energy efficiency standards in Arizona. Unfortunately, due to COVID-19, most measures impacting the industry failed upon adjournment. We have highlighted a few items we monitored this past session:

Note that many of the bills that failed would need to be reintroduced next session, or via a special session, to receive reconsideration. Senate President Karen Fann (R) says she expects Governor Doug Ducey (R) to call a special session in the next thirty days to address liability and COVID-19 relief. PHTA will continue to monitor any movement or action as a result of a special session.

**HB 2184 - Occupational and professional licensure.** FAILED. This measure failed upon adjournment of the Arizona legislature on May 26. This measure would have required regulating entities to put a paragraph guaranteeing reciprocity on license and certificate applications. HB 2184 required a regulating entity to prominently print the following on all license and certificate applications, regulating entity websites and other communications if it is for a person who is married to an active duty member of the armed forces of the United States:

"Pursuant to section 32-4302, Arizona revised statutes, a person shall be granted an occupational or professional license or certificate if the person has been licensed or certified in another state for at least twelve months, the license or certificate is in the same discipline and at the same practice level as the license or certificate for which the person is applying and the person meets other conditions prescribed by section 32-4302, Arizona revised statutes." This measure also requires the criteria for licensing requirements to be made clear on the regulating entity's website and license and application form.

**HB 2553 - Energy efficient appliance standards.** FAILED. This measure requires that all eligible products, regulated by Energy Star, and sold in Arizona must be Energy Star approved. This measure would have required pool pumps and other Energy Star products in Arizona by mandate. Specifically, a person may not sell a product that is not Energy Star approved unless it is a specific product that cannot be Energy Star approved. Those in violation of this measure, if it has passed, would be subject to legal repercussions.

**HB 2689 - Independent Construction Contractors:** misclassification; tax fraud; task force. FAILED
This measure creates the employee misclassification and payroll tax fraud advisory task force to study and make recommendations regarding issues relating to employee misclassification in the construction industry. This measure failed upon adjournment of the Arizona legislature on May 26 and is not eligible to be carried over to the 2021 Legislative Session.

The task force is to study issues relating to employee misclassification and payroll tax fraud in the construction industry, including:

1. The impact of employee misclassification and payroll tax fraud on this state and local governments of this state and the amount of state revenue, if any, that is lost or not collected due to employee misclassification and payroll tax fraud.

2. The lost earnings of the insurance industry due to employee misclassification and payroll tax fraud.

3. The estimates of the frequency of occurrence and economic impact of employee misclassification and payroll tax fraud and whether particular industries are more likely to engage in the misclassification of employees and payroll tax fraud practices.

4. Whether state law should specify a uniform definition of the employment relationship and, if so, how it should be defined.

5. Whether existing laws of this state aimed at preventing, investigating and taking enforcement action against the failure of employers to properly classify individuals as employees or investigating payroll tax fraud are effective.

6. Whether there are ways to facilitate the sharing of information among agencies represented by task force members relating to violations of laws by employers that fail to classify individuals as employees and that engage in related payroll tax fraud practices.

7. Whether there are new ways to pool, focus and target investigative and enforcement resources relating to employee misclassification and payroll tax fraud practices.

8. New strategies for systematically investigating the failure of employers to properly classify individuals as employees and payroll tax fraud practices.

9. Whether improvements are needed to facilitate the filing of complaints and identify potential violators, including soliciting referrals and other relevant information from the public.

10. Changes in the law, if any, that need to be made to ensure that agencies represented by task force members investigating the failure of employers to properly classify individuals as employees and payroll tax fraud practices under their own statutory or administrative enforcement mechanisms have the authority to refer a matter to other participating agencies for assessment of potential liability under the other agencies’ relevant statutory or administrative enforcement mechanisms.

11. Innovative ways to prevent misclassification of employees by employers and payroll tax fraud practices, such as through disseminating educational materials regarding the legal differences between independent contractors and employees.
12. Methods by which public awareness can be increased of the illegal nature and harms inflicted by the failure of employers to properly classify individuals as employees and payroll tax fraud practices.

13. Any other issues relating to employee misclassification and payroll tax fraud practices in the construction industry.

On or before February 1, 2022, and on or before February 1 annually thereafter, the task force shall submit a report on its findings and progress to the senate commerce committee and the house of representatives' commerce committee.