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# Federal Law

## Arrests and Convictions

# Federal Law

Although there is no federal law that clearly prohibits an employer from asking about arrest and conviction records, using such records as an absolute measure to prevent an individual from being hired could limit the employment opportunities of some protected groups. As a result, employers generally should not use an applicant's criminal history as an absolute bar to employment.

There are two ways in which an employer's use of criminal history information may violate [Title VII of the federal Civil Rights Act,](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm) which applies to employers with 15 or more employees. First, employers may not treat applicants with the same criminal records differently because of their race, color, religion, sex, or national origin. Second, an employer's neutral policy or practice of excluding individuals based on certain criminal conduct may disproportionately screen out individuals of a particular race or national origin. Such an exclusion is unlawful unless the employer can show that it is "job related and consistent with business necessity."

Several state laws limit the use of arrest and conviction records by prospective employers. These range from rules prohibiting an employer from asking applicants any questions about arrest records to those restricting an employer's use of criminal history information in making employment decisions.

## Child Labor

# Federal Law

The federal Fair Labor Standards Act restricts the hours that minors under 16 years of age can work and prohibits minors under age 18 from working in certain occupations deemed to be hazardous, including excavation, manufacturing explosives, mining, and operating many types of power-driven equipment.   
  
Under the law, employers are allowed to pay a youth minimum wage of not less than $4.25 an hour to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment.  
   
All states have rules regarding the employment of young workers. Regulations provide very specific information on prohibited occupations and other safety standards. In addition, some states have separate minimum wage requirements. When federal and state rules are different, the rule that provides the most protection to the employee will apply.

## Continuation of Benefits

# Federal Law

The federal [Consolidated Omnibus Budget Reconciliation Act](http://www.dol.gov/dol/topic/health-plans/cobra.htm) (COBRA) generally requires group health plans sponsored by employers with 20 or more employees in the prior year to offer employees and their families the option to continue benefits for limited periods of time when coverage under the plan would otherwise end due to certain qualifying events. These events include voluntary or involuntary job loss, reduction in hours worked, death, divorce, and other life events.  
  
COBRA sets rules for how and when continuation coverage must be offered, how employees and their families may elect COBRA, and what circumstances justify terminating coverage. The length of time for which continuation coverage must be made available depends on the type of [qualifying event](https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/cobra-continuation-health-coverage-compliance). For termination of employment or a reduction in hours, the maximum period of COBRA is generally 18 months. Up to 36 months of coverage may be available due to other qualifying events, or if a second qualifying event occurs during the initial period of COBRA coverage.  
  
Please review our [COBRA Steps to Success](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3982) to understand the key areas involved in implementing COBRA for your company. Most states also have laws (commonly referred to as "mini-COBRA" laws) which require that group health plans provide COBRA-like continuation of benefits for certain employees and their families.

## Deductions From Wages

# Federal Law

The federal Fair Labor Standards Act (FLSA) prohibits employers from deducting the cost of any items which are considered primarily for the benefit or convenience of the employer from a non-exempt employee's wages, if the deduction would reduce the employee's earnings below the required minimum wage or overtime pay. Employers are required to keep records regarding all deductions from an employee's wages.   
  
Some examples of items which would be considered to be for the benefit or convenience of the employer are tools used in the employee's work, damages to the employer's property by the employee or any other individuals, financial losses due to clients/customers not paying bills, and theft of the employer's property by the employee or other individuals.  
  
Deductions from the pay of exempt employees are more complicated due to the fact that there are very specific terms and conditions that must be met in order to claim a particular exemption. For example, in order to qualify for exemption from the FLSA minimum wage and overtime pay protections as a bona fide executive, administrative, or professional employee, an employee generally must meet certain tests regarding his or her job duties and be paid on a salary basis at not less than $455 per week.    
  
Many states also have laws that address when an employer can lawfully withhold amounts from an employee's wages, as well as requirements related to obtaining written authorization prior to making deductions from wages, and providing notice to employees.

## Discrimination

# Discrimination

Among the most important laws that impact your workplace are nondiscrimination laws. The federal nondiscrimination laws prohibit discrimination throughout the course of the employee life cycle, including hiring and firing, promotions, pay, benefits and other terms and conditions of employment.

These laws include:

* [Title VII of the Civil Rights Act of 1964](http://www.eeoc.gov/laws/statutes/titlevii.cfm), which covers employers with 15 or more employees and prohibits discrimination in employment on the basis of
  + Race;
  + Color;
  + Sex (including [Pregnancy](http://www.eeoc.gov/laws/statutes/pregnancy.cfm));
  + Religion; and
  + National origin.
* [The Equal Pay Act](http://www.eeoc.gov/laws/statutes/epa.cfm), which requires that men and women in the same workplace be given equal pay for equal work. Virtually all employers are subject to this law.
* [The Americans with Disabilities Act (ADA)](http://www.eeoc.gov/laws/statutes/ada.cfm), which prohibits discrimination against qualified individuals with disabilities. The ADA also requires covered employers (those with 15 or more employees) to provide a reasonable accommodation to these qualified individuals, unless the accommodation would impose an undue hardship on the employer’s operations.
* [The Age Discrimination in Employment Act (ADEA)](http://www.eeoc.gov/laws/statutes/adea.cfm), which prohibits covered employers (those with 20 or more employees) from discriminating against individuals age 40 and older on the basis of their age. This law also has requirements related to the treatment of pension benefits for older workers.  See the [Older Workers Benefit Protection Act (OWBPA)](http://www.eeoc.gov/facts/age.html), which is part of the ADEA.
* [The Uniformed Services Employment and Reemployment Rights Act (USERRA)](http://www.dol.gov/compliance/guide/userra.htm), which prohibits discrimination against a person on the basis of past military service, current military obligations, or intent to serve. USERRA applies to virtually all employers, regardless of size. Many states also provide job-protected military leave.
* [The Genetic Information Nondiscrimination Act (GINA)](http://www.eeoc.gov/laws/statutes/gina.cfm), which prohibits discrimination in employment based on genetic information. GINA covers employers with 15 or more employees.

**Note: Many states have similar laws prohibiting discrimination based on these classifications and against other protected classes.**

## "Supervisor Status" for Workplace Harassment Claims

Under Title VII, an employer's liability for workplace harassment may depend on the status of the harassing employee. If the harasser is a co-worker of the victim, the employer is only liable if it was negligent in controlling working conditions. However, if the harasser is the victim's supervisor, different rules apply:

* An employer is always responsible (under principles of vicarious liability) for harassment by a supervisor that culminates in a tangible employment action, such as hiring, firing, failing to promote, etc.
* If no tangible employment action is taken, the employer may escape liability by establishing, as an affirmative defense, that the employer exercised reasonable care to prevent and correct any harassing behavior and that the employee unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided.

Thus, a finding of supervisor status has significant consequences for employers.

The [Supreme Court has ruled](http://www.supremecourt.gov/opinions/12pdf/11-556_11o2.pdf) that an employee is a "supervisor" for purposes of Title VII vicarious liability **only if he or she is empowered by the employer to take "tangible employment actions" against the victim (i.e., hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits).**

## Domestic Violence, Sexual Assault, and Stalking

The U.S. Equal Employment Opportunity Commission (EEOC) has published [Questions and Answers: The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking](http://www.eeoc.gov/eeoc/publications/qa_domestic_violence.cfm). Because neither Title VII of the Civil Rights Act of 1964 nor the Americans with Disabilities Act prohibits discrimination against applicants or employees who experience domestic or dating violence, sexual assault, or stalking as such, potential employment discrimination and retaliation against these individuals may be overlooked. The guidance provides examples illustrating how Title VII and the ADA may apply to employment situations involving applicants and employees who experience these offenses. For more information, please [click here](http://www.eeoc.gov/eeoc/publications/qa_domestic_violence.cfm).

## Drug Testing

# Federal Law

Federal law generally does not prohibit the practice of testing employees for drugs or alcohol. However, there are several states that restrict an employer's ability to randomly test employees who are not in safety-sensitive positions. Thus, it is very important that employers familiarize themselves with the various state laws that may apply to their organizations before implementing a drug-testing program.

Under certain circumstances, someone with a history of alcoholism or drug addiction may be considered a qualified individual with a disability under the federal Americans with Disabilities Act (ADA) or applicable state disability discrimination laws. The ADA, which generally applies to employers with 15 or more employees, specifically permits employers to prohibit the use of alcohol or the illegal use of drugs in the workplace. It also permits employers to require that employees not be under the influence of alcohol or the illegal use of drugs in the workplace.

The federal Drug-Free Workplace Act of 1988 requires some federal contractors and all federal grantees to agree that they will provide drug-free workplaces as a precondition of receiving a contract or grant from a federal agency. While drug testing is not required under the Drug-Free Workplace Act of 1988, organizations covered by the law are required to take certain steps to provide a drug-free workplace. g employment decisions.

## Employee Leave

# Federal Law

A number of [federal laws](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3029) require employers to grant eligible employees leave from work (either paid or unpaid) for various reasons outside of family and medical leave.  
  
For example, the federal Jury System Improvement Act prohibits employers from discharging any permanent employee by reason of the employee's federal jury service or scheduled attendance for such service. Many states also prohibit employers from penalizing employees for attending jury service, and some require employers to pay employees who are asked to serve jury duty.    
  
The federal Uniformed Services Employment and Reemployment Rights Act (USERRA) provides service members the right to be reemployed in their civilian jobs following military service, if certain conditions are met. Many states have enacted their own mandatory military leave laws.  
  
While there is no federal law that requires employers to provide employees time off to vote in a national or state election, many states have voting leave laws which regulate the amount of time permitted away from the workplace to vote, whether wages may be deducted, and which elections are subject to the requirements for voting leave.  
  
Many states also have laws requiring that employers allow employees to be absent from work, either with or without pay, due to other specified circumstances.

## Family and Medical Leave

# Federal Law

The federal [Family and Medical Leave Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2943) (FMLA) generally requires private employers with 50 or more employees to provide eligible employees with up to 12 weeks of unpaid leave during a 12-month period for certain family and medical reasons. Those reasons include the birth and care of a newborn child or placement of an adopted or foster child with an employee, as well as leave to care for an immediate family member with a serious health condition or when an employee is unable to work because of the employee’s own serious health condition (including incapacity due to pregnancy).  
  
Employees are eligible for federal FMLA leave if they have worked for their employer for at least 12 months, at least 1,250 hours over the past 12 months, and work at a location where the company employs 50 or more employees within 75 miles. Employers subject to FMLA are required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee continued to work. Upon return from FMLA leave, an employee generally must be restored to his or her original position or an equivalent position identical to the original in terms of pay, benefits, and other terms and conditions.  
  
Many states also have laws requiring that employers grant certain employees leave from work due to specified family, medical, or other circumstances.

## Final Pay Requirements

# Federal Law

Employers are not required by federal law to give a former employee his or her final paycheck immediately. Some states, however, may require immediate payment or payment at another specified time. Under state law, requirements regarding timing of the final paycheck may depend on whether an employee is terminated or voluntarily quits.

## Immigration and Verifying Employment Eligibility

# Federal Law

Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or foreign citizens who have the necessary authorization. To comply with the law, employers must verify the identity and employment authorization of each employee hired to work in the United States by completing and retaining [Form I-9](http://www.uscis.gov/i-9-central).  
  
[E-Verify](http://www.uscis.gov/e-verify) is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, to determine the eligibility of that employee to work in the United States. Use of E-Verify is mandatory for certain [federal contractors](http://www.uscis.gov/e-verify/federal-contractors). Some private companies may also be required by state law to use E-Verify.

## Meal and Rest Breaks

# Federal Law

The federal [Fair Labor Standards Act](http://www.dol.gov/dol/topic/workhours/breaks.htm) (FLSA) does not require employers to provide meal periods or rest breaks for non-exempt employees, except for [break time for nursing mothers](http://www.dol.gov/whd/nursingmothers/). However, employers that do provide breaks and meal periods must follow certain rules.   
  
Rest breaks must be counted as hours worked for purposes of minimum wage and overtime requirements under federal law. These breaks include short periods (usually 20 minutes or fewer) that employees are allowed to spend away from the work site for any reason—for example, smoke breaks, restroom breaks, and breaks to make personal phone calls or to get coffee or soft drinks.  
  
Bona fide meal periods (typically at least 30 minutes) are generally not considered work time under federal law, so long as the employee is completely relieved from duty during the meal period. An employee is not completely relieved from duty if he or she is required to perform any duties or do any work (active or inactive) while eating. It is not necessary that an employee be permitted to leave the premises if he or she is completely relieved from duty during the meal period.  
  
Many states require that employers provide meal periods and rest breaks (paid or unpaid), and some specify a particular time when breaks or meal periods must be given. Where both the FLSA and a state labor law apply, the employee is entitled to the most beneficial provisions of each law.

## Minimum Wage

# Federal Law

The federal Fair Labor Standards Act generally requires employers of covered employees who are [not otherwise exempt](https://webapps.dol.gov/elaws/whd/flsa/screen75.asp) to pay these employees a minimum wage of not less than **$7.25 per hour**.  
   
Youths under 20 years of age may be paid a minimum wage of not less than $4.25 an hour during the first 90 consecutive calendar days of employment with an employer.  
  
Employers of tipped employees (i.e., those who customarily and regularly receive more than $30 a month in tips) may consider such tips as part of their wages, but employers must pay a direct wage of at least $2.13 per hour if they claim a tip credit. They must also meet certain [other requirements](http://www.dol.gov/whd/regs/compliance/whdfs15.pdf).  
  
In cases where an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages. Be sure to also comply with any city or other local wage requirements (which may be **higher** than the state or federal minimum wage) that may apply to your business.

## New Hire Reporting

# Federal Law

Employers are required by federal law to report information about newly hired and rehired employees to a designated state agency. Many states accept a copy of Form W-4 with employer information added. Employers must adhere to the reporting time frame of the state to which the employer reports.  
  
New hire reports are matched against child support records at the state and national levels to locate parents who owe child support.

## Occupational Safety and Health

# Federal Law

The U.S. Occupational Safety and Health Administration (OSHA) covers most private sector employers and workers, either directly through federal OSHA or through an OSHA-approved state plan. State plans are OSHA-approved job safety and health programs operated by individual states instead of federal OSHA.  
  
OSHA approves and monitors all state plans. State plans must set workplace safety and health standards that are at least as effective as OSHA standards. Many state plans adopt standards identical to OSHA. State plans have the option to promulgate standards covering hazards not addressed by OSHA standards. A state plan must conduct inspections to enforce its standards, cover state and local government workers, and operate occupational safety and health training and education programs.

## Overtime

# Federal Law

Unless [specifically exempted](https://webapps.dol.gov/elaws/whd/flsa/screen75.asp), employees covered by the federal Fair Labor Standards Act (FLSA) generally must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rates of pay. The FLSA does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime hours are worked on such days.  
  
The FLSA applies on a workweek basis. An employee's workweek is a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted. Normally, overtime pay earned in a particular workweek must be paid on the regular pay day for the pay period in which the wages were earned.  
  
Some states also have enacted overtime laws. Where an employee is subject to both the state and federal overtime laws, the employee is entitled to overtime according to the higher standard (i.e., the standard that will provide the higher rate of pay).

## Personal Information Protection

# Federal Law

Businesses that collect sensitive information from employees or customers must take appropriate steps to properly secure and dispose of it. Depending on the type of personal information that is collected and how it will be used, employers may be subject to a number of requirements under federal law.  
  
The [Federal Trade Commission](https://www.ftc.gov/tips-advice/business-center/privacy-and-security) regulates and oversees several business privacy laws that may impact employers. For example, the Fair Credit Reporting Act sets out rules for companies that use data to determine creditworthiness, insurance eligibility, suitability for employment, and to screen tenants.  
  
The Gramm-Leach-Bliley Act requires financial institutions to implement reasonable security policies and procedures. Under the Red Flags Rule, financial institutions and certain creditors must have identity theft prevention programs to identify, detect, and respond to patterns, practices, or specific activities that could indicate identity theft.  
  
Many states also have laws requiring employers to comply with specific procedures to safeguard the personal information of employees and customers.

## Posters

# Federal Law

Some of the statutes and regulations enforced by the U.S. Department of Labor (DOL) and other federal agencies require that notices be provided to employees and/or posted in the workplace. DOL provides free electronic and printed copies of its required posters. Please note that the elaws Poster Advisor provides information on federal DOL poster requirements only. For state posting requirements, contact your [state labor department](http://www.dol.gov/whd/contacts/state_of.htm) or the [state contact list](http://www.sba.gov/districtoffices) on sba.gov.

**Get Online One-on-One Poster Guidance—Great Business Tool**!

The DOL’s [elaws Poster Advisor](http://www.dol.gov/elaws/posters.htm) can be used to determine which poster(s) employers are required to display at their place(s) of business. Posters, available in English and other languages, may be downloaded and printed directly from the Advisor. If you already know which poster(s) you are required to display, see below to download and print the appropriate poster(s) free of charge.

### DOL Poster Requirements

The following is a listing of [downloadable federal posters](https://www.dol.gov/general/topics/posters) from the DOL:

| **Federal Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| [Notice: Employee Polygraph Protection Act](http://www.dol.gov/whd/regs/compliance/posters/eppa.htm" \o "Notice: Employee Polygraph Protection Act" \t "_blank)  Wage and Hour Division 29 CFR 801.6 | **WHO MUST POST:** Any employer engaged in or affecting commerce or in the production of goods for commerce. Does not apply to federal, state and local governments, or to circumstances covered by the national defense and security exemption.  **OTHER INFORMATION:** The Act extends to all employees or prospective employees regardless of their citizenship status. Foreign corporations operating in the United States must comply or will result in penalties for failing to post. The poster must be displayed where employees and applicants for employment can readily observe it.  **Please note** that the [June 2003 revision of the Employee Polygraph Protection Act Poster](http://www.dol.gov/oasam/programs/osdbu/eppac.pdf), is still valid and employers may continue to post them. | [English](http://www.dol.gov/whd/regs/compliance/posters/eppa.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/eppaspan.htm) |
| [Equal Employment Opportunity is the Law](http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm" \t "_blank)  Office of Federal Contract Compliance Programs Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; 38 U.S.C. 4212 of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; 41 CFR Chapter 60-l .42; 41 C.F.R 60-250.4(k); 4 1 C.F.R. 60-74 1.5(a)4 | **WHO MUST POST:** Employers with 15 or more employees and entities holding federal contracts or subcontracts or federally assisted construction contracts of $10,000 or more; financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes; depositories of federal funds or entities having government bills of lading. Please note that the [EEOC](http://www.eeoc.gov/policy/vii.html)\* may provide additional posting requirements at Section 2000e-10 [§711].  **OTHER INFORMATION:** Post copies of the poster in conspicuous places available to employees, applicants for employment, and representatives of labor organizations with which there is a collective bargaining agreement. Also, non- construction contractors or subcontractors with 50 or more employees and a contract of $50,000 or more [otherwise required by 41 CFR 60-2.1 (a)] should develop an equal opportunity policy as part of an affirmative action plan and post the policy on company bulletin boards. 41 CFR 60-2.2 1 (a)(9).  Poster is designed to be printed on 11 by 17 inch page. | [English](http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm) [Spanish](http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm) |
| [Fair Labor Standards Act (FLSA)](http://www.dol.gov/whd/regs/compliance/posters/flsa.htm" \t "_blank)  Minimum Wage Poster  Wage and Hour Division | **WHO MUST POST:** Every private, federal, state and local government employer employing any employee subject to the Fair Labor Standards Act, 29 USC 211, 29 CFR 516.4 posting of notices.  **OTHER INFORMATION:** Any employer of employees to whom sec. 7 of the Fair Labor Standards Act does not apply may alter or modify the poster legibly to show that the overtime provisions do not apply.  If you choose the large version of the poster, the printer must be capable of 11 by 17 prints or the two printed pages must be taped or pasted together to form an 11 x 17 inch poster. Otherwise the poster fits on a single 8 1/2 x 11 inch page. | [English (PDF)](http://www.dol.gov/whd/regs/compliance/posters/flsa.htm) [Spanish (PDF)](http://www.dol.gov/whd/regs/compliance/posters/flsaspan.htm) [Chinese (PDF)](http://www.dol.gov/whd/resources/posters.htm) [Russian (PDF)](http://www.dol.gov/whd/resources/posters.htm) [Thai (PDF)](http://www.dol.gov/whd/resources/posters.htm) [Hmong (PDF)](http://www.dol.gov/whd/resources/posters.htm) [Vietnamese (PDF)](http://www.dol.gov/whd/resources/posters.htm) [Korean (PDF)](http://www.dol.gov/whd/resources/posters.htm)  Specific posters for:  [State & Local Gov't Employees (PDF)](http://www.dol.gov/whd/resources/posters.htm)  [Agricultural Employees (PDF)](http://www.dol.gov/whd/resources/posters.htm)  [American Samoa (PDF)](http://www.dol.gov/whd/resources/posters.htm)  [Northern Mariana Islands (PDF)](http://www.dol.gov/whd/resources/posters.htm) |
| [Your Rights Under the Family and Medical Leave Act](http://www.dol.gov/whd/regs/compliance/posters/fmla.htm" \o "Your Rights Under the Family and Medical Leave Act                           " \t "_blank)  Wage and Hour Division 29 CFR 825.300, .402 | **WHO MUST POST:** Public agencies (including state, local, and federal employers), public and private elementary and secondary schools, as well as private sector employers who employ 50 or more employees in 20 or more work weeks and who are engaged in commerce or in any industry or activity affecting commerce, including joint employers and successors of covered employers.  **OTHER INFORMATION:** Where an employer’s workforce is not proficient in English, the employer must provide the notice in the language the employee speaks. The poster must be posted prominently where it can be readily seen by employees and applicants for employment. | [English](http://www.dol.gov/whd/regs/compliance/posters/fmla.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/fmlaspan.htm) |
| [Job Safety and Health Protection](http://www.osha.gov/Publications/poster.html" \t "_blank) **(NEW as of April 2015)**  Occupational Safety and Health Administration 29 USC 657(c), 29 CFR 1903.2 | **WHO MUST POST:** Private employers engaged in a business affecting commerce. Does not apply to federal, state or political subdivisions of states.  **OTHER INFORMATION:** The OSHA poster must be displayed in a conspicuous place where employees and applicants for employment can see it. Reproductions or facsimiles of the poster must be at least **8 1/2 by 14 inches with 10 point type**. Employers in states operating OSHA-approved state plans should obtain and post the state’s equivalent poster. | [English](http://www.osha.gov/Publications/poster.html) [Spanish](http://www.osha.gov/Publications/poster.html) |
| [Uniformed Services Employment and Reemployment Rights Act](http://www.dol.gov/elaws/firststep/poster_direct.htm?p_userra=1" \o "Uniformed Services Employment and Reemployment Rights Act" \t "_blank)  (Notice for use by all employers.)  Veterans' Employment and Training Service  38 U.S.C. 4334, 20 CFR 1002. | **WHO MUST POST:** The full text of the notice must be provided by each employer to persons entitled to rights and benefits under USERRA.  **OTHER INFORMATION:** Employers may provide the notice by posting it where employee notices are customarily placed. However, employers are free to provide the notice in other ways that will minimize costs while ensuring that the full text of the notice is provided (e.g., by distributing the notice by direct handling, mailing, or via electronic mail). | [English](http://www.dol.gov/elaws/firststep/poster_direct.htm?p_userra=1) |
| [Employee Right for Workers with Disabilities/Special Minimum Wage Poster](http://www.dol.gov/whd/regs/compliance/posters/disab.htm" \t "_blank)  Wage and Hour Division 29 CFR 525.14 | **WHO MUST POST:** Every employer having workers employed under special minimum wage certificates authorized by section 14(c) of the Fair Labor Standards Act.  **OTHER INFORMATION:** Where an employer finds it inappropriate to post such a notice, the employer may provide the poster directly to all employees subject to its terms.  Your printer must be capable of 11 x 17 prints or the two printed pages must be taped or pasted together to form an 11 by 17 inch poster. Otherwise the poster fits on a single 8 1/2 x 11 inch page. | [English](http://www.dol.gov/whd/regs/compliance/posters/disab.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/disabspan.htm) |

| **E-Verify** | **Notes** | **Poster Format** |
| --- | --- | --- |
| [E-Verify Participation](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) | **Notice of Employer Participation in E-Verify**  Employers participating in [E-Verify](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2851) are required to post the notice provided by the Department of Homeland Security indicating the company’s participation in the E-Verify program, as well as the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice.  The posting must take place in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system. The required notices are available by clicking on the links below. | [English](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) [Spanish](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) |
| [Right to Work](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) | **Notice of Employer Participation in E-Verify**  Employers participating in [E-Verify](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2851) are required to post the notice provided by the Department of Homeland Security indicating the company’s participation in the E-Verify program, as well as the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice.  The posting must take place in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system. The required notices are available by clicking on the links below. | [English](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) [Spanish](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=38700f4752f0a210VgnVCM100000082ca60aRCRD&vgnextchannel=38700f4752f0a210VgnVCM100000082ca60aRCRD) |

| **Federal Contractors** | **Notes** | **Poster Format** |
| --- | --- | --- |
| [Federal Minimum Wage for Contractors](http://www.dol.gov/whd/regs/compliance/posters/mw-contractors.htm)    Worker Rights Under Executive Order 13658 | **WHO MUST POST:** Coverage generally extends to 4 major categories of contractual agreements:   * Procurement contracts for construction covered by the Davis-Bacon Act (DBA); * Service contracts covered by the Service Contracts Act (SCA); * Concessions contracts;  and * Contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.   **OTHER INFORMATION:** The [executive order](http://www.dol.gov/whd/flsa/eo13658/index.htm) also establishes value threshold requirements for coverage. The order only applies to prime contracts covered by the DBA that exceed $2,000 and prime contracts covered by the SCA that exceed $2,500. For procurement contracts where workers’ wages are governed by the Fair Labor Standards Act (FLSA), the order specifies that it applies only to contracts that exceed $3,000. There is no value threshold requirement for subcontracts awarded under such prime contracts. | [English](http://www.dol.gov/whd/regs/compliance/posters/mw-contractors.htm) |
| [Notification of Employee Rights Under Federal Labor Laws](http://www.dol.gov/olms/regs/compliance/EO13496.htm)  Office of Labor-Management Standards Executive Order 13496; 29 CFR Part 471 | **WHO MUST POST:** Federal contractors and subcontractors are required to post the prescribed employee notice conspicuously in plants and offices where employees covered by the NLRA perform contract-related activity, including all places where notices to employees are customarily posted both physically and electronically.  **OTHER INFORMATION:** The notice, prescribed in the Department of Labor's regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other protected concerted activity. Additionally, the notice provides examples of illegal conduct by employers and unions, and it provides contact information to the National Labor Relations Board (www.nlrb.gov), the agency responsible for enforcing the NLRA.  Poster must be at least **11 by 17 inches**. | [English](http://www.dol.gov/olms/regs/compliance/EO13496.htm) |
| [Notice to All Employees Working on Federal or Federally Financed Construction Projects](http://www.dol.gov/whd/regs/compliance/posters/davis.htm" \t "_blank)  (Davis-Bacon Act)  Wage and Hour Division 29 CFR 5.5(a)(l) | **WHO MUST POST:** Any contractor/subcontractor engaged in contracts in excess of $2,000 for the actual construction, alteration/repair of a public building or public work or building or work financed in whole or in part from federal funds, federal guarantee, or federal pledge which is subject to the labor standards provisions of any of the acts listed in 29 CFR 5.1.  **OTHER INFORMATION:** The contractor or subcontractor is required to insert in any subcontract the poster requirements contained in 29 CFR 5.5(a)(l). The poster must be posted at the site of work, in a prominent and accessible place where it can easily be seen by workers.  The two printed pages must be taped or pasted together to form an 11 x 17 inch poster. | [English](http://www.dol.gov/whd/regs/compliance/posters/davis.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/davispan.htm) |
| [Notice to Employees Working on Government Contracts](http://www.dol.gov/whd/regs/compliance/posters/sca.htm" \t "_blank)  (Service Contracts Act)  Wage and Hour Division 29 CFR 4.6(e), .184 | **WHO MUST POST:** Every contractor or subcontractor engaged in a contract with the United States or the District of Columbia in excess of $2,500 the principal purpose of which is to furnish services in the U.S. through the use of service employees.  **OTHER INFORMATION:** Contractors and any subcontractors engaged in federal service contracts exceeding $2,500 shall notify each service employee or post the minimum monetary wage and any fringe benefits required to be paid pursuant to the contract.  The two printed pages must be taped or pasted together to form an 11 x 17 inch poster. | [English](http://www.dol.gov/whd/regs/compliance/posters/sca.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/scaspan.htm) |

| **Migrant Workers** | **Notes** | **Poster Format** |
| --- | --- | --- |
| [Notice Migrant and Seasonal Agricultural Worker Protection Act](http://www.dol.gov/whd/regs/compliance/posters/mspaensp.htm" \t "_blank)  Wage and Hour Division 29 CFR 500.75, .76 | **WHO MUST POST:** Agricultural employers, agricultural associations and farm labor contractors.  **OTHER INFORMATION:** Each employer covered by the Act who provides housing to migrant agricultural workers shall post in a conspicuous place, throughout the occupancy period, information on the terms and conditions of occupancy of such housing.  The two printed pages must be taped or pasted together to form an 11 x 17 inch poster. | [English](http://www.dol.gov/whd/regs/compliance/posters/mspaensp.htm) [Spanish](http://www.dol.gov/whd/regs/compliance/posters/mspaensp.htm)  [English](http://www.dol.gov/whd/regs/compliance/posters/mspaencr.htm) [An Ereyôl](http://www.dol.gov/whd/regs/compliance/posters/mspaencr.htm) |

## Recordkeeping

# Federal Law

Various federal laws require employers to keep certain kinds of records related to an individual's employment. For example, all employers must keep Forms I-9 (used to verify an employee's identity and employment authorization) for 3 years after the date of hire or one year after the date employment ends, whichever is later. The Fair Labor Standards Act specifies that payroll records should be kept for a minimum of 3 years.  
  
In order to comply with the law, it is important to understand what documents and forms must be collected, how long you need to keep information in your files, and any confidentiality rules that may apply. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.  
  
States may also have specific recordkeeping requirements under wage and hour laws, employee safety and health (workers' compensation) statutes, and for unemployment purposes, as well as specific rules regarding confidentiality, employee access to files, and the disposal of records containing personal information.

## Same Sex Relationships

# Federal Law

**Special Update**: In June of 2015, a U.S. Supreme Court ruling held that states are constitutionally required to **license a marriage** between two people of the same sex, and to **recognize** a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. It is anticipated that federal, state, and local agencies will issue guidance on how to proceed.  
  
Previously, a U.S. Supreme Court ruling in June 2013 invalidated part of the Defense of Marriage Act (DOMA), which defined 'marriage' as a legal union between one man and one woman, and 'spouse' as a person of the opposite sex who is a husband or wife, for purposes of all federal laws and agency regulations. DOMA impacted a wide range of federal laws related to employee benefits, including COBRA and FMLA. Federal agencies have issued the following guidance implementing the DOMA decision:

* **FMLA Guidance.** Under a [proposed rule](http://www.dol.gov/whd/fmla/nprm-spouse/), the FMLA regulatory definition of 'spouse' is based on the law of the place where the marriage was entered into, sometimes referred to as the 'place of celebration' (the [current regulatory definition](http://www.ecfr.gov/cgi-bin/text-idx?SID=ae06a326bdae6a337e6c3c61bd20d986&node=29:3.1.1.3.54.1.489.3&rgn=div8) of 'spouse' only applies to same-sex spouses who reside in a state that recognizes same-sex marriage).
* **Employee Benefit Plans.** The terms 'spouse' and 'marriage' in Title I of ERISA and in related agency regulations will [generally be read](https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/technical-releases/13-04) to include same-sex couples legally married in any state that recognizes such marriages, regardless of where they currently live. Among other requirements, Title I includes the health coverage continuation provisions of COBRA.
* **Federal Tax Guidance.** Same-sex couples, legally married in jurisdictions that recognize their marriages, will be treated as married for all federal tax purposes (including employee benefits), according to an IRS [Revenue Ruling](http://www.irs.gov/pub/irs-drop/rr-13-17.pdf).

## Smoking

# Federal Law

Federal smoking restrictions are currently limited to a few settings, including airplanes, facilities providing federally funded services to children, and federally owned facilities (such as military installations).  
  
However, many states and communities have laws making workplaces, public places, restaurants, and bars smoke-free.

## Unemployment

# Federal Law

[Unemployment insurance](http://workforcesecurity.doleta.gov/unemploy/index.asp" \o "Unemployment insurance" \t "_blank) is a joint federal and state program that provides temporary financial assistance to eligible workers. Each state administers its own program within guidelines established by federal law. Eligibility, benefit amounts, and the length of time benefits are available are determined by the state law under which unemployment insurance claims are established.   
  
**Eligibility**To be eligible for unemployment insurance benefits, former employees generally must:

* Satisfy the state requirements for wages earned or time worked during an established period of time referred to as a "base period."
* Be unemployed through no fault of the employee's own (as determined under state law), and meet other eligibility requirements of state law.

**Benefits**Unemployment benefits vary from state to state. In general, benefits are based on a percentage of an individual's earnings over a recent 52-week period, up to a state maximum amount. Benefits can be paid for a maximum of 26 weeks in most states, but additional weeks of benefits (called [extended benefits](http://workforcesecurity.doleta.gov/unemploy/extenben.asp)) may be available during times of high unemployment.   
  
**Unemployment Insurance Taxes**Most employers pay both a federal and a state unemployment tax. The [federal unemployment tax](http://www.irs.gov/publications/p15/ar02.html#en_US_2015_publink1000202541) is used to fund state workforce agencies. Employers pay this tax annually by filing IRS Form 940. In addition, the federal unemployment tax pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.  
  
The state unemployment tax, paid to state workforce agencies, is used solely for the payment of benefits to eligible unemployed workers. All states finance unemployment insurance primarily through required contributions from employers on the wages of their covered workers. A few states also require minimal contributions from employees.

## Wage Payment Timing

# Federal Law

Wages required by the federal Fair Labor Standards Act are due on the regular payday for the pay period covered. The timing of paydays is a matter governed by state law.

## Workers Comp

# Federal Law

Workers' compensation programs for employees working in the private sector are [designed and administered by the states](http://www.dol.gov/owcp/dfec/regs/compliance/wc.htm). The programs vary across states in terms of who is allowed to provide insurance, which injuries or illnesses are compensable, and the level of benefits.   
  
**Benefits Provided**Workers' compensation insurance provides employee benefits such as wage replacement, medical treatment, and vocational rehabilitation for employees (and their dependents) who are injured at work or acquire an occupational disease. It may also cover employer liability in the case of a lawsuit and pay benefits to the eligible family members of an employee killed on the job.  
  
**Coverage Requirements and Premium Rates**Businesses with employees are generally required to carry workers' compensation insurance coverage through a commercial carrier, on a self-insured basis, or through a state workers' compensation insurance program. State laws set the minimum amount of coverage required for each type of business.  
  
Workers' compensation is financed almost exclusively by employers. Insurance rates are [determined by state law and vary by state](http://www.dol.gov/owcp/dfec/regs/compliance/wc.htm). The premiums paid by employers are based in part on the industry classifications of the employers and the occupational classifications of their workers. Many employers are also experience rated, which results in higher (or lower) premiums for employers whose past experience demonstrates that their workers are paid more (or fewer) benefits than workers for similar employers in the same insurance classification.

# California

## Arrests and Convictions

# Arrests and Convictions in California (CA)

California employers are generally prohibited from:

1. If they have **5 or more employees**, inquiring into or considering a job applicant's conviction history prior to providing him or her with a conditional offer of employment.
2. If they have **5 or more employees**, including any question on a job application that requires disclosure of a job applicant's conviction history prior to providing him or her with a conditional offer of employment.
3. If they have **5 or more employees**, disqualifying an applicant based on his or her conviction history without (a) assessing the conviction against the duties of the job and (b) providing the applicant with written notice of the disqualification and an opportunity to respond.
4. Seeking or utilizing records of an arrest or detention that did not result in a conviction.
5. Seeking or utilizing records of a non-felony marijuana-related conviction older than 2 years.
6. Obtaining or utilizing a job applicant's juvenile court history.
7. Buying or receiving criminal records or information [unless permitted by law](https://oag.ca.gov/fingerprints).

## Key Exceptions

1. Employers in **Los Angeles** with**10 or more employees** are generally prohibited from inquiring into or considering a job applicant's conviction history prior to providing him or her a conditional offer of employment. While this law has mostly been superseded by a more restrictive state law, Los Angeles continues to enforce a notice requirement related to its law. [Click here](https://bca.lacity.org/fair-chance) for more information, including the applicable notice.
2. Through September 30, 2018, employers in **San Francisco** with **20 or more employees** are prohibited from requiring job applicants to disclose their conviction history or an unresolved arrest until after either the first live interview with the person (including by phone or videoconference) or a conditional offer of employment is made. Effective October 1, 2018, employers in San Francisco with **5 or more employees** are prohibited from requiring job applicants to disclose their conviction history or an unresolved arrest only until after a conditional offer of employment is made. [Click here](http://sfgsa.org/index.aspx?page=6599) for more information, including applicable workplace posters.

## Recordkeeping Requirements

1. California employers must keep all arrest and conviction history information they do receive in a **secure and confidential file** with access restricted to either a designated records custodian and/or the person responsible for confirming the character and fitness of a job applicant.
2. Employers in **Los Angeles** with**10 or more employees** are generally required to maintain all records and documents pertaining to hiring decisions that involved arrest and/or conviction records for **3 years**.
3. Through September 30, 2018, employers in **San Francisco** with **20 or more employees** are generally required to retain all records and documents used or gathered during the hiring process for **3 years**. Effective October 1, 2018, employers in San Francisco with **5 or more employees** must do so as well.

**Additional requirements and exceptions to the information above may apply to your business**. For more information, please contact the [California Department of Fair Employment and Housing](https://www.dfeh.ca.gov/) at 1-800-884-1684.

## Child Labor

# Child Labor in California (CA)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### Minimum Wage

The [minimum wage](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=122) is the same for both adult and minor employees. There is [no distinction](http://www.dir.ca.gov/dlse/faq_minimumwage.htm) made between adults and minors when it comes to payment of the minimum wage.

### Restrictions on Time & Hours Worked

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Ages 16 and 17**  Must have completed 7th grade to work while school in session | **Ages 14 and 15**  Must have completed 7th grade to work while school in session | **Ages 12 and 13** |
| **School In Session**\* | * 4 hours per day on any schoolday\*\* * 8 hours on any non-schoolday or on any day preceding a non-schoolday * 48 hours per week * [Work Experience Education](http://www.cde.ca.gov/ci/ct/we/) (WEE) students and [personal attendants](http://www.dir.ca.gov/IWC/IWCArticle15.pdf) may work more than 4 hours on a schoolday, but never more than 8. | * 3 hours per schoolday outside of school hours * 8 hours on any non-schoolday * 18 hours per week * [WEE students](http://www.cde.ca.gov/ci/ct/we/) may work during school hours and up to 23 hours per week | * May be employed only during school holidays and vacations (usually construed to include weekends) * May never be employed on any schoolday, either before, during, or after school * Daily and weekly work hour maximums while school is in session are not specified in statute, but may not exceed the maximum allowed when school is not in session or the maximum stated on permit. * Not eligible for [WEE programs](http://www.cde.ca.gov/ci/ct/we/) |
| **School Not In Session** | * 8 hours per day * 48 hours per week | * 8 hours per day * 40 hours per week | * 8 hours per day * 40 hours per week |
| **Spread of Hours** | * 5 a.m. - 10 p.m. However, until 12:30 a.m. on any evening preceding a non-schoolday * WEE students, with permission, until 12:30 a.m. on any day * Messengers: 6 a.m. - 9 p.m. | * 7 a.m. - 7 p.m., except that from June 1 through Labor Day, until 9 p.m. | * 7 a.m. - 7 p.m., except that from June 1 through Labor Day, until 9 p.m. |

*\*Statutes governing work hours for 14- and 15-year-olds use the phrase "while school is in session" for the three-hour day, 18-hour week. California provides no precise definition of this phrase. However, the phrase is also used in* [*federal regulations*](http://www.ecfr.gov/cgi-bin/text-idx?SID=3ffb799d52a157bb0542dc99b418e57c&node=se29.3.570_135&rgn=div8) *from which California's standard is derived. The U.S. Department of Labor considers the phrase "when school is in session" to mean the scheduled schooldays of the public school system in the county where the minor resides. A school week under federal standards is any week during which school is in session for at least one day. Thus, school is considered in session during any week that has at least one scheduled schoolday. Since the school session is derived from the schedule for the county's public schools, school may be considered in session for a minor who attends a private school that is closed during the summer if the public schools are in session at that same time.*

*\*\*A "schoolday" is any day that the minor is required to attend school for 240 minutes or more.*

Minors working in the **entertainment industry** may be subject to [different requirements](http://www.dir.ca.gov/dlse/MinorsSummaryCharts.pdf).

Note: Under current California law, a "job shadowing experience" means a visit to a workplace for the purpose of career exploration for no less than 3 hours and **no more than 25 hours** in one semester, intersession, or summer school session. Effective as of January 1, 2017, a pupil may participate in a job shadowing experience for **up to 40 hours** in one semester, intersession, or summer school session if the principal of the school in which the pupil is enrolled certifies that it is necessary for the pupil's participation in a career technical education program. [Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2063) for more information.

### For More Information

* [California Child Labor Forms](http://www.dir.ca.gov/dlse/DLSE-Forms-CL.htm)
* [Division of Labor Standards Enforcement: Minors and Employment](http://www.dir.ca.gov/dlse/dlse-cl.htm)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [State Child Labor Law Booklet](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf)
* [State Child Labor Law Summaries](http://www.dir.ca.gov/dlse/MinorsSummaryCharts.pdf)

# Child Labor in California (CA)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### State Restrictions on Duties Performed

**14 and 15-Year Olds**

* Minors aged 14 and 15 may not be employed or permitted to work:
  + In any occupation declared hazardous in federal regulations for 16- and 17-year-olds;
  + In occupations in mining, manufacturing, or processing including any duties in related workrooms;
  + In occupations involving hoisting apparatuses, power-driven machinery, operation of motor vehicles or as helpers on vehicles, public messenger service;
  + In any occupation (except clerical) involving the transportation of persons or property by any means, warehousing and storage, communications, public utilities, construction (including demolition and repair);
  + In occupations in the gasoline, retail, or food service industries involving maintenance or repair of the establishment, machines, or equipment;
  + Work in or about boiler or engine rooms;
  + Operating or maintaining food slicers, grinders, choppers, or bakery mixers;
  + Outside window washing from window sills or any work on scaffolds, ladders, etc.;
  + Cooking (except at lunch counters, snack bars, etc.);
  + In freezers or meat coolers;
  + Loading or unloading from trucks, railcars, or conveyors;
  + In door-to-door sales of newspapers or magazine subscriptions, candy, cookies, flowers or other merchandise;
  + Door-to-door unless [certain requirements](http://www.dir.ca.gov/dlse/MinorsSummaryCharts.pdf) are met;
  + Construction work of any kind, including work on any scaffolding;
  + Delivering goods, packages, papers (except newspapers), etc. from motor vehicles;
  + Machine-related duties, including any occupation in close proximity to moving machinery or hazardous or unguarded belts or gearing or in proximity to functioning parts of unguarded or dangerous moving equipment (including adjusting or repairing belts or oil, wiping, or cleaning machinery or assisting in these activities);
  + Machines-operation or assistance involving, among other things, machines for laundry or washing; mixing or grinding; paper cutting; and drill presses or printing presses of any kind;
  + Manufacturing of any kind, including industrial homework;
  + Manufacture or use of dangerous dyes, gases, or use of dangerous acids, or manufacture or packing of paints, colors, tobacco, or lead;
  + On any vessel or boat engaged in navigation or commerce within state's jurisdiction;
  + In close proximity to vessels or aircraft or functioning blades or propellers;
  + Any wandering, mendicant, or begging business;
  + In any activity in or on that portion of an establishment primarily designed for on-site consumption of alcohol;
  + To sell alcoholic beverages for off-site consumption (unless constantly supervised by a person 21 or older); or
  + To sell lottery tickets (unless constantly supervised by a person 21 or older).

Note: Current California law allows pupils to receive credit for completing a **work experience education program**. To receive credit, the law requires (among other things) that, at the time of enrollment, the pupil is at least **16 years of age**. Pupils under the age of 16 years may receive credit for work experience education under certain conditions. A new law in California, effective as of January 1, 2017, adds the following to these conditions: The pupil is at least **14 years of age** and the principal in the school in which the pupil is enrolled certifies that it is necessary for the pupil's participation in a career technical education program. [Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2063) for more information.

**16 and 17-Year Olds**

* Minors 16 and 17-years old may not be employed or permitted to work in any occupation declared hazardous in federal regulations for persons under 18, including:
  + Manufacturing and storing explosives (including small arms ammunition);
  + Motor vehicle driving and outside helper;
  + Logging and sawmilling;
  + Power-driven woodworking machines;
  + Power-driven circular saws, band saws, and guillotine shears;
  + Power-driven hoisting apparatuses (including forklifts);
  + Roofing, excavation;
  + Wrecking, demolition, and shipbreaking operations;
  + Power-driven metal-forming, punching, and shearing machines;
  + Slaughtering, or meat-packing, processing or rendering;
  + Power-driven bakery machines;
  + Power-driven paper-products machines;
  + Manufacturing brick, tile, and kindred products;
  + Coal mining or mining other than coal mining; and
  + Exposure to radioactive substances.
* Additionally, 16 and 17-year olds may not be employed:
  + In gas stations, in any work using pits, racks, lifting apparatuses, or inflating any tire mounted on a rim with a removable retaining ring;
  + In or on that portion of an establishment primarily designed for on-site consumption of alcohol;
  + To sell alcoholic beverages for off-site consumption (unless constantly supervised by a person 21 or older); or
  + To sell lottery tickets (unless constantly supervised by a person 21 or older).

Note: This is not an exhaustive list of prohibited or restricted occupations. Employers are encouraged to review the Division of Labor Standards Enforcement’s [Child Labor Law Booklet](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf) for an extended list of restrictions.

### For More Information

* [California Child Labor Forms](http://www.dir.ca.gov/dlse/DLSE-Forms-CL.htm)
* [Division of Labor Standards Enforcement: Minors and Employment](http://www.dir.ca.gov/dlse/dlse-cl.htm)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [State Child Labor Law Booklet](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf)
* [State Child Labor Law Summaries](http://www.dir.ca.gov/dlse/MinorsSummaryCharts.pdf)

# Child Labor in California (CA)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### Work Permits/Age Certificates

* Except in [limited circumstances](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf), minors under 18 years of age employed in the state of California are required to have a permit to work.
* Prior to permitting a minor to work, employers must possess a valid permit to employ and work. The permit to employ and work are issued on the same form.
  + A permit to employ and work in industries other than entertainment is usually issued by an authorized person at the minor's school. During summer months or when school is not in session, the work permit is obtained from the superintendent of the school district in which the minor resides.
* Typically, after an employer agrees to hire a minor, the minor obtains from his or her school a Department of Education form entitled "[Statement of Intent to Employ Minor and Request for Work Permit](http://www.dir.ca.gov/dlse/dlseformB1-1.pdf)." The form must be completed by the minor and the employer and signed by the minor's parent or guardian and the employer. After returning the completed and signed form to the school, school officials may issue the permit to employ and work.
* Permits issued during the school year expire 5 days after the opening of the next succeeding school year and must be renewed.

**Entertainment Work Permits**

* Minors aged 15 days to 18 years employed in the [entertainment industry](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf) must have a permit to work, and employers must have a permit to employ, both permits being issued by the [Division of Labor Standards Enforcement](http://www.dir.ca.gov/dlse/DistrictOffices.htm) (DLSE).
  + These permits are also required for minors making phonographic recordings or who are employed as advertising or photographic models. Permits are required even when the entertainment is noncommercial in nature.
  + There is no fee to obtain an entertainment work permit. The permit can be obtained by the new [on-line application process](https://permits.dir.ca.gov/ewp/), by mail or in person.
* Employers intending to employ minors in the entertainment industry must complete the [application for permission to employ minors in the entertainment industry](http://www.dir.ca.gov/dlse/DLSE-Forms-CL.htm) and submit it, along with proof of workers' compensation insurance coverage, to any [DLSE office](http://www.dir.ca.gov/dlse/DistrictOffices.htm).

### Recordkeeping

* Employers must keep on file all Permits to Employ and Work.
* Employers of minors must keep for 3 years a record showing the names, ages (dates of birth), and addresses of all minors employed, as well as time and payroll records required by the applicable [Industrial Welfare Commission Order](http://www.dir.ca.gov/iwc/wageorderindustries.htm).
* An employer who employs student learners must keep a copy of the written agreement with the minor’s other employment records.

### Posting Requirements

* Every owner, tenant or operator of a **farm employing parents having minor children in their immediate care and custody** must conspicuously post a notice (in both English and Spanish), where it may be easily read by employees, stating that minor children are not allowed to work unless permits to work have been secured.

### For More Information

* [California Child Labor Forms](http://www.dir.ca.gov/dlse/DLSE-Forms-CL.htm)
* [Division of Labor Standards Enforcement: Minors and Employment](http://www.dir.ca.gov/dlse/dlse-cl.htm)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [State Child Labor Law Booklet](http://www.dir.ca.gov/dlse/ChildLaborLawPamphlet.pdf)
* [State Child Labor Law Summaries](http://www.dir.ca.gov/dlse/MinorsSummaryCharts.pdf)

## Continuation of Benefits

# Continuation of Benefits in California (CA)

## California Continuation of Coverage ("mini-COBRA")

Cal-COBRA requires employers with 2 to 19 employees to allow individuals who would otherwise lose group health plan coverage due to certain events ("qualified beneficiaries") to continue coverage for up to 36 months. For employers with 20 or more employees, Cal-COBRA may extend continuation coverage for an additional 18 months (up to 36 months total) for individuals who exhaust federal COBRA.

### Qualifying Events

Continuation coverage must be offered to any individual who is an enrollee in a group health plan on the day before the following qualifying events, which would otherwise result in a loss of coverage under the group plan:

* Death of the covered employee;
* Termination of employment (except for gross misconduct) or reduction in hours of the covered employee’s employment;
* Divorce or legal separation of the covered employee from the covered employee’s spouse;
* Loss of dependent status by a dependent enrolled in the group benefit plan; and
* With respect to a covered dependent only, the covered employee’s entitlement to Medicare benefits.

Cal-COBRA also provides an extension of coverage for those who have exhausted their 18 months on federal COBRA (or longer in special circumstances) for a combined total of 36 months of continuation coverage.

Continuation coverage under Cal-COBRA is not required for those individuals who:

* Are entitled to Medicare benefits or become entitled to Medicare benefits; or
* Are covered or become covered under another health plan.

### Employer/Employee Notice Requirements

* Notice of the right to continuation must be provided in each evidence of coverage issued to an employee, including information on election and payment, as well as any requirements for providing notice of certain qualifying events. In addition, every plan disclosure form must include notice that continuation coverage may be available under state law and that additional information regarding eligibility for coverage may be found in the plan's evidence of coverage. Every disclosure for a group benefit plan subject to Cal-COBRA must include the following notice:

*"Please examine your options carefully before declining this coverage. You should be aware that companies selling individual health insurance typically require a review of your medical history that could result in a higher premium or you could be denied coverage entirely."*

* A qualified beneficiary must provide written notice of a qualifying event that is the death of the covered employee, the divorce or legal separation of the covered employee from his or her spouse, loss of dependent status or the covered employee's entitlement to benefits under Medicare within 60 days of the qualifying event.
* The employer must notify the plan, in writing, of any employee who has had a qualifying event that is the termination of employment (except for gross misconduct) or reduction in hours of work within 30 days of the qualifying event.
* Necessary benefits information, premium information, enrollment forms, and other required disclosures must be provided to qualified beneficiaries within 14 days of receiving notice of a qualifying event, to allow the qualified beneficiary to formally elect continuation coverage.
* A qualified beneficiary who wishes to continue coverage must request the continuation in writing within 60 days following the later of the date that the enrollee's coverage under the group benefit plan terminated or will terminate by reason of a qualifying event, or the date the enrollee was sent notice of the ability to continue coverage under the group benefit plan.
* Qualified beneficiaries generally must be notified of the date continuation coverage will terminate during the 180-day period ending on the coverage termination date (except when the continuation coverage is terminated because the group contract is being terminated).

### Premium Payments

Employers may require a qualified beneficiary electing continuation coverage to pay not more than 110% of the applicable rate, on or before the due date of each payment, but not more frequently than on a monthly basis. In the case of a qualified beneficiary who is determined to be disabled, the qualified beneficiary may be required to pay an amount no greater than 150% of the group rate after the first 18 months of continuation coverage. The first premium payment must be delivered within 45 days of the date the qualified beneficiary provided written notice of the election to continue coverage.

### How Coverage May Be Terminated

Continuation of benefits may be terminated before the end of 36 months for the following reasons:

* The qualified beneficiary fails to pay required premiums on time;
* The employer ceases to provide any group benefit plan to his or her employees;
* The qualified beneficiary moves out of the plan’s service area or commits fraud or deception in the use of plan services;
* The qualified beneficiary enrolls in, or becomes eligible to enroll in Medicare; or
* The qualified beneficiary enrolls in another health plan.

### For More Information

* [Cal-COBRA](https://www.dmhc.ca.gov/HealthCareinCalifornia/TypesofPlans/KeepYourHealthCoverage(COBRA).aspx#.WJyx6H9cB3w)
* [California Department of Managed Health Care](http://www.hmohelp.ca.gov/)
* [Model COBRA Election Notice](https://www.calhr.ca.gov/Documents/bam-cobra-attachment-b.pdf) from the California Department of Human Resources

## Deductions From Wages

# Deductions from Wages in California (CA)

### Permissible Deductions

An employer can lawfully withhold amounts from an employee’s wages only:

* When **required or empowered to do** so by state or federal law;
* When a deduction is **expressly authorized in writing** by the employee to cover insurance premiums, benefit plan contributions, or other deductions not amounting to a rebate on the employee’s wages;
* When a deduction to cover health, welfare, or pension contributions is expressly authorized by a **wage or collective bargaining agreement**; or
* If a **non-exempt** worker comes to work **late**. Such deduction must not exceed the proportionate wage that would have been earned during the time actually lost. However, for a loss of time less than 30 minutes, a half hour’s wage may be deducted. (Note: This provision does not apply to salaried exempt employees because no deduction may be made from an employee’s salary based on the quantity of work unless, with certain exceptions, the employee absents himself for personal reasons for a period of a working day or more. [Click here](http://www.dir.ca.gov/dlse/dlsemanual/dlse_enfcmanual.pdf) for more information (§ 51.6.8)).
  + Example: A non-exempt employee earns $12.00 per hour and comes to work 40 minutes late—the employer can deduct $8.00. If the employee comes to work 5 minutes late, the employer can deduct $6.00.

Although a wage garnishment is a lawful deduction from wages, an employer cannot discharge an employee because a garnishment of wages has been threatened or if the employee’s wages have been subjected to a garnishment for the payment of one judgment.

Note: The **maximum amount of disposable earnings** of an individual judgment debtor for any workweek that is subject to levy under an earnings withholding order generally must not exceed the **lesser** of the following:

* **25%** of the individual's disposable earnings for that week.
* **50%** of the amount by which the individual's disposable earnings for that week exceed **40 times** the state minimum hourly wage in effect at the time the earnings are payable. If a judgment debtor works in a location where the local minimum hourly wage is **greater** than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable must be used for the calculation made under this paragraph.

[Click here](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CCP&division=2.&title=9.&part=2.&chapter=5.&article=1.) for definitions of various terms. Additionally, for any pay period **other than weekly**, [certain multipliers](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB501) (§ 706.050(b)) must be used to determine the maximum amount of disposable earnings subject to levy under an earnings withholding order that is proportional in effect to the calculation described in the second bullet point above (except as specified in the first bullet point above).

### Prohibited Deductions

Some common payroll deductions that are **unlawful** include:

* **Gratuities**. An employer cannot collect, take, or receive any gratuity or part thereof given or left for an employee, or deduct any amount from wages due an employee on account of a gratuity given or left for him or her.
  + However, a restaurant may have a policy allowing for tip pooling/sharing among employees who provide direct table service to customers.

* **Photographs**. If an employer requires a photograph of an applicant or employee, the employer must pay the cost of the photograph.
* **Bond**. If an employer requires a bond of an applicant or employee, the employer must pay the cost of the bond.
* **Uniforms**. If an employer requires that an employee wear a uniform, the employer must pay the cost of the uniform. The term "uniform" includes wearing apparel and accessories of distinctive design and color.
* **Business Expenses**. An employee is entitled to be reimbursed by his or her employer for all expenses or losses incurred in the direct consequence of the discharge of the employee’s work duties.
* **Medical or Physical Examinations**. An employer may not withhold or deduct from the wages of any employee or require any prospective employee or applicant to pay for any pre-employment medical or physical examination taken as a condition of employment, nor may an employer withhold or deduct from the wages of any employee, or require any employee to pay for any medical or physical examination required by any federal or state law or regulation, or local ordinance.
* **Breaking or Damaging Company Property/Losing Company Money While Working**. An employer cannot legally make a deduction if, by reason of mistake or accident a cash shortage, breakage, or loss of company property/equipment occurs.
  + Example: If an employee accidentally drops a tray of dishes, takes a bad check, or a customer walks out without paying a check, the employer cannot deduct the loss from an employee's paycheck.
  + Exception: The California [Industrial Welfare Commission](http://www.dir.ca.gov/IWC/WageOrderIndustries.htm) (IWC) Wage Orders provide the employer the right to deduct from an employee’s wages for any cash shortage, breakage, or loss of equipment **if the employer can show that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the employee’s** [**gross negligence**](http://www.dir.ca.gov/dlse/Glossary.asp?Button1=G#gross%20negligence). What this means is that a deduction may be legal if the employer proves that the loss resulted from the employee’s dishonesty, willfulness, or grossly negligent act.
    - Note: A simple accusation does not give the employer the right to make the deduction. **The California Division of Labor Standards Enforcement (DLSE) has cautioned that use of this deduction contained in IWC regulations may, in fact, not comply with the provisions of the California Labor Code and various court decisions**. Furthermore, DLSE does not automatically assume that an employee was dishonest, acted willfully, or was grossly negligent when an employer asserts such as a justification for making a deduction from an employee’s wages to cover a shortage, breakage, or loss to property or equipment. Any employer who resorts to self-help does so at its own risk, as an objective test is applied to determine whether the loss was due to dishonesty, willfulness, or a grossly negligent act.

* **Rest or Recovery periods**. A rest or recovery period mandated under state law (e.g., an applicable statute or applicable order of the Industrial Welfare Commission) must be counted as hours worked, for which a deduction of wages is prohibited.
* **Misclassification of Independent Contractors**. It is unlawful for any employer to charge a worker willfully misclassified as an independent contractor a fee, or to make any deductions from compensation for any purpose (e.g., for goods, materials, services, equipment maintenance) if any such fees or deductions would have violated the law if the worker had not been misclassified.

### For More Information

* [Deductions from Wages](http://www.dir.ca.gov/dlse/faq_deductions.htm)
* [Industrial Welfare Commission Wage Orders](http://www.dir.ca.gov/IWC/WageOrderIndustries.htm)
* [Division of Labor Standards Enforcement Manual](http://www.dir.ca.gov/dlse/dlsemanual/dlse_enfcmanual.pdf) (rules concerning exempt employees begin at § 51.6.6)

## Discrimination

# Discrimination in California (CA)

This page features information on the following topics regarding discrimination in California:

* [Overview](#CA_Discrimination_Overview)
* [Coverage](#CA_Discrimination_Coverage)
* [Prohibited Employer Actions](#CA_Discrimination_Prohibited_Employer_Actions)
* [Additional Information](#CA_Discrimination_Additional_Information)

## Overview

The California **Fair Employment and Housing Act** (FEHA) applies to public and private employers, labor organizations, and employment agencies. Under the law, it is illegal for employers of **5 or more employees** to **discriminate against** job applicants and employees because of a protected category, or retaliate against them because they have asserted their rights under the law.

Additionally, the FEHA prohibits **harassment** based on a protected category against an employee, an applicant, an unpaid intern or volunteer, or a contractor. Harassment is prohibited in **all workplaces**—even those with fewer than 5 employees.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the FEHA, "employer" generally includes (among other entities) any person—including a business—regularly employing **5 or more persons**, or any person acting as an agent of an employer, directly or indirectly.

Note: **All employers**—regardless of the number of employees—are covered by the **harassment** provisions of California law.

## Prohibited Employer Actions

Under the FEHA, the following actions are generally unlawful employment practices.

**Discrimination.** An employer—because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person—may not **refuse to hire or employ** the person or refuse to select the person for a training program leading to employment; **bar or discharge** the person from employment or from a training program leading to employment; or **discriminate against** the person in compensation or in terms, conditions, or privileges of employment.

**Nonjob-related inquiries.** An employer generally may not make any **nonjob-related inquiry** of an employee or applicant—either verbal or through use of an application form—that expresses (directly or indirectly) any **limitation, specification, or discrimination** as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any intent to make any such limitation, specification, or discrimination.

**Retaliation.** An employer may not discharge, expel, or otherwise discriminate against any person because the person has **opposed any practices** forbidden under the law or because the person has filed a complaint, testified, or assisted in any proceeding under the law.

Note: "**Sex**" includes (but is not limited to) **pregnancy, childbirth, and breastfeeding** (or medical conditions related to pregnancy, childbirth, and breastfeeding). "Sex" also includes (but is not limited to) a person's **gender**. "Gender" means sex, and includes a person's **gender identity and gender expression**. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

[Click here](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.) for more information, including additional prohibited actions and exceptions.

**Harassment**An employer—because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status—may not **harass** an employee, an applicant, an unpaid intern or volunteer, or a person providing services under a contract. For purposes of these harassment provisions, "harassment" because of **sex** includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

Harassment of an employee, an applicant, an unpaid intern or volunteer, or a person providing services under a contract by an employee, other than an agent or supervisor, is unlawful if the entity (or its agents or supervisors) **knows or should have known** of this conduct and **fails to take immediate and appropriate corrective action**.

An employer may also be responsible for the acts of **nonemployees**, with respect to **sexual harassment** of employees, applicants, unpaid interns or volunteers, or persons providing services under a contract in the workplace, where the employer (or its agents or supervisors) knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

An entity must take all reasonable steps to **prevent harassment from occurring**. Loss of tangible job benefits is not necessary in order to establish harassment.

Note: For purposes of these harassment provisions, "employer" generally means (among other entities) any person regularly employing **1 or more persons**.

[Click here](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.) (see § j) for additional details.

## Additional Information

* [California Department of Fair Employment and Housing](https://www.dfeh.ca.gov/Employment/)
* [Posters, Brochures, and Fact Sheets](https://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment)
* [California Government Code](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.)
* [California Regulations](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA340484DFCB84B1C98715F2D2F1006D7&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

# Disability Discrimination in California (CA)

This page features information on the following topics regarding disability discrimination in California:

* [Overview](#CA_Disability_Discrimination_Overview)
* [Coverage](#CA_Disability_Discrimination_Coverage)
* [Definition of Disability](#CA_Disability_Discrimination_Definition_of_Disability)
* [Prohibited Employer Actions](#CA_Disability_Discrimination_Prohibited_Employer_Actions)
* [Reasonable Accommodations](#CA_Disability_Discrimination_Reasonable_Accommodations)
* [Interactive Process](#CA_Disability_Discrimination_Interactive_Process)
* [Undue Hardship](#CA_Disability_Discrimination_Undue_Hardship)
* [Additional Information](#CA_Disability_Discrimination_Additional_Information)

## Overview

The California **Fair Employment and Housing Act** (FEHA) applies to public and private employers, labor organizations, and employment agencies. Under the law, it is illegal for employers of **5 or more employees** to **discriminate against** job applicants and employees because of protected categories (including **mental and physical disabilities**), or retaliate against them because they have asserted their rights under the law.

Additionally, the FEHA prohibits **harassment** based on a protected category against an employee, an applicant, an unpaid intern or volunteer, or a contractor. Harassment is prohibited in **all workplaces**—even those with fewer than 5 employees.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the FEHA, "employer" generally includes (among other entities) any person—including a business—regularly employing **5 or more persons**, or any person acting as an agent of an employer, directly or indirectly.

Note: **All employers**—regardless of the number of employees—are covered by the **harassment** provisions of California law.

## Definition of Disability

Under the FEHA, "**mental disability**" includes (among other things) having any **mental or psychological disorder or condition**—such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities—that limits a **major life activity**.

"**Physical disability**" includes (among other things) having any **physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss** that does both of the following:

* Affects one or more of [certain body systems](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=4.&article=).
* Limits a **major life activity**.

Note: If the definition of "disability" used in the federal [Americans with Disabilities Act](https://www.eeoc.gov/eeoc/publications/fs-ada.cfm) would result in **broader protection** of the civil rights of individuals with a mental disability or physical disability, as defined in state law, or would **include any medical condition** not included within those definitions, then that broader protection or coverage **is deemed incorporated** by reference into—and prevails over conflicting provisions of—the definitions under state law.

Additional details are available in the California [Government Code](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=4.&article=) and the California [regulations](https://govt.westlaw.com/calregs/Document/I7D0D5F6F02064B09BB18C50AE51A2A8F?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).

## Prohibited Employer Actions

Under the FEHA, the following actions are generally unlawful employment practices.

**Discrimination.** An employer—because of (among other things) the **physical disability or mental disability** of any person—may not **refuse to hire or employ** the person or refuse to select the person for a training program leading to employment; **bar or discharge** the person from employment or from a training program leading to employment; or **discriminate against** the person in compensation or in terms, conditions, or privileges of employment.

However, the law does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability—or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability—where the employee (because of his or her physical or mental disability) is **unable to perform his or her essential duties even with reasonable accommodations**, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodations.

**Reasonable accommodation.** An employer may not fail to make **reasonable accommodation** for the known physical or mental disability of an applicant or employee. However, the law does not require an accommodation that is demonstrated by the employer to produce **undue hardship** to its operation.

Additionally, an employer may not—in addition to other employee protections provided under the law—**retaliate or otherwise discriminate against** a person for requesting accommodation under the law, regardless of whether the request was granted.

**Interactive process.** An employer may not fail to engage in a **timely, good faith, interactive process** with the employee or applicant to determine effective reasonable accommodations—if any—in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

**Retaliation.** An employer may not discharge, expel, or otherwise discriminate against any person because the person has **opposed any practices** forbidden under the law or because the person has filed a complaint, testified, or assisted in any proceeding under the law.

**Harassment.** An employer—because of (among other things) **physical disability or mental disability**—may not **harass** an employee, an applicant, an unpaid intern or volunteer, or a person providing services under a contract. For purposes of these harassment provisions, "employer" generally means (among other entities) any person regularly employing **1 or more persons**.

[Click here](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.) for more information, including additional prohibited actions and exceptions.

## Reasonable Accommodations

**Definition.** Under the California regulations, "**reasonable accommodation**" means **modifications or adjustments** that are:

* Effective in enabling an **applicant** with a disability to have an equal opportunity to be **considered** for a desired job;
* Effective in enabling an **employee** to perform the essential functions of the job the employee **holds or desires**; or
* Effective in enabling an **employee** with a disability to enjoy **equivalent benefits and privileges** of employment as are enjoyed by similarly situated employees without disabilities.

The California [Government Code](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=4.&article=) and the California [regulations](https://govt.westlaw.com/calregs/Document/I7D0D5F6F02064B09BB18C50AE51A2A8F?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) provide additional information, including examples.

**Affirmative duty.** An employer has an **affirmative duty to make reasonable accommodation(s)** for the disability of any individual applicant or employee if the employer **knows of the disability**—unless the employer can demonstrate, after engaging in the **interactive process**, that the accommodation would impose an **undue hardship**.

**No elimination of essential job function required.** Where a quality or quantity standard is an **essential job function**, an employer is not required to lower such a standard as an accommodation, but may need to accommodate an employee with a disability to enable him or her to meet its standards for quality and quantity.

**Paid or unpaid leaves of absence.** When the employee cannot presently perform the essential functions of the job, or otherwise needs time away from the job for treatment and recovery, **holding a job open** for an employee on a leave of absence or **extending a leave** provided by the California Family Rights Act, the federal Family and Medical Leave Act, other leave laws, or an employer's leave plan may be a reasonable accommodation **provided that the leave is likely to be effective in allowing the employee to return to work at the end of the leave**—with or without further reasonable accommodation—and does not create an undue hardship for the employer.

When an employee can work with a reasonable accommodation other than a leave of absence, an employer may not require that the employee take a leave of absence. An employer, however, **is not required to provide an indefinite leave of absence** as a reasonable accommodation.

**Reassignment to a vacant position.** As a reasonable accommodation, an employer must ascertain through the interactive process suitable **alternate, vacant positions** and offer an employee such positions, for which the employee is qualified, under [certain circumstances](https://govt.westlaw.com/calregs/Document/I1A90B18CAFCC4555B229643372695880?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1).

If there are **no funded, vacant comparable positions** for which the individual is qualified with or without reasonable accommodation, an employer may reassign an individual to a **lower-graded or lower-paid position**.

The employer **is not required to create a new position** to accommodate an employee with a disability to a greater extent than an employer would offer a new position to any employee, regardless of disability.

**Any and all reasonable accommodations.** An employer is required to consider **any and all reasonable accommodations** of which it is aware or that are brought to its attention by the applicant or employee, except ones that create an **undue hardship**.

The employer must consider the preference of the applicant or employee to be accommodated, but **has the right to select and implement an accommodation that is effective for both the employee and the employer**.

[Click here](https://govt.westlaw.com/calregs/Document/I1A90B18CAFCC4555B229643372695880?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1) for additional details.

## Interactive Process

**Definition and general requirements.** Under the California regulations, "interactive process" means **timely, good faith communication** between the employer and the applicant or employee (or, when necessary because of the disability or other circumstances, his or her representative) to explore whether or not the applicant or employee **needs reasonable accommodation** for the applicant's or employee's disability to perform the essential functions of the job, and (if so) how the person can be reasonably accommodated.

When needed to identify or implement an effective, reasonable accommodation for an employee or applicant with a disability, **the FEHA requires** a timely, good faith, interactive process between an employer and an applicant, employee, or the individual's representative, with a **known physical or mental disability** or medical condition.

Both the employer and the applicant, employee, or the individual's representative must **exchange essential information** identified in the regulations without delay or obstruction of the process.

**Notice.** An employer must initiate an interactive process when (among other times) an applicant or employee with a known physical or mental disability or medical condition **requests reasonable accommodations**, or the employer **otherwise becomes aware** of the need for an accommodation through a third party or by observation.

**Obligations of employer.** An employer must engage in a timely, good faith, interactive process as follows. The employer must either **grant the applicant's or employee's requested accommodation**, or **reject it** after due consideration, and **initiate discussion** with the applicant or employee regarding **alternative accommodations**.

When the disability or need for reasonable accommodation is **not obvious**, and the applicant or employee has not already provided the employer with reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, the employer **may require** the applicant or employee to provide such reasonable **medical documentation**.

Additional details are contained in the [California regulations](https://govt.westlaw.com/calregs/Document/ICAC8D00E2C14486A8744DE656E129E0D?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).

## Undue Hardship

Under the California regulations, "**undue hardship**" means—with respect to the provision of an accommodation—an action requiring **significant difficulty or expense** incurred by an employer, when considered under the **totality of the circumstances** in light of the following factors:

* The **nature and net cost** of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding;
* The **overall financial resources of the facilities involved** in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility—including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business;
* The **overall financial resources of the employer**, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities;
* The **type of operation(s)**, including the composition, structure, and functions of the workforce of the employer; and
* The **geographic separateness, administrative, or fiscal relationship** of the facility (or facilities).

## Additional Information

* [California Department of Fair Employment and Housing](https://www.dfeh.ca.gov/Employment/)
* [Posters, Brochures, and Fact Sheets](https://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment)
* [California Government Code](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.)
* [California Regulations](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I25BA306C556C4024B0FAB9F2736754A9&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

## Drug Testing

# Drug and Alcohol Testing in California (CA)

California regulates the use of drug and alcohol testing by private employers as follows:

### Permitted Testing

* An employer’s right to test applicants and employees for drugs is limited by the California State Constitution.

Note: The City of San Francisco places certain additional restrictions on an employer’s right to test applicants and employees for drugs and alcohol. [Click here](http://www.amlegal.com/nxt/gateway.dll/California/police/article33aprohibitionofemployerinterfere?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca) for more information.

### Requirements for Employers

* Employers with 25 or more employees must “reasonably accommodate” an employee who wants to enter a drug or alcohol treatment program, and must make reasonable efforts to protect the employee’s privacy.
* California’s Drug-Free Workplace Act requires employers that are awarded government contracts to [certify](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=2.&part=&chapter=5.5.&article=2.) that they will provide a drug-free workplace.

### Medical Marijuana

In 2015, the Legislature passed and the Governor signed several laws that allow certain medical marijuana use. [Click here](http://www.calmmp.ca.gov/MMIC_Search.aspx) for more information.

Certain [state law](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=8.&title=&part=&chapter=3.5.&article=5.) (§ 19330) does not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

### Recreational Marijuana (the Control, Regulate and Tax Adult Use of Marijuana Act)

On November 8, 2016, voters passed an initiative that allows certain recreational marijuana use. The law allows public and private employers to enact and enforce workplace policies pertaining to marijuana. Specifically, the law does not:

* Restrict the rights and obligations of public and private employers to maintain a drug and alcohol free workplace;
* Require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace;
* Affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees; or
* Prevent employers from complying with state or federal law.

The initiative is currently in effect. [Click here](https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20(Marijuana)_1.pdf?) to read the text of the initiative.

### For More Information

* For more information regarding drug testing employees in California, employers should contact the Department of Industrial Relations Public Information Office at (415) 703-5070.

## Employee Leave

# Jury Duty in California (CA)

California law prohibits employers from firing or in any manner discriminating against an employee for taking time off to serve as a juror, if the employee gives reasonable notice to the employer that he or she is required to serve prior to taking time off.

Employers are not required to pay employees who miss work because of jury service. However, an employee generally must be permitted to use vacation, personal leave, or other paid time off that is otherwise available to the employee, for absence due to jury service.

For more information, please see California Labor Code [§230](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

# Military Leave in California (CA)

California law prohibits employers from discharging, discriminating against, or denying employment to, any individual because of such person’s membership or service in the state or U.S. military forces or performance of any ordered military duty or training. Employers also may not discourage or prevent an employee from enlisting in the state National Guard or Naval Militia by threatening or otherwise harming the employee with respect to that person’s employment, and may not interfere with an already enlisted employee’s performance of military service or attendance at training.

For more information, please see [California Military and Veterans Code §394(a) and (d)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.&article=).

### Temporary Leave of Absence for Military Training

Employers must allow any employee who is a member of the reserve corps of the U.S. armed forces, the National Guard, or the Naval Militia up to 17 days of unpaid leave per year for military duty ordered for training, drills, encampment or similar activity (including the time involved in going to and returning from such duty). Employees who are members of the state military reserve are entitled to up to 15 days of unpaid leave per year for training, drills or similar inactive duty training (including the time involved in going to and returning from duty). For more information, please see [California Military and Veterans Code §§394.5, 395.9](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.&article=).

### Maintenance of Benefits

Employers cannot limit or terminate any collateral benefit for an employee because of temporary incapacitation (52 weeks or less) due to duty in the National Guard or Naval Militia. Collateral benefits include health care which may be continued at the employee's expense, life insurance, disability insurance, and seniority status. For more information, please see [California Military and Veterans Code §394(e)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.&article=).

### Reinstatement of Employment

An employee who undertakes certain active military duty as a member of the state National Guard or the U.S. Military Reserve, and who receives a certificate of satisfactory service, is generally entitled to be restored to the employee’s former position or a position of similar seniority, status and pay (provided the employee is still qualified to perform the duties of the former position). To be eligible, a full-time employee must apply for reinstatement within 40 days after release from service (a part-time employee must apply within 5 days after release from service). Temporary employees are not entitled to reinstatement.

Employers may not discharge a full- or part-time employee who has been reinstated to employment without cause within one year after being restored to the position.

For more information, please see [California Military and Veterans Code §395.06](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.&article=).

### National Guard in Other States

Private employers must consider a former employee who meets the requirements in the bullet points below as having been on a leave of absence during any period of his or her active service in the **National Guard of any state**:

* He or she is an officer or enlisted member of the **National Guard of any state**;
* He or she was called to active duty by the governor of the state where he or she serves in the National Guard or by the President of the United States;
* He or she received a certificate of satisfactory service in the National Guard of the state where he or she serves in the National Guard;
* He or she is still qualified to perform the duties of the position; and
* If he or she left a **full-time position**, he or she made application for reemployment within **40 days** of being released from service. If he or she left **part-time employment**, he or she made application for reemployment within **5 days** of being released from service.

If the former position was a **full-time position** (and not a temporary position), the former employer must restore the former employee to the former position, or to a position of similar seniority, status, and pay without loss of retirement or other benefits—unless the employer’s circumstances have so changed as to make it impossible or unreasonable to do so. Additionally, the employer must not discharge the former employee from the position without cause within **one year** after restoring him or her to the position.

If the position was a **part-time position** (and not a temporary position), the former employer must restore the former employee to the former position, or to a position of similar seniority, status, and pay, if any exists. Also, the employer must not discharge the former employee from the position without cause within **one year** after restoring him or her to the position.

[Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB583) to read the text of the law.

## Spousal Military Leave

Employers with 25 or more employees must allow an employee who works an average of 20 or more hours per week and who is the spouse of a member of the U.S. Armed Forces, the National Guard, or the Reserves, to take up to 10 days of unpaid leave from work while the employee’s spouse is on leave from deployment during a period of military conflict.

To be eligible for spousal military leave, an employee must notify the employer of the intent to take leave within 2 business days of receiving official notice that the spouse will be on leave from deployment, and must provide the employer with documentation certifying that the spouse will be on leave during the employee’s absence from work.

The right to take spousal military leave does not affect an employee’s rights with respect to any other employee benefits provided for in other laws.

For more information, please see [California Military and Veterans Code §395.10](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.&article=).

# Voting Leave in California (CA)

California requires private employers to grant employees time off to vote as follows:

* Employers are required to provide as much time as an employee needs to vote in a statewide election if the employee does not have sufficient time outside of working hours.
* Unless otherwise agreed, employers can schedule leave for the beginning or end of a regular work shift, whichever gives employees the most free time to vote and the least amount of missed work.
* Employers are required to pay for a maximum of 2 hours of voting time.
* Employers must post a [notice](http://elections.cdn.sos.ca.gov/tov_final.pdf) (notice in Spanish [here](http://elections.cdn.sos.ca.gov/outreach/posters/tovsp.pdf)) not less than 10 days before every statewide election which informs employees of the voting leave law. The notice must be posted either in the workplace or where it can be seen by employees as they enter or exit their place of work.

Employees must notify their employers at least 2 working days prior to the election if they think they will need time off to vote.   
  
[Click here](http://www.sos.ca.gov/elections/time-vote-notices/) for more information.

# Crime and Witness Leaves in California (CA)

Employers in California are generally required to provide leave to an employee who is a victim of certain crimes to enable the employee to obtain relief or to attend judicial proceedings in connection with the crime. In addition, California employers are required to permit an employee, including an employee who is the victim of a crime, to take leave in order to comply with a court order to serve as a witness in a judicial proceeding.

An employee who is absent from work for one of the purposes listed below may generally use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement.

An employer’s obligations include:

## Leave for Victims of Domestic Violence, Sexual Assault, or Stalking

### Time Off to Obtain Restraining Order or Other Relief

An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence or sexual assault for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.

As a condition of taking time off for this purpose, the employee must give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible. When an unscheduled absence occurs, the employer may not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer such as a police report, court order or certification from a medical professional.

The employer is required to maintain the confidentiality of an employee requesting this leave, to the extent allowed by law.

For more information, please see California Labor Code [§230(c)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

Note: The law concerning leave for victims of domestic violence or sexual assault was [expanded](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0351-0400/sb_400_bill_20131011_chaptered.pdf) in 2014. Highlights of the amendments include the following:

* **Coverage expanded to victims of stalking.** The protections given to victims of domestic violence and sexual assault who take time off to obtain any relief (such as a temporary restraining order) are expanded to victims of stalking, as defined under state law.
* **Reasonable accommodation.** An employer must provide [reasonable accommodation](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0351-0400/sb_400_bill_20131011_chaptered.pdf) for a victim of domestic violence, sexual assault, or stalking who requests an accommodation for the safety of the victim while at work. However, an employer is not required to provide a reasonable accommodation to an employee who has not disclosed his or her status as a victim, or undertake an action that constitutes an undue hardship on the employer's business operations.

[Click here](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0351-0400/sb_400_bill_20131011_chaptered.pdf) for more information.

### Time Off to Obtain Medical Attention or Psychological Counseling

An employer with **25 or more employees** may not discharge (or in any manner discriminate or retaliate against) an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work for any of the following purposes:

* To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
* To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
* To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
* To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

As a condition of taking time off for one of these purposes, the employee must give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible. When an unscheduled absence occurs, the employer may not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer, such as a police report, court order or certification from a medical professional.

The employer is required to maintain the confidentiality of an employee requesting leave, to the extent allowed by law.

Leave taken for one of these purposes does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal [Family and Medical Leave Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2943).

For more information, please see California Labor Code [§230.1](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

**New Notice Requirements**

Under an [amended law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2337) in California:

* Employers with **25 or more employees** must inform each employee of his or her rights established under the law above (California Labor Code § 230.1) and [other related provisions of state law](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.) (§§ 230(c), (e), and (f)) **in writing**. The information must be provided **to new employees upon hire and to other employees upon request**.
* The state Labor Commissioner has **developed a model notice** that an employer may use to comply with the notice requirements above. **The model notice is available in** [**English**](http://www.dir.ca.gov/dlse/Victims_of_Domestic_Violence_Leave_Notice.pdf) **and** [**Spanish**](http://www.dir.ca.gov/dlse/Victims_of_Domestic_Violence_Leave_Notice_spanish.pdf)**.**
* If an employer elects not to use the model notice developed by the Labor Commissioner, the notice provided by the employer to its employees **must be substantially similar in content and clarity** to the notice developed by the Labor Commissioner.

## Leave for Victims of Certain Crimes to Attend Judicial Proceedings

An employer (and any agent of an employer) must allow an employee who is a victim of:

* A violent felony, as defined in [Section 667.5(c)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=16.&part=1.&chapter=&article=) of the California Penal Code;
* A serious felony, as defined in [Section 1192.7(c)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=8.&part=2.&chapter=1.&article=) of the California Penal Code; or
* A felony provision of law proscribing theft or embezzlement

or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim of one of these crimes to be absent from work in order to attend judicial proceedings related to that crime.

Before an employee may be absent from work for this purpose, the employee must give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employer may not take any action against the employee if the employee, within a reasonable time after the absence, provides the employer with documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim.

An employer must keep confidential any records regarding the employee's absence from work for this purpose.

An employer may not discharge from employment or in any manner discriminate against an employee, in compensation or other terms, conditions, or privileges of employment, including, but not limited to the loss of seniority or precedence, because the employee is absent from work for this purpose.

For more information, please see California Labor Code [§230.2](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

Note: An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of one of the following offenses, for taking time off from work (upon the victim’s request) to appear in court for any proceeding in which a right of the victim is at issue:

* Vehicular manslaughter while intoxicated;
* Felony child abuse likely to produce great bodily harm or a death;
* Assault resulting in the death of a child under 8 years of age;
* Felony domestic violence;
* Felony physical abuse of an elder or dependent adult;
* Felony stalking;
* Solicitation for murder;
* A serious felony;
* Hit-and-run causing death or injury;
* Felony driving under the influence causing injury; or
* Sexual assault.

For purposes of the law, "victim" also includes the employee's spouse, parent, child, sibling, or guardian. [Click here](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0251-0300/sb_288_bill_20131011_chaptered.pdf) for additional information.

## Witness Leave

An employer may not discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

For more information, please see California Labor Code [§230(b)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

# Donor Leave in California (CA)

## Bone Marrow Donation Leave

An employer of 15 or more employees must grant a paid leave of absence not exceeding 5 business days to an employee who is a bone marrow donor in any one-year period, for the purpose of donating his or her bone marrow to another person. The one-year period is measured from the date the employee's leave begins and must consist of 12 consecutive months.

### Notice Requirement

In order to receive a leave of absence to donate bone marrow, the employee must provide written verification to his or her employer that he or she is a bone marrow donor and that there is a medical necessity for the donation.

## Organ Donation Leave

An employer of 15 or more employees must grant a paid leave of absence not exceeding 30 business days to an employee who is an organ donor in any one-year period, for the purpose of donating his or her organ to another person. The one-year period is measured from the date the employee's leave begins and must consist of 12 consecutive months. Leave may be taken in one or more periods.

### Notice Requirement

In order to receive a leave of absence to donate an organ, the employee must provide written verification to his or her employer that he or she is an organ donor and that there is a medical necessity for the donation.

## Use of Earned and Unused Sick, Vacation or Paid Time Off Leave

The employer may require, as a condition of an employee's initial receipt of bone marrow or organ donation leave, that an employee take up to 5 days of earned but unused sick leave, vacation, or paid time off for bone marrow donation and up to 2 weeks of earned but unused sick leave, vacation, or paid time off for organ donation, unless doing so would violate the provisions of any applicable collective bargaining agreement.

## No Break in Service

Any period of time during which an employee is required to be absent by reason of being a bone marrow or organ donor is not a break in continuous service for the purpose of the employee’s right to salary adjustments, sick leave, vacation, paid time off, annual leave, or seniority.

## Employee Restoration

An employer must, upon expiration of bone marrow or organ donation leave, restore an employee to his or her position held when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment.

## Maintenance of Group Health Plan Coverage

During any period of bone marrow or organ donation, the employer must maintain and pay for coverage under a group health plan for the full duration of the leave, in the same manner the coverage would have been maintained if the employee had been actively at work during the leave period.

For more information about bone marrow or organ donor leave in California, please see California Labor Code [§1510](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=5.5.&chapter=&article=).

# School Activities Leave in California (CA)

Employers who employ **25 or more employees** working at the same location are generally prohibited from discharging—or in any way discriminating against—an employee who is a parent (defined in the law as a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to, a child) of one or more children (of the age to attend kindergarten or grades 1 through 12, or a licensed child care provider) for taking off **up to 40 hours each year** for the purpose of either of the following child-related activities:

* To find, enroll, or reenroll his or her child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of his or her child (limited to **8 hours in any calendar month of the year**); or
* To address a "child care provider or school emergency," which means that an employee’s child cannot remain in a school or with a child care provider due to one of the following:
  + The school or child care provider has requested that the child be picked up, or has an attendance policy (excluding planned holidays) that prohibits the child from attending or requires the child to be picked up from the school or child care provider.
  + Behavioral or discipline problems.
  + Closure or unexpected unavailability of the school or child care provider (excluding planned holidays).
  + A natural disaster (e.g., fire, earthquake, or flood).

[Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB579) to read the text of the law.

### Notice Requirement

* A parent taking time off to find, enroll, or reenroll his or her child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of his or her child **must provide—prior to taking the time off—reasonable notice** to the employer of his or her planned absence; and
* A parent taking time off to address a child care provider or school emergency must give notice to the employer.

If both parents of a child are employed by the same employer at the same worksite, the entitlement applies, at any one time, only to the parent who first gives notice to the employer. The other parent may take a planned absence simultaneously as to the same child only if he or she obtains the employer's approval for the requested time off.

### Use of Vacation, Personal Leave, Compensatory or Unpaid Time Off

The employee must utilize existing vacation, personal leave, or compensatory time off for purposes of the planned absence, unless otherwise provided by a collective bargaining agreement entered into before January 1, 1995, and in effect on that date. An employee also may utilize time off without pay for this purpose, to the extent made available by his or her employer. The entitlement of any employee may not be diminished by any collective bargaining agreement term or condition that is agreed to on or after January 1, 1995.

### Documentation

Upon request of the employer, an employee must provide documentation from the school or day care facility as proof that he or she participated in school or day care facility activities on a specific date and at a particular time. For this purpose, "documentation" means whatever written verification of parental participation the school or licensed child day care facility deems appropriate and reasonable.

For more information, please see California Labor Code [§230.8](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.).

# San Francisco Paid Sick Leave Ordinance

The San Francisco [Paid Sick Leave Ordinance](http://sfgsa.org/index.aspx?page=419) requires all employers to provide paid sick leave to each employee (including temporary and part-time employees) who performs work in San Francisco. An employee may use paid sick leave when he or she is ill, injured, or for the purpose of receiving medical care, treatment, or diagnosis, and also to aid or care for a family member or designated person when they are ill, injured, or receiving medical care, treatment, or diagnosis.

Effective January 1, 2017, an employee who is a victim of domestic violence, sexual assault, or stalking may use paid sick leave for the purposes described in certain sections of the California Labor Code. Also effective January 1, 2017, an employee may use paid sick leave for purposes related to donating the employee's bone marrow or an organ of the employee to another person. Further (effective January 1, 2017), an employee may use paid sick leave to care for or assist certain persons for purposes related to that person's donating bone marrow or an organ to another person.

## Accrual

For employees hired after February 5, 2007 but **before January 1, 2017**, paid sick leave begins to accrue 90 days after the commencement of employment with the employer, or on January 1, 2017, whichever is earlier. For employees hired on or after January 1, 2017, paid sick leave will begin to accrue on commencement of employment with the employer.

Effective January 1, 2017, an employer may, in its discretion, make available to an employee **a lump sum of paid sick leave** at the beginning of each year of employment, calendar year, or other 12-month period (an "upfront allocation"). [Click here](https://sfgov.legistar.com/View.ashx?M=F&ID=4270459&GUID=5885E583-FFEE-4C40-B57F-6E3A2166D97C) (§ 12W.3(c)) for additional information.

For employees of employers for which fewer than 10 persons (including full-time, part-time, and temporary employees) work for compensation during a given week, there is a cap of 40 hours of accrued paid sick leave. For employees of other employers, there is a cap of 72 hours of accrued paid sick leave.

## Calculating Leave

Effective January 1, 2017, an employer must calculate paid sick leave using any of the following calculations:

* Paid sick leave for **nonexempt** employees will be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick leave, whether or not the employee actually works overtime in that workweek.
* Paid sick leave for **nonexempt** employees will be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.
* Paid sick leave for **exempt** employees will be calculated in the same manner as the employer calculates wages for other forms of paid leave time.
* Note: In no circumstance may paid sick leave be provided at less than the [local minimum wage rate](http://sfgov.org/olse/minimum-wage-ordinance-mwo).

## Notice Provisions

Effective January 1, 2017, on the same written notice that an employer is required to provide under [state law](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.5.) (§ 246), an employer must set forth the amount of paid sick leave that is available to the employee under the paid sick leave ordinance, or paid time off an employer provides in lieu of sick leave. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this requirement by indicating on the notice or the employee's itemized wage statement "unlimited." This requirement applies only to employers that are required by state law to provide such notice to employees regarding paid sick leave available under state law.

Employers are also required to post a [notice](http://sfgov.org/olse/sites/default/files/Document/2017%20-%20Joint%20Paid%20Sick%20leave%20poster%20electronic2.pdf) informing employees of their rights in a conspicuous place at any workplace or job site where any employee works.

For more information, including details on the amendments effective January 1, 2017, please [click here](http://sfgsa.org/index.aspx?page=419). The rules implementing the Paid Parental Leave Ordinance, which were issued by the San Francisco Office of Labor Standards Enforcement, can be viewed by clicking [here](http://sfgov.org/olse/sites/default/files/Document/31%20FINAL%20PPLO%20Rules%2012%2023%2016v2.pdf).

# California Mandatory Sick Leave

Most employers are [required to provide](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1522) up to 24 hours (or 3 days) per year of paid sick leave to employees who work in California for the same employer for 30 or more days within a year from commencement of employment.

Certain employees are [excluded](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB304) from the law, including those covered by certain collective bargaining agreements.

Note: According to an [amendment to the paid sick leave law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB3), certain providers of **in-home supportive services** will be entitled to paid sick days beginning **July 1, 2018**. [Click here](#IHSS) for more information.

### Accrual of Sick Leave

* Employees will accrue paid sick days at the rate of **1 hour per every 30 hours worked**, beginning at the commencement of employment or **July 1, 2015** (whichever is later).
  + An employer may use a different accrual method (other than providing one hour per every 30 hours worked) provided that the accrual is on a regular basis so that an employee has **at least 24 hours** of accrued sick leave or paid time off by **the 120th calendar day of employment** or **each calendar year** (or in **each 12-month period**).
  + An employer may satisfy the accrual requirements by providing at least **24 hours (or 3 days)** of paid sick leave that is available to the employee to use by the completion of his or her **120th calendar day of employment**.
* An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a [wage order](http://www.dir.ca.gov/iwc/wageorderindustries.htm) of the Industrial Welfare Commission is deemed to work 40 hours per workweek. However, if the employee’s normal workweek is less than 40 hours, the employee will accrue paid sick days based upon that normal workweek.
* An employer has no obligation to allow an employee’s total accrual of paid sick leave to exceed **48 hours or 6 days** (provided that an employee’s rights to accrue and use paid sick leave under the law are not otherwise limited).
* An employer is generally not required to compensate an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.
* Accrued paid sick days will carry over to the following year of employment. However, **an employer may limit an employee’s use of paid sick days to 24 hours or 3 days in each year of employment**. These requirements are satisfied and no accrual or carry over is required if the full amount of leave is received at the beginning of each year, in accordance with [other provisions](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1522) of the law.
* An employer is not required to reinstate accrued paid time off to a rehired employee that was paid out at the time of termination, resignation, or separation of employment.

**Employers' Existing Paid Time Off (PTO) or Sick Leave Policies**

* An employer is not required to provide additional paid sick days if it has a paid leave policy or PTO policy and makes available an amount of leave that may be used for the same purposes and under the same conditions as specified in the law, and the policy satisfies one of the following options:
  + Satisfies the accrual, carry over, and use requirements of the law; or
  + Provided paid sick leave or PTO to a class of employees before January 1, 2015, under a sick leave policy or PTO policy that used a different accrual method (than providing one hour per every 30 hours worked), provided that the accrual is on a **regular basis** so that an employee (including an employee hired into that class after January 1, 2015) has at least **one day** (or eight hours)of accrued sick leave or PTO **within 3 months of employment** of each calendar year (or each 12-month period), and was eligible to earn at least **3 days** (or 24 hours) **within 9 months** of employment.
    - Note: If an employer modifies the accrual method used in the policy it had in place before January 1, 2015, the employer must comply with any accrual method set forth in the law or provide the full amount of leave (3 days or 24 hours) **at the beginning of the year**. The law does not prohibit the employer from increasing the accrual amount or rate.
* If an employer provides a policy which exceeds the minimum requirements, including providing a specific cap, the policy must be clear as to the additional terms that apply to their employees.

### Calculation of Sick Leave

An employer must calculate paid sick leave using any of the following calculations:

* Paid sick time for **nonexempt employees** must be calculated:
  + In the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time (whether or not the employee actually works overtime in that workweek); or
  + By dividing the employee’s total wages—not including overtime premium pay—by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.
* Paid sick time for **exempt employees** must be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

### Use of Sick Leave

* Upon the oral or written request of an employee, an employer must provide paid sick days for the following purposes:
  + Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s [family member](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1522); or
  + For an employee who is a victim of domestic violence, sexual assault, or stalking (for purposes described under state law).
* An employee is entitled to use accrued paid sick days beginning on the **90th day of employment**, after which day the employee may use paid sick days as they are accrued.
  + Note: An employer may lend paid sick days to an employee in advance of accrual, at the employer’s discretion and with proper documentation.
* An employee may determine how much paid sick leave he or she needs to use, provided that an employer may set a reasonable minimum increment—not to exceed 2 hours—for the use of paid sick leave.

Note: The law does not limit or affect any laws guaranteeing the privacy of health information, or information related to domestic violence or sexual assault, regarding an employee or employee’s family member. That information must be treated as confidential and may not be disclosed to any person (except to the affected employee, or as required by law).

### Employer and Employee Requirements

* If the need for paid sick leave is foreseeable, the employee must provide reasonable advance notification. If the need for sick leave is unforeseeable, the employee must provide notice as soon as practicable.
* An employer must provide payment for sick leave by the payday for the next regular payroll period after the sick leave was taken.
* An employer may not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

### Notice and Recordkeeping

* **Itemized wage statement.** An employer must provide an employee with written notice that sets forth the amount of paid sick leave available (or paid time off an employer provides in lieu of sick leave) for use on either the employee’s [itemized wage statement](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=226.) or in a separate writing provided on the designated pay date with the employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this requirement by indicating on the notice or the employee’s itemized wage statement: “unlimited.”
* **Poster.** In each workplace, the employer must display a poster in a conspicuous place containing [certain provisions](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1522) of the law. The Labor Commissioner has created a [poster](http://www.dir.ca.gov/DLSE/Publications/Paid_Sick_Days_Poster_Template_(11_2014).pdf) containing such information.
* **Time of hire.** The law amends the [Wage Theft Protection Act](http://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html), which requires that employers provide to each new employee notice of specified information at the time of hire. Under the new law, such notice must also state that an employee "may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates." The revised notice is available by [clicking here](http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf).
  + Note: According to the Division of Labor Standards Enforcement's [FAQs](http://www.dir.ca.gov/dlse/Paid_Sick_Leave.htm), employees hired **after January 1, 2015** must be provided with a revised [Notice to Employee](http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf) (required under Labor Code section 2810.5) that includes paid sick leave information.
* **Records.** An employer must keep for at least **3 years** records documenting the hours worked and paid sick days accrued and used by an employee.
  + Note: An employer is not obligated to inquire into or record the purposes for which an employee uses paid leave or paid time off.

### Paid Sick Leave for Providers of In-Home Supportive Services

Under an [amendment](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB3) to the paid sick leave law discussed above, a provider of in-home supportive services who works in California for **30 or more days** within a year from the commencement of employment will be entitled to paid sick days, as specified below:

* **8 hours (or 1 day)** in each year of employment, calendar year, or 12-month period beginning **July 1, 2018**.
* **16 hours (or 2 days)** in each year of employment, calendar year, or 12-month period beginning when the [minimum wage](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB3) for employers with **26 or more employees** has reached **$13 per hour**.
* **24 hours (or 3 days)** in each year of employment, calendar year, or 12-month period beginning when the [minimum wage](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB3) for employers with **26 or more employees** has reached **$15 per hour**.

Note: The same rate of accrual in the paid sick leave law discussed above will apply to such leave.

### For More Information

* [California Mandatory Sick Leave Law](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1522)
* [Mandatory Sick Leave FAQs](http://www.dir.ca.gov/DLSE/Sick_Leave_Law_FAQs.pdf)
* [2015 Amendments](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB304)

## Family and Medical Leave

# Family and Medical Leave in California (CA)

The federal [Family and Medical Leave Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2943) (FMLA) generally requires private employers with 50 or more employees to provide eligible employees with up to 12 weeks of unpaid leave during a 12-month period for certain family and medical reasons.

California also has laws requiring that employers grant certain employees leave from work due to specified family, medical, or other circumstances (which may differ from the federal requirements). If there is any question as to which law applies to a particular employer or situation, the employer should contact a knowledgeable employment law attorney or contact the California [Department of Industrial Relations](https://www.dir.ca.gov/Contactus.html) (or the appropriate [state labor department](http://www.dol.gov/dol/location.htm)) for specific guidance.

Key family and medical leave laws specific to California covered in this section include:

* Family Rights Act
* New Parent Leave Act
* Pregnancy Disability Leave
* "Kin Care" Leave
* State Disability Insurance

Please note that this list is not all-inclusive. Employers are advised to check with their state labor department and/or local municipality for additional laws related to family and medical leave that may apply to their companies.

# California Family Rights Act

This page features the following topics regarding the California Family Rights Act:

* [Background](#CA_Family_Rights_Act_Background)
* [Leave For Birth, Adoption, or Fostercare Placement](#CA_Family_Rights_Act_Leave_For_Birth)
* [Intermittent Leave](#CA_Family_Rights_Act_Intermittent)
* [Certification](#CA_Family_Rights_Act_Certification)
* [CFRA and Health Insurance](#CA_Family_Rights_Act_Health_Insurance)
* [Notice Requirements](#CA_Family_Rights_Act_Notice)
* [Interaction with FMLA Leave](#CA_Family_Rights_Act_Interaction)
* [Additional Information](#CA_Family_Rights_Act_Additional)

## Background

Similar to the federal FMLA, the [California Family Rights Act](http://www.dfeh.ca.gov/Employment/) (CFRA) generally applies to private employers with 50 or more employees and provides eligible employees with up to 12 weeks of unpaid, job-protected leave in a 12-month period for family care and medical leave. Employees eligible for CFRA leave are those with at least 12 months of service with the employer, who have worked at least 1,250 hours with the employer during the 12-month period before the date that leave begins, and who work at a location in which the employer has at least 50 employees within 75 miles.

Note: An eligible employee means (among other things) a full- or part-time employee working in California who has been employed **for a total of at least 12 months** (a change from "more than" 12 months) with the employer at any time prior to the commencement of a CFRA leave.

If an employee is not eligible for CFRA leave at the start of leave because he or she has not met the 12-month length of service requirement, the employee may nonetheless meet this requirement **while on leave**, because **leave to which he or she is otherwise entitled counts toward length of service** (although not for the 1,250 hour requirement).

An eligible employee is entitled to take family care and medical leave under CFRA for any of the following reasons:

* Birth of a child of the employee (baby bonding)
* Placement of a child with the employee for adoption or foster care
* Care of a parent, spouse, or child of the employee with a serious health condition
* Serious health condition of the employee (except for leave taken for disability due to pregnancy, childbirth, or related medical conditions)

Note: Registered domestic partners are covered under CFRA, just like spouses.

An employee taking CFRA leave may choose (or the employer may require) the substitution of any accrued vacation or other accrued paid time off during the period of leave, except that an employee may not use accrued sick leave in connection with the birth, adoption, or foster care of a child, or to care for a child, parent, or spouse with a serious health condition unless mutually agreed. If an employee takes leave due to the employee's own serious health condition, the employee may also choose (or the employer may require) the substitution of accrued sick leave during the period of the CFRA leave.

Upon returning from CFRA leave, employees generally must be reinstated to the same position or a comparable position identical to the original in terms of pay, benefits, and working conditions. An employee is entitled to reinstatement **even if the employee has been replaced or his or her position has been restructured** to accommodate the employee’s absence.

## Leave For Birth, Adoption, or Fostercare Placement

Basic minimum duration of a CFRA leave is **two weeks** when the leave is taken for the birth, adoption, or fostercare placement of a child. However, an employer must grant a request for a CFRA leave of less than two weeks duration on any two occasions. In addition, leave taken for the birth, adoption, or fostercare placement of a child must be completed within one year of the qualifying event.

## Intermittent Leave

Where CFRA leave is taken for the serious health condition of a parent, child, or spouse or for the serious health condition of the employee, leave may be taken intermittently or on a reduced-work schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, an employer may limit leave increments to the shortest period of time the employer's payroll system uses to account for absences.  
  
If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, or if the employer agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employer may require the employee **to transfer temporarily to an available alternative position**. This alternative position must have the equivalent rate of **pay and benefits**, the employee must be **qualified** for the position, and it must **better accommodate** recurring periods of leave than the employee's regular job. [Click here](https://govt.westlaw.com/calregs/Document/IA19D28BA34074D5F989B7FEBD829736A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) for more details.

## Certification

* The employer may require that the employee provide any certification within **no less than 15 calendar days** of the employer's request for such certification, unless it is not practicable for the employee to do so, despite his or her good faith efforts. This means that, in some cases, the leave may begin before the employer receives the certification. Absent extenuating circumstances (e.g., unavailability of healthcare provider), if the employee fails to timely return the certification, **the employer may deny CFRA protections for the leave following the expiration of the 15-day time period** until a sufficient certification is provided. The same rules apply to recertification. **If the employee never produces the certification or recertification, the leave is not CFRA leave**. At the time the employer requests certification, **the employer also must advise the employee of the anticipated consequences of his or her failure to provide adequate certification.** 
  + Note: The regulations provide a [revised certification form](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-CFRA-Cert-FEHC-HealthCareProviderCFRA.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA-HealthCareProvider-Poster_Sp.pdf) for Spanish) for leave involving a serious health condition. Employers may use another form (which must contain the information identified in Government Code § [12945.2](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=6.&article=1.)), so long as the health care provider does not disclose the underlying diagnosis of the serious health condition involved without the consent of the patient.

## CFRA and Health Insurance

* **Employee Payment of Group Health Benefit Premiums.** If employees are required to pay premiums for any part of their group health coverage, **the employer must provide the employee with advance written notice of the terms and conditions under which premium payments must be made.** 
  + If CFRA leave is **paid**, the employee's share of premiums must be paid by the method normally used during any paid leave, typically as a payroll deduction, unless a voluntary agreement between the employer and the employee dictates otherwise.
  + If CFRA leave is **unpaid**, the employer may require that payment be made to the employer or to the insurance carrier, but **no additional charge may be added** to the employee's premium payment for administrative expenses. The employer may require employees to pay their share of premium payments in any of the following ways:
    - Payment due at the same time as if made by payroll deduction;
    - Payment due on the same schedule as payments are made under COBRA;
    - Payment prepaid pursuant to a [cafeteria plan](https://www.law.cornell.edu/uscode/text/26/125) at the employee's option;
    - The employer's existing rules for payment by employees on leave without pay would apply, provided that such rules do not require prepayment (i.e., prior to the commencement of the leave) of the premiums that will become due during a period of unpaid CFRA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or
    - Another system voluntarily agreed to between the employer and the employee, which may include prepayment of premiums (e.g., through increased payroll deductions when the need for the CFRA leave is foreseeable).
* **Maintenance of Health Plan Coverage.** Group health plan coverage must be maintained for an employee on CFRA leave until:
  + The employee's CFRA leave entitlement is exhausted;
  + The employer can show that the employee would have been laid off and the employment relationship terminated for lawful reasons during the period of the CFRA leave; or
  + The employee provides unequivocal notice of intent not to return to work.

## Notice Requirements

When the need for CFRA leave is foreseeable, an employer may require 30 days advance notice from the employee before leave begins. Employers must respond to a request for CFRA leave no later than 10 days following receipt of the request. If 30 days' notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

Note: A California [appellate court opinion](http://www.courts.ca.gov/opinions/archive/D069381.PDF) provides that the question of whether notice is sufficient under the CFRA is a question of fact for a fact-finder (e.g., a judge or jury) to determine. As this is an appellate case, further legal action may be forthcoming. Employers with questions on the opinion's impact on workplace policies and practices are strongly encouraged to contact knowledgeable employment law counsel.

Additional notice requirements include the following:

* **Guarantee of Reinstatement.** Upon granting CFRA leave, the employer **must inform the employee of its guarantee to reinstate him or her** to the same or a comparable position (subject to the employer's [defenses](https://govt.westlaw.com/calregs/Document/I890287523ECC4B47A49BB2CB49053131?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) (§ 11089(d)) permitted by the regulations).
* **Notice of Group Health Benefit Premiums.** If employees are required to pay premiums for any part of their group health coverage, the employer must provide the employee with **advance written notice of the terms and conditions** under which premium payments must be made.
* **Notice of Termination of Health Benefits.** Unless an employer policy provides a longer grace period, an employer’s obligation to maintain health benefits coverage ceases under CFRA if an employee's premium payment is more than **30 days** late. **In order to drop coverage, an employer must provide written notice at least 15 days before coverage is to cease**, advising that coverage will be dropped on a specified date at least 15 days after the date of the written notice, unless payment has been received by that date.
  + The employer may recover the employee's share of any premium payments missed by the employee for any CFRA leave period during which the employer maintains health coverage by paying the employee's share.
  + **Note**: Regardless of whether an employee pays premiums while on CFRA leave, all other obligations of an employer under CFRA would continue, **such as reinstatement upon return and complete restoration of coverage/benefits equivalent to those that the employee would have had if leave had not been taken**, including family or dependent coverage. **If an employer terminates an employee's health benefits coverage because of the employee’s non-payment of premiums and fails to restore the employee's health insurance upon the employee's return, the employer may be liable.**
* **Employers to Post Notice.** Regulations add content and size requirements to the notice that every employer covered by the CFRA is required to post. [Click here](https://govt.westlaw.com/calregs/Document/I7D101FEC0259428E89A9CF9CDCEE4D35?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) to view a revised notice template.

The regulations also address the definition of a "joint employer," provide rules on reinstatement of "key employees," and set forth employer acts that constitute interfering with or denying the exercise of CFRA rights. You may read the full text of the regulations by [clicking here](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

## Interaction with FMLA Leave

Leave taken by an employee under CFRA runs concurrently with FMLA leave, **except** where leave is taken under FMLA for disability due to pregnancy, childbirth, or related medical conditions. **Leave for pregnancy or pregnancy-related disability counts only toward the employee’s FMLA leave entitlement (as well as toward PDL, as discussed below) and not toward the leave rights granted under CFRA.**  This is because CFRA specifically excludes leave taken for disability due to pregnancy, childbirth, or related medical conditions as a serious health condition of the employee. As a result, an employee who exhausts FMLA (and PDL) leave for a pregnancy-related disability is still entitled to leave under CFRA in order to bond with the newborn child.

**Interaction between CFRA and PDL.** Amended [regulations](https://govt.westlaw.com/calregs/Document/I19453E650130442088A35E4813E150A5?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) state that the right to take CFRA leave is separate and distinct from the right to take a disability leave under [California Pregnancy Disability Leave](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IE17B0B12D6234180A27BBB46F87576C3&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)) (PDL) and the [state disability discrimination provisions](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I25BA306C556C4024B0FAB9F2736754A9&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)). If an employee has a serious health condition that also constitutes a disability as defined under [state law](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.8.&chapter=4.&article=) (§ 12926) and cannot return to work at the conclusion of her CFRA leave, **the employer has an obligation to engage that employee in an interactive process** to determine whether an extension of that leave would constitute a [reasonable accommodation](https://govt.westlaw.com/calregs/Document/I1A90B18CAFCC4555B229643372695880?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) under the Fair Employment and Housing Act.

## Additional Information

Please click on the links below for more information related to California family and medical leave laws.

* [California Family Rights Act](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
  + [Revised California Family Rights Act Definitions](https://govt.westlaw.com/calregs/Document/I1E6F555B309D4810905C041F2B314133?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
  + [Certification of Health Care Provider](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-CFRA-Cert-FEHC-HealthCareProviderCFRA.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA-HealthCareProvider-Poster_Sp.pdf) for Spanish)
* [PDL & Reasonable Accommodation Certification Form](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider_SP.pdf) for Spanish)
* [California Fair Employment and Housing Act](http://www.dfeh.ca.gov/legal-records-and-reports/laws-and-regulations/)
* [California State Disability Insurance](http://www.edd.ca.gov/Disability/)
* [FAQs for Paid Family Leave Insurance](http://www.edd.ca.gov/Disability/FAQs.htm#pfl)
* [Regulations: Fair Employment and Housing Council](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA340484DFCB84B1C98715F2D2F1006D7&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

# California New Parent Leave Act

Information on the California New Parent Leave Act is provided below. Certain changes to the law are effective January 1, 2020. [Click here](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB63) for more information.

## Coverage

The law generally applies to employers with **20 or more employees**.

The law covers employees with **more than 12 months** of service with their employers, who have at least **1,250 hours** of service with their employers during the previous 12-month period, and who work at a worksite that has at least **20 employees within 75 miles**.

## Parental Leave Rights

Upon request, an employee may take up to **12 weeks of parental leave to bond with a new child** within one year of the child's birth, adoption, or foster care placement. The employee is entitled to utilize **accrued vacation pay, paid sick time, other accrued paid time off, or other paid or unpaid time off** negotiated with the employer, during the period of parental leave.

Note: If the employer does not provide a **guarantee of employment** in the same or a comparable position upon the leave's termination, the employer is deemed to have **refused to allow the leave**.

## Health Benefits

Employers may not refuse to **maintain and pay for coverage** under a [group health plan](https://www.law.cornell.edu/uscode/text/26/5000#b) for an eligible employee who takes parental leave for the duration of the leave (not to exceed 12 weeks over the course of a 12-month period), starting on the date the leave begins. Employers may not refuse to maintain and pay for such coverage **at the level and under the conditions that coverage would have been provided** if the employee had continued to work in his or her position for the duration of the leave.

However, an employer may **recover the premium** that it paid for maintaining coverage if [certain conditions](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB63) (§ d) occur.

## Interaction with Other Laws

In addition to the leave provided under the New Parent Leave Act, an employee is entitled to take leave provided under California [pregnancy disability leave provisions](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12945.) if the employee is otherwise qualified for that leave.

However, the New Parent Leave Act does not apply to an employee who is subject to both the California [Family Rights Act](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12945.2.) and the federal [Family and Medical Leave Act](https://www.dol.gov/general/topic/benefits-leave/fmla).

## Parents with the Same Employer

In any case in which both parents entitled to parental leave under the New Parent Leave Act are employed by the **same employer**, the employer is not required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents parental leave **totaling more than the amount** specified above. The employer may (but is not required to) grant **simultaneous leave** to both of these employees.

## Regulations

To the extent that [state regulations](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)&bhcp=1) interpreting the California [Family Rights Act](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12945.2.) (CFRA) are within the scope of (and not inconsistent with) the parental leave law or with other state law, the state is expected to use those CFRA regulations to govern leave under the parental leave law.

[Click here](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB63) for additional details on the California New Parent Leave Act, including discrimination provisions.

## Additional Information

Please click on the links below for more information related to California family and medical leave laws.

* [California Family Rights Act](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
  + [Revised California Family Rights Act Definitions](https://govt.westlaw.com/calregs/Document/I1E6F555B309D4810905C041F2B314133?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
  + [Certification of Health Care Provider](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-CFRA-Cert-FEHC-HealthCareProviderCFRA.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA-HealthCareProvider-Poster_Sp.pdf) for Spanish)
* [PDL & Reasonable Accommodation Certification Form](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider_SP.pdf) for Spanish)
* [California Fair Employment and Housing Act](http://www.dfeh.ca.gov/legal-records-and-reports/laws-and-regulations/)
* [California State Disability Insurance](http://www.edd.ca.gov/Disability/)
* [FAQs for Paid Family Leave Insurance](http://www.edd.ca.gov/Disability/FAQs.htm#pfl)
* [Regulations: Fair Employment and Housing Council](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA340484DFCB84B1C98715F2D2F1006D7&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

# California Pregnancy Disability Leave

California’s Fair Employment and Housing Act (FEHA) requires employers with 5 or more employees to grant an employee disabled by pregnancy a reasonable period of time for disability leave (up to 4 months), called [pregnancy disability leave](https://govt.westlaw.com/calregs/Document/IF05B20ACB3414C21B36A7642A1C1F9B4?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) or PDL. However, if an employer provides more than 4 months of leave for other types of temporary disabilities, it must provide the same leave to an employee disabled due to pregnancy, childbirth, or related medical conditions.

PDL is available when an employee is actually disabled as a result of pregnancy, childbirth, or related medical conditions. This includes leave taken before or after birth during any period of time the employee is physically unable to work because of pregnancy or a pregnancy-related condition.

Employers may require an employee to use her accrued sick leave during any unpaid portion of her PDL, but may not require the use of vacation or other accrued time off. However, the employee may choose to use accrued vacation leave to receive compensation during an otherwise unpaid portion of her PDL.

If possible, a woman who is taking a pregnancy disability leave must provide her employer at least 30 days advance notice before pregnancy disability or transfer begins. This notice should include the date the leave will commence and the estimated duration of the leave. If 30 days advance notice is not possible due to lack of knowledge of when leave or transfer will begin, because of a change in circumstance or because of a medical emergency, notice must be given as soon as practical.

An employer must maintain and pay for group health coverage for an eligible female employee who takes pregnancy disability leave for the duration of the leave—not to exceed 4 months over the course of a 12-month period **per pregnancy**—beginning on the date the pregnancy disability leave begins, at the same level and under the same conditions that coverage would have been provided if the employee had **not taken pregnancy disability leave**. Employers have a limited right to recover from the employee the premiums paid for maintaining this coverage.

Note: The California Fair Employment and Housing Commission has issued [regulations](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IE17B0B12D6234180A27BBB46F87576C3&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)) regarding the state’s pregnancy disability leave statute. Key provisions of the regulations include a prohibition on discrimination on the basis of “perceived pregnancy;” clarification of the four-month leave entitlement; increased duties for employers with respect to an employee’s right to reinstatement after a period of PDL; and new requirements regarding an employer’s right to request medical certification from an employee’s health care provider.

## Intermittent Leave

Leave may be taken intermittently (in small increments) or on a reduced work schedule when an employee is disabled because of pregnancy, as determined by the health care provider of the employee. These increments can be in hours, days, weeks, or months.   
  
If a woman's health care provider indicates that intermittent leave or a reduced work schedule is medically advisable and foreseeable based on planned medical treatment, an employer may require the employee to transfer to an alternative position. The alternative position must better accommodate recurring periods of leave than does the employee's regular job. Although the alternative position need not have equivalent duties, it must have an equivalent rate of pay and benefits and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing position to accommodate the employee's need for intermittent leave or a reduced work schedule.

## Pregnancy Accommodations

An employee has the right to pregnancy-related accommodations, such as temporary transfers or duty restrictions, so long as the following conditions are met:

* The employee works for an employer with **5 or more employees**;
* The employee’s health care provider recommends that the employee receive the transfer or other pregnancy-related accommodation; and
* The requested transfer or accommodation is "reasonable."

An employer may require medical certification for a temporary transfer or other pregnancy-related accommodation. A sample medical certification form is available by [clicking here](https://govt.westlaw.com/calregs/Document/IA7CC928208B844F8ABC73FF9A1313360?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).

## Return to Work

An employee generally has the right to return to the same position once her PDL leave is over unless, for legitimate business reasons unrelated to the employee’s pregnancy or leave, the employee would have been laid off even if she had not taken the leave. If the employer, for legitimate business reasons, cannot reinstate the employee to the same position, she is entitled to return to a comparable position if one is available.   
  
Note: During pregnancy disability leave, the employee must accrue seniority and participate in employee benefit plans (e.g., retirement plans) to the same extent and under the same conditions as would apply to any other unpaid disability leave granted by the employer for any reason other than a pregnancy disability.

## Revised Notice and Handbook Provisions

Under regulations effective as of April 1, 2016:

* A covered employer must post (and keep posted) notice of rights and obligations regarding pregnancy, childbirth, or related medical conditions on its premises, in conspicuous places where employees are employed. The notice must explain the law's provisions and provide information about how to contact the DFEH to file a complaint and learn more about rights and obligations under the law. The notice is available by [clicking here](https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/RightsObligationsPregnantEe_ENG.pdf) (additional languages are [also available](http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment)).
* The poster and the text must be large enough to be easily read and contain fully legible text.
* Electronic posting is sufficient to meet this posting requirement as long as it is posted electronically in a conspicuous place or places where employees would tend to view it in the workplace.
* If the employer publishes an employee handbook that describes other kinds of reasonable accommodation, transfers, or temporary disability leaves available to its employees, that employer **must include a description of reasonable accommodation, transfer, and pregnancy disability leave in the next edition of its handbook that it publishes following adoption of the regulations**. In the alternative, the employer may distribute to its employees a copy of its notice at least annually. Distribution may be by electronic mail.
* Such notice may be required to be translated into different languages. [Click here](https://govt.westlaw.com/calregs/Document/IFA594C1E8FFE45CA82A0CA577587E282?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) (§ 11049(d)(4)) for more information.

## Interaction with FMLA and CFRA

The FMLA treats any period of incapacity due to pregnancy or for prenatal care as a serious health condition which entitles the employee to leave. As a result, **leave taken for pregnancy-related disability will count toward both the employee’s FMLA and PDL entitlements** (so the leave periods will run concurrently). However, because CFRA does not include leave taken for disability due to pregnancy, childbirth, or related medical conditions as a serious health condition of the employee, **PDL does not run concurrently with leave under CFRA**.  As a result, an eligible employee who takes the full 4 months of PDL (concurrently with FMLA) and then 12 weeks of CFRA for baby bonding, will have a combined total of 7 months of leave.

Please note that in order for FMLA leave and PDL to run concurrently (at the same time), the employer must notify the employee, within the required time period, that the PDL is also designated as FMLA leave and will count against the employee’s annual FMLA leave entitlement.

## Additional Information

Please click on the links below for more information related to California family and medical leave laws.

* [California Family Rights Act](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
  + [Revised California Family Rights Act Definitions](https://govt.westlaw.com/calregs/Document/I1E6F555B309D4810905C041F2B314133?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
  + [Certification of Health Care Provider](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-CFRA-Cert-FEHC-HealthCareProviderCFRA.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA-HealthCareProvider-Poster_Sp.pdf) for Spanish)
* [PDL & Reasonable Accommodation Certification Form](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider_SP.pdf) for Spanish)
* [California Fair Employment and Housing Act](http://www.dfeh.ca.gov/legal-records-and-reports/laws-and-regulations/)
* [California State Disability Insurance](http://www.edd.ca.gov/Disability/)
* [FAQs for Paid Family Leave Insurance](http://www.edd.ca.gov/Disability/FAQs.htm#pfl)
* [Regulations: Fair Employment and Housing Council](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA340484DFCB84B1C98715F2D2F1006D7&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

# California "Kin Care" Leave

Under the "kin care" leave law, employers who provide [sick leave](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB579) for their employees must permit an employee to use up to half of his or her accrued sick leave in any calendar year in the following instances:

* For diagnosis, care, or treatment of an **existing health condition** of—or **preventive care** for—an employee or an employee’s family member; or
* For [certain purposes](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=230.1.) if an employee is a victim of **domestic violence**, **sexual assault**, or **stalking**.

Under the law, "family member" means any of the following:

* A child, which means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis (this definition of a child is applicable regardless of age or dependency status);
* A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
* Spouse;
* Registered domestic partner;
* Grandparent;
* Grandchild; or
* Sibling.

[Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB579) to read the text of the law.

This law does not extend the maximum period of leave available to an employee under FMLA or CFRA, regardless of whether the employee receives sick leave compensation during such leave.

## Additional Information

Please click on the links below for more information related to California family and medical leave laws.

* [California Family Rights Act](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I12D192FC066742F080A88B499334B3E2&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
  + [Revised California Family Rights Act Definitions](https://govt.westlaw.com/calregs/Document/I1E6F555B309D4810905C041F2B314133?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
  + [Certification of Health Care Provider](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-CFRA-Cert-FEHC-HealthCareProviderCFRA.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA-HealthCareProvider-Poster_Sp.pdf) for Spanish)
* [PDL & Reasonable Accommodation Certification Form](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider.pdf) ([click here](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Pregnancy-CertificationHealthCareProvider_SP.pdf) for Spanish)
* [California Fair Employment and Housing Act](http://www.dfeh.ca.gov/legal-records-and-reports/laws-and-regulations/)
* [California State Disability Insurance](http://www.edd.ca.gov/Disability/)
* [FAQs for Paid Family Leave Insurance](http://www.edd.ca.gov/Disability/FAQs.htm#pfl)
* [Regulations: Fair Employment and Housing Council](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA340484DFCB84B1C98715F2D2F1006D7&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

# California State Disability Insurance (Wage Replacement)

California State Disability Insurance (SDI) is a state-mandated, partial wage-replacement insurance plan funded through employee payroll deductions. Workers covered by SDI are covered by two programs: Disability Insurance and Paid Family Leave Insurance.

## Disability Insurance

The Disability Insurance program provides partial wage replacement to eligible workers who are unable to work because of a non-work related illness or injury, or due to pregnancy or childbirth. For more information, please [click here](http://www.edd.ca.gov/Disability/Disability_Insurance.htm).

## Paid Family Leave Insurance

An employee who pays into SDI is covered by Paid Family Leave (PFL) Insurance, regardless of the number of employees in the business. PFL Insurance provides up to 6 weeks of benefits for employees who need to take time off to care for a seriously ill child, spouse or registered domestic partner, or parent, or to bond with a new child. PFL does not protect anyone’s job; it simply provides partial wage replacement when an employee cannot work due to the need to care for a child, parent, spouse, or registered domestic partner, or to bond with a new child (an employee may have his or her job protected under other laws, such as the FMLA or the CFRA). For more information, please [click here](http://www.edd.ca.gov/Disability/Paid_Family_Leave.htm).

Eligible workers may receive partial wage replacement benefits while taking care of seriously ill siblings, grandparents, grandchildren, and parents-in-law. [Click here](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0751-0800/sb_770_cfa_20130905_174219_sen_floor.html) for more information.

Note: The one-week waiting period for PFL claims has been eliminated.

[Click here](https://www.hr360.com/State-Laws/California/Mandated-Disability.aspx) for more information on California State Disability Insurance.

## Final Pay Requirements

# Final Paycheck Requirements in California (CA)

## If the Employee is Involuntarily Terminated

The final paycheck is due immediately at the time of termination.

Note: Different rules may apply in the motion picture and oil drilling industries, and to certain other groups of employees. [Click here](http://www.dir.ca.gov/dlse/faq_paydays.htm) for more information.

## If the Employee Quits

* If an employee gives **at least 72 hours’ notice** and specifies the date of resignation, the final paycheck must be provided on the day the employee resigns (if in fact the employee resigns on that date).
* If **less than 72 hours’ notice** is given, payment must be made within 72 hours of quitting. Such an employee may request that his or her final wage payment be mailed to a designated address. The date of mailing will be considered the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

## Payment of Unused Benefits on Termination

All earned and unused vacation must be paid to the former employee at his or her final rate of pay (unless otherwise stipulated by a collective bargaining agreement). Such pay must be included in the employee's final paycheck.

Note: The California Court of Appeal (Fourth Appellate District) has released an opinion stating that an employer may provide a **waiting period** before an employee becomes eligible to **earn vacation**, and if the employer's policy is **clearly stated**, the waiting period policy is **enforceable**. If vacation pay is **not earned**, it is **not vested**, and therefore there is **no entitlement to vacation pay at the termination** of the employment relationship. State law does not (among other things) require that an employer provide vacation pay vesting on **day one of employment**.

[Click here](http://www.courts.ca.gov/opinions/archive/D070555.PDF) to read the opinion. **Employers with questions about the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.**

## Waiting Time Penalty

An employer who [willfully fails](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=1.&chapter=1.&article=1.) to pay any wages due a terminated employee (discharge or quit) in the prescribed time frame may be assessed a waiting time penalty. The waiting time penalty is an amount equal to the employee's **daily rate of pay for each day the wages remain unpaid, up to a maximum of thirty (30) calendar days**. (An employee will not be awarded waiting time penalties if he or she avoids or refuses to receive payment of the wages due.)

Note: If a [good faith dispute](http://www.dir.ca.gov/dlse/Glossary.asp?Button1=G#good%20faith%20dispute) exists concerning the amount of the wages due, no waiting time penalties would be imposed. A "good faith dispute" that any wages are due occurs when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist. However, a defense that is unsupported by any evidence, is unreasonable, or is presented in bad faith, will preclude a finding of a "good faith dispute." Even if there is a dispute, the employer must pay (without requiring a release) whatever wages are **due and not in dispute**. **If the employer fails to pay what is undisputed, the "good faith" defense will be defeated**—whatever the outcome of the disputed wages.

More information regarding [final paycheck requirements](http://www.dir.ca.gov/dlse/faq_paydays.htm) and [payment of unused benefits](https://www.dir.ca.gov/dlse/FAQ_Vacation.htm) on termination is available from the State of California.

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in California (CA)

This page contains the following information regarding state immigration law and verifying employment eligibility in California:

* [Overview](#CA_Immigration_overview)
* [Public Contracts](#CA_Immigration_public)
* [Unfair Immigration-Related Practices](#CA_Immigration_unfair)
* [Employers' Responsibilities Regarding Immigration Enforcement](#CA_Immigration_Employers)
* [Driver's License Status](#CA_Immigration_Drivers)

### Overview

There is no requirement for private employers in California to enroll and participate in the federal work authorization program commonly known as [E-Verify](http://www.uscis.gov/e-verify) to verify the employment eligibility of employees hired to work.

Note: Federal law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. [Click here](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Immigration-Reform-and-Control-Act.aspx) for more information.

### Public Contracts

Except as required by federal law (or as a condition of receiving federal funds), neither the state nor a city, county, city and county, or special district may require an employer to use an electronic employment verification system (e.g., [E-Verify](http://www.uscis.gov/e-verify)), including under the following circumstances:

* As a condition of receiving a government contract.
* As a condition of applying for or maintaining a business license.
* As a penalty for violating licensing or other similar laws.

[Click here](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=3.&title=&part=&chapter=2.&article=2.5.) to read the text of the law.

### Unfair Immigration-Related Practices

It is unlawful for an employer, in the course of satisfying federal work verification requirements, to do any of the following:

* Request more or different documents than are required under [federal law](https://www.law.cornell.edu/uscode/text/8/1324a#b).
* Refuse to honor documents tendered that on their face reasonably appear to be genuine.
* Refuse to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work.
* Attempt to reinvestigate or reverify an incumbent employee's authorization to work using an unfair immigration-related practice.

[Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB1001) to read the text of the law.

It is unlawful for an employer to engage in (or to direct another person or entity to engage in) [unfair immigration-related practices](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=3.&chapter=3.1.&article=) against any person for the purpose of—or with the intent of—retaliating against any person for exercising any right protected under state labor law or by any local ordinance applicable to employees.

Among other things, an "unfair immigration-related practice" includes using the federal [E-Verify](http://www.uscis.gov/e-verify) system to check the employment authorization status of a person at a time or in a manner not required under [federal law](https://www.law.cornell.edu/uscode/text/8/1324a#b) or not authorized under any [memorandum of understanding](https://www.uscis.gov/e-verify/publications/memos/publications-memorandums) governing the use of the federal E-Verify system.

[Click here](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=3.&chapter=3.1.&article=) to read the text of the law.

Note: Employers are generally prohibited (except as required by federal law or as a condition of receiving federal funds) from using E-Verify to check the employment authorization status of an **existing employee** or **applicant who has not been offered employment** at a time or in a manner not required under [federal law](https://www.law.cornell.edu/uscode/text/8/1324a#b) or not authorized under any federal agency [memorandum of understanding](http://www.uscis.gov/e-verify/publications/memos/publications-memorandums).

### Employers' Responsibilities Regarding Immigration Enforcement

**Notice of Inspection**. An employer generally must **provide a notice** to each current employee of any **inspections** of federal [Forms I-9](https://www.uscis.gov/i-9) or **other employment records** conducted by an immigration agency within 72 hours of receiving notice of the inspection.

Such notice must contain certain required content and be posted in a [certain manner](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB450) (§ 90.2(a)(1)). [Click here](https://www.dir.ca.gov/DLSE/LC_90.2_EE_Notice.pdf) to download a template Notice of Inspection by Immigration Agencies. The posting is also available in [Spanish](https://www.dir.ca.gov/DLSE/LC_90.2_EE_Notice_Spanish.pdf).

**Employee Request.** An employer, upon reasonable request, must provide an affected employee a copy of the [Notice of Inspection](https://www.uscis.gov/i-9-central/retain-store-form-i-9/inspection/inspections) of Forms I-9.

**Notification of Inspection Results.** Furthermore, an employer generally must provide to each current affected employee a copy of the written immigration agency notice that **provides the results** of the inspection of Forms I-9 or other employment records **within 72 hours** of its receipt of the notice. Within such time frame, the employer must also provide to each affected employee **written notice** of the employer's and affected employee's obligations arising from the inspection results. The notice must contain certain information and must be delivered in a [certain manner](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB450) (§ 90.2(b)(1)).

**Reverification.** Employers are generally prohibited from **reverifying the employment eligibility** of a current employee at a time or in a manner not required by [federal law](https://www.law.cornell.edu/uscode/text/8/1324a#b).

Note: The law also generally prohibits employers from providing voluntary consent to an immigration enforcement agent to: enter nonpublic areas of a place of labor, unless the agent provides a **judicial warrant**; and access, review, or obtain employee records without a **subpoena or judicial warrant**.

**Employers with questions as to the law's impact on workplace policies and practices should contact a knowledgeable employment and/or immigration law attorney**. California has also issued [guidance](https://oag.ca.gov/sites/all/files/agweb/pdfs/immigrants/iwpa.pdf) and [FAQs](https://oag.ca.gov/sites/all/files/agweb/pdfs/immigrants/immigration-ab450.pdf) to help employers comply with the law.

### Driver's License Status

It is unlawful for an employer with **5 or more employees** (or other covered entity) to discriminate against an applicant or employee because he or she holds or presents a driver's license issued under [certain Vehicle Code provisions](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH&sectionNum=12801.9.) allowing the state to issue an original driver's license to a person who is **unable to submit satisfactory proof** that his or her presence in the United States is authorized under federal law (if the person satisfies certain other requirements).

Additionally, an employer (or other covered entity) may require an applicant or employee to hold or present a license issued under the Vehicle Code only if:

* Possession of a driver's license is **required by state or federal law**; or
* Possession of a driver's license is **required by the employer** (or other covered entity) and is **otherwise permitted by law**.
  + Note: An employer's (or other covered entity's) policy requiring applicants or employees to present or hold a driver's license may be evidence of a violation of the law if the policy is not **uniformly applied or is inconsistent** with legitimate business reasons (i.e., possessing a driver's license is not needed in order to perform an essential function of the job).

Among other things, the law does not alter an employer's (or other covered entity's) rights or obligations under federal immigration law.

## Meal and Rest Breaks

# Meal & Rest Breaks in California (CA)

This page features the following topics regarding meal & rest breaks:

* [Meal Breaks](#CA_MRB_mb)
* [Rest and Recovery Periods](#CA_MRB_RR)
* [Employees Paid on Commission](#CA_MRB_Com)
* [Day of Rest Requirement](#CA_MRB_Rest)
* [San Francisco Protections for Nursing Mothers](#CA_MRB_SF)
* [For More Information](#CA_MRB_more)

## Meal Breaks

* Nonexempt employees working more than 5 hours per day must be provided a 30-minute unpaid meal period.
  + If the employee's total work hours for the day is not more than 6, the meal period may be waived by mutual written consent of both the employer and employee.
* Employees who work more than 10 hours per day must be provided a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived.
* An employer who fails to provide a required meal period must pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the meal period is not provided.

Note about Health Care Industry Employees: Generally, employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waver at any time by providing the employer at least one (1) day's written notice. The employee must be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.

For more information on meal periods in California, please [click here](http://www.dir.ca.gov/dlse/FAQ_MealPeriods.htm).

#### California Supreme Court Rules on Employer Meal and Rest Break Obligations

On April 12, 2012, the [Supreme Court of California](http://www.courts.ca.gov/17489.htm) issued an opinion (Brinker Restaurant Corp. v. Superior Court) addressing an employer's obligation to provide meal and rest breaks under state law. The court's decision included the following rulings:

* An employer's obligation with respect to meal breaks is to relieve its employees of all duty during meal periods, leaving the employees free to use the period for whatever purpose they desire, but an employer need not ensure no work is done.
* Work by a relieved employee during a meal break does not place the employer in violation of its obligations and create liability for premium pay under [Wage Order No. 5](http://www.dir.ca.gov/IWC/IWCArticle5.pdf) and [Labor Code](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=226.7.) §226.7(b). At most, the employer will be liable for straight pay, and then only when it 'knew or reasonably should have known that the worker was working through the authorized meal period.' (Although the case involved Wage Order No. 5, the court noted that [other wage orders](http://www.dir.ca.gov/iwc/wageorderindustries.htm) impose similar meal and rest period requirements for all other nonexempt employees in California.)
* A first meal break generally must fall no later than 5 hours into an employee's shift, but an employer need not schedule meal breaks at 5-hour intervals throughout the shift.
* Rest periods need not be timed to fall specifically before or after any meal period.

The court also decided whether these and related issues are appropriate for class certification.

For more information, please [click here](http://www.courts.ca.gov/17489.htm).

## Rest and Recovery Periods

* Employers must generally authorize and permit nonexempt employees to take a **rest period** that must, insofar as practicable, be taken in the middle of each work period. If the nature or circumstances of the work prevent the employer from giving the break at the preferred time, the employee must still receive the required break, but may take it at another point in the work period.
* The rest period is based on the total hours worked daily and must be at the minimum rate of a net 10 consecutive minutes for each 4-hour work period, or major fraction thereof.  The [California Division of Labor Standards Enforcement](http://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm)considers anything more than 2 hours to be a "major fraction" of 4.
* A rest period is not required for employees whose total daily work time is fewer than 3 ½ hours.
* The rest period is counted as time worked and therefore, the employer must pay for such periods.
* According to agency guidance, an employer generally may not require that an employee stay on the work premises during his or her rest period. During rest periods, employers must relieve employees of all duties and relinquish control over how employees spend their time. (However, as a practical matter, if an employee is provided a 10-minute rest period, the employee can only travel 5 minutes from a work post before heading back to return in time.)
* On-call rest periods are generally prohibited. However, this determination is unique to rest period on-call time and does not apply to other types of on-call issues such as on-call shifts or on-call meal periods, which are subject to different requirements and considerations.
* The rest period is defined as a "net" 10 minutes, which means that the rest period begins when the employee reaches an area away from the work area that is appropriate for rest. Employers are required to provide suitable resting facilities that must be available for employees during working hours in an area separate from the toilet rooms.
* An employer is prohibited from requiring an employee to work during a **recovery period** (a cooldown period afforded to an employee to prevent heat illness) mandated under an applicable statute, regulation, standard, or agency order. [Click here](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB435) for more information.
  + Under [California law](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1360),  a recovery period mandated under a state law (including an applicable statute, regulation, standard, or agency order) **must be counted as hours worked, for which there may be no deduction from wages**. [Click here](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1351-1400/sb_1360_cfa_20140613_105902_asm_floor.html) for more information.
* An employer who fails to provide a required rest period must pay the employee one additional hour of pay at the employee's [regular rate of pay](http://www.dir.ca.gov/dlse/Glossary.asp?Button1=R#regular%20rate%20of%20pay) for each workday that the rest period is not provided.

## Employees Paid on Commission

The [California Court of Appeal](http://www.courts.ca.gov/opinions/archive/B269657M.PDF) (Second Appellate District) has ruled that employees paid on commission are entitled to **separate compensation** for rest periods mandated by state law. Therefore, commission-based compensation plans must separately account and pay for rest periods to comply with state law.

The court further noted that employers who keep track of hours worked—including rest periods—violate this requirement by paying employees a guaranteed minimum hourly rate as an **advance on commissions** earned in later pay periods.

Note: Employers with questions as to the case's impact on workplace policies or practices are advised to contact a knowledgeable employment law attorney.

## Day of Rest Requirement

Under [California law](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=2.&chapter=1.&article=), every person employed in any occupation is generally entitled to **1 day's rest every 7 days**. No employer may **cause** its employees to work more than **6 days every 7 days**. However, these provisions do not apply to any employer or employee when the total hours of employment do not exceed **30 hours in any week** or **6 hours in any one day** of the week.

**Supreme Court of California Issues Opinion on Day of Rest Requirement**On May 8, 2017, the Supreme Court of California issued an opinion addressing the following questions regarding the day of rest requirement:

**Q1. Is the day of rest required by the provisions above calculated by the workweek, or does it apply on a rolling basis to any 7-consecutive-day period?  
A1.** A day of rest is guaranteed for **each workweek**. Periods of more than 6 consecutive days of work that stretch across more than 1 workweek are not per se prohibited.

**Q2. Does the exemption noted above for workers employed 6 hours or less per day apply so long as an employee works 6 hours or less on at least 1 day of the applicable week, or does it apply only when an employee works no more than 6 hours on each and every day of the week?  
A2.** The exemption for employees working shifts of 6 hours or less applies only to those who never exceed 6 hours of work on **any day of the workweek**. If on **any one day** an employee works more than 6 hours, a day of rest must be provided during that workweek (subject to whatever other exceptions might apply).

**Q3. What does it mean for an employer to "cause" an employee to go without a day of rest: force, coerce, pressure, schedule, encourage, reward, permit, or something else?  
A3.** An employer **causes** its employee to go without a day of rest when it **induces the employee to forgo rest to which he or she is entitled**. However, an employer is not forbidden from permitting or allowing an employee—fully apprised of the entitlement to rest—independently to choose not to take a day of rest.

[Click here](http://www.courts.ca.gov/opinions/archive/S224611.PDF) to read the opinion. Employers with questions as to the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.

## San Francisco Protections for Nursing Mothers

Under a new San Francisco ordinance, operative January 1, 2018, private employers must provide a **reasonable amount of break time** to accommodate an employee desiring to express breast milk for her child. The break time must, if possible, **run concurrently** with any break time already provided to the employee. Employee break time that does not run concurrently with the rest time authorized by the applicable Industrial Welfare Commission (IWC) [wage order](https://www.dir.ca.gov/iwc/wageorderindustries.htm) **may be unpaid**.

Private employers also must provide a[**lactation location**](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781) (other than a bathroom) in close proximity to the employee's work area that is shielded from view and free from intrusion from co-workers and the public. The room or other location may include the place where the employee normally works, if it otherwise meets the requirements of the [ordinance](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781) (§ 3300I.4). Among other things, the employer also must provide, in close proximity to the employee's work area, access to a **refrigerator** (where the employee can store breast milk) and access to a **sink** with running water.

Note: The ordinance provides specific rules for **multi-purpose lactation locations** and **multi-tenant buildings**. [Click here](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781) (§ 3300I.4(b)(3)-(4)) for rules concerning these respective provisions.

An employer may establish an **exemption** from the above requirements (§ 3300I.4 of the ordinance) if the employer can show that such requirement would impose an **undue hardship** by causing significant expense or operational difficulty when considered in relation to the **size**, **financial resources**, **nature**, or **structure** of the employer's business. [Click here](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781) (§ 3300I.4(c)) for more information.

The ordinance, which becomes operative on January 1, 2018, also contains certain policy and recordkeeping requirements. [Click here](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781) to read the text of the ordinance. **Employers with questions as to how the ordinance will affect workplace policies and practices should contact a knowledgeable employment law attorney.**

## For More Information

* [California Department of Industrial Relations](http://www.dir.ca.gov/)
* [San Francisco Office of Labor Standards Enforcement](http://sfgov.org/olse/)

## Minimum Wage

# Minimum Wage Rates in California (CA)

Below are current and future minimum wage rates in California. Click on the links provided for posters and additional wage information, including certain details on coverage, exemptions, tips, deductions, and immigration status.

|  |  |  |
| --- | --- | --- |
| **Government** | **Current Minimum Wage(s)** | **Future Minimum Wage(s)** |
| [State of California](https://www.dir.ca.gov/dlse/faq_minimumwage.htm) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$11.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$11.00 per hour**, beginning January 1, 2019   Employers with **26 or more employees**:   * **$12.00 per hour**, beginning January 1, 2019 |
| [Belmont](http://belmont-ca.granicus.com/MetaViewer.php?view_id=&clip_id=381&meta_id=22728) | See State of California | * **$12.50 per hour**, beginning July 1, 2018 * **$13.50 per hour**, beginning January 1, 2019 |
| [Berkeley](https://www.cityofberkeley.info/MWO/) | **$13.75 per hour** | **$15.00 per hour**, beginning October 1, 2018 |
| [Cupertino](http://www.cupertino.org/our-city/city-news/cupertino-minimum-wage) | **$13.50 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [El Cerrito](https://www.el-cerrito.org/940/Minimum-Wage-Ordinance) | **$13.60 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [Emeryville](https://www.ci.emeryville.ca.us/1024/Minimum-Wage-Ordinance) | * **$14.00 per hour** for employers with **55 or fewer employees** * **$15.20 per hour** for employers with **56 or more employees** | Employers with **55 or fewer employees**:   * **$15.00 per hour**, beginning July 1, 2018   Employers with **56 or more employees**:   * **$15.69 per hour**, beginning July 1, 2018 |
| [Los Altos](https://www.losaltosca.gov/ed/page/minimum-wage) | **$13.50 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [Los Angeles (city)](http://wagesla.lacity.org/#information) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$12.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$12.00 per hour**, beginning July 1, 2018 * **$13.25 per hour**, beginning July 1, 2019   Employers with **26 or more employees**:   * **$13.25 per hour**, beginning July 1, 2018 * **$14.25 per hour**, beginning July 1, 2019 |
| [Los Angeles (county)](http://dcba.lacounty.gov/minimum-wage/)  (Applicable to employees who work within unincorporated areas of L.A. County) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$12.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$12.00 per hour**, beginning July 1, 2018 * **$13.25 per hour**, beginning July 1, 2019   Employers with **26 or more employees**:   * **$13.25 per hour**, beginning July 1, 2018 * **$14.25 per hour**, beginning July 1, 2019 |
| [Malibu](https://www.malibucity.org/MinimumWage) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$12.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$12.00 per hour**, beginning July 1, 2018 * **$13.25 per hour**, beginning July 1, 2019   Employers with **26 or more employees**:   * **$13.25 per hour**, beginning July 1, 2018 * **$14.25 per hour**, beginning July 1, 2019 |
| [Milpitas](http://www.ci.milpitas.ca.gov/milpitas/departments/economic-development/minimum-wage/) | **$12.00 per hour** | * **$13.50 per hour**, beginning July 1, 2018 * **$15.00 per hour**, beginning July 1, 2019 |
| [Mountain View](http://www.mountainview.gov/depts/comdev/economicdev/city_minimum_wage.asp) | **$15.00 per hour** | N/A |
| [Oakland](http://www2.oaklandnet.com/Government/o/CityAdministration/d/MinimumWage/OAK051451) | **$13.23 per hour** | N/A |
| [Palo Alto](http://www.cityofpaloalto.org/gov/topics/minimum_wage.asp) | **$13.50 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [Pasadena](https://ww5.cityofpasadena.net/planning/code-compliance/minimum-wage-ordinance/) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$12.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$12.00 per hour**, beginning July 1, 2018   Employers with **26 or more employees**:   * **$13.25 per hour**, beginning July 1, 2018 |
| [Redwood City](http://www.redwoodcity.org/departments/city-manager/city-manager-s-initiatives/proposed-local-minimum-wage) | **$13.50 per hour** | **$15.00 per hour plus any increase for inflation**, beginning January 1, 2020 |
| [Richmond](http://www.ci.richmond.ca.us/2615/Minimum-Wage-Ordinance) | **$13.41 per hour** | N/A |
| [San Diego](https://www.sandiego.gov/treasurer/minimum-wage-program) | **$11.50 per hour** | N/A |
| [San Francisco](http://sfgov.org/olse/minimum-wage-ordinance-mwo) | **$14.00 per hour** | **$15.00 per hour**, beginning July 1, 2018 |
| [San Jose](https://www.sanjoseca.gov/minimumwage) | $**13.50 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [San Leandro](https://www.sanleandro.org/depts/cityhall/mwo.asp) | $**12.00 per hour** | * **$13.00 per hour**, beginning July 1, 2018 * **$14.00 per hour**, beginning July 1, 2019 |
| [San Mateo](https://www.cityofsanmateo.org/3278/Minimum-Wage) | $**13.50 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [Santa Clara](http://santaclaraca.gov/government/departments/city-manager/minimum-wage-ordinance) | **$13.00 per hour** | **$15.00 per hour**, beginning January 1, 2019 |
| [Santa Monica](https://beta.smgov.net/strategic-goals/inclusive-diverse-community/minimum-wage-ordinance) | * **$10.50 per hour** for employers with **25 or fewer employees** * **$12.00 per hour** for employers with **26 or more employees** | Employers with **25 or fewer employees**:   * **$12.00 per hour**, beginning July 1, 2018 * **$13.25 per hour**, beginning July 1, 2019   Employers with **26 or more employees**:   * **$13.25 per hour**, beginning July 1, 2018 * **$14.25 per hour**, beginning July 1, 2019 |
| [Sunnyvale](https://sunnyvale.ca.gov/business/business/wage.htm) | **$15.00 per hour** | N/A |

**Special Note Regarding Minor Employees**: The minimum wage in California is the same for both adult and minor employees. There is [no distinction](http://www.dir.ca.gov/dlse/faq_minimumwage.htm/) made between adults and minors when it comes to payment of the minimum wage.

**Special Note Regarding Tipped Employees**: Unlike federal regulations, California law does not permit an employer to use an employee's tips as a credit toward its obligation to pay the minimum wage. As a result, California employees must receive the minimum wage plus any tips left for them by patrons of the employer’s business. [Click here](http://www.dir.ca.gov/dlse/FAQ_tipsandgratuities.htm) for more information regarding tipped employees.

### For More Information

* [California Minimum Wage Information](http://www.dir.ca.gov/dlse/FAQ_MinimumWage.htm)
* [Industrial Welfare Commission Wage Orders](http://www.dir.ca.gov/IWC/WageOrderIndustries.htm) (Industry Wage Orders)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Fair-Labor-Standards-Act/Introduction-to-the-Fair-Labor-Standards-Act.aspx)
* [Minimum Wage Rate and Fair Labor Standards Act](https://www.dol.gov/general/topic/wages/minimumwage)

**[California Department of Industrial Relations](http://www.dir.ca.gov/" \o "California Department of Industrial Relations" \t "_blank)**

455 Golden Gate Ave.   
San Francisco, CA 94102  
(415) 703-4810

## New Hire Reporting

# New Hire Reporting in California (CA)

California requires private employers to submit information regarding newly hired employees and certain employees who are returning to work, to the Employment Development Department as follows:

### Reporting Requirements

* Employers must report the following information for each newly hired or recalled employee within 20 days from the date of hire or reemployment (employers reporting electronically must submit reports every 12-16 days in 2 monthly transmissions):
  + Employee's name (first name, middle initial, last name), home address, social security number and start of work date.
  + Employer’s business name and address, contact person and phone number, California employer payroll tax account number, and Federal Employer Identification Number (FEIN), and Branch Code (only if employer was assigned a Brach Code number)
  + Employers must also report the hiring of any employee who previously worked for the employer, but had been separated from that prior employment for at least 60 consecutive days.

### How to Submit Reports

* Employers may report, via the Internet through [e-Services for Business](https://eddservices.edd.ca.gov/tap/secure/ctp/silverlight/gentax.html).
* Employers may also submit one of the following paper reports, which may be faxed or mailed to the Employment Development Department:
  + [Form DE 34, Report of New Employee(s)](http://www.edd.ca.gov/pdf_pub_ctr/de34.pdf);
  + Form W-4 (with additional notations showing the employee's start-of-work date, the California employer payroll tax account number and the employer's Federal Employer Identification Number (FEIN)); or
  + An employer-created form containing all of the required information.
* Employers with employees in two or more states who transmit reports electronically may designate a single state to which all new hires can be reported after notifying, in writing, the federal Department of Health and Human Services, of this designation.

### Penalty for Failure to Report

* Employers may be charged a penalty of $24 for each failure to report the hiring or rehiring of an employee within the time required. If the failure to report is an intentional agreement between the employer and employee to not supply the required information or to supply a false or incomplete report, a penalty of $490 may be charged.

Note: State law prohibits the willful misclassification of workers as independent contractors.

* Under the [law](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0451-0500/sb_459_bill_20111009_chaptered.pdf) (California Labor Code [Section 226.8](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=00001-01000&file=200-244)), “willful misclassification” means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.
* The law also prohibits employers from charging fees to, or making deductions from the compensation paid to, misclassified workers.

The law imposes civil penalties on employers who willfully misclassify workers of between $5,000-$15,000 for each violation, with increased penalties if the employer is found to have engaged in a pattern or practice of these violations. In addition, an employer found to have willfully misclassified workers will be required to display a notice stating that the employer has engaged in willful misclassification; has changed its business practice to avoid committing further violations; and that other workers who believe they have been misclassified may contact the state [Labor & Workforce Development Agency](http://www.labor.ca.gov/). Licensed contractors who willfully misclassify workers may be subject to additional penalties. In addition, a person who knowingly advises an employer to treat an individual as an independent contractor to avoid employee status may be jointly and severally liable with the employer under the [law](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0451-0500/sb_459_bill_20111009_chaptered.pdf).  [Click here](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0451-0500/sb_459_bill_20111009_chaptered.pdf) for more information.

**California Employment Development Department**[New Hire Reporting Program](http://www.edd.ca.gov/Payroll_Taxes/New_Hire_Reporting.htm)  
Document Management Group, MIC 96   
P.O. Box 997016   
West Sacramento, CA 95799

(916) 657-0529  
Fax: (916) 319-4400

**Federal Multistate Employer New Hire Notification:**U.S. Department of Health and Human Services  
Administration for Children and Families   
Office of Child Support Enforcement  
Multi-State Employer Notification  
Box 509, Randallstown, MD 21133  
(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

# Occupational Safety and Health in California (CA)

This page covers the following information regarding occupational safety and health in California:

* [OSHA Coverage](#CA_OSH_OSHA)
* [State Program](#CA_OSH_State)
* [Reporting Requirements](#CA_OSH_Report)
* [Recordkeeping Requirements](#CA_OSH_Record)
* [Poster Requirements](#CA_OSH_Poster_Requirements)
* [Contact Information](#CA_OSH_CI)

## OSHA Coverage

Congress created the federal Occupational Safety and Health Administration (OSHA) to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance. The [OSH Act](https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=OSHACT) covers most private sector employers and workers in all 50 states and the District of Columbia. Many states have job safety and health programs that are operated directly through OSHA and subject to OSHA standards.

Other states, including California, have an OSHA-approved [State Plan](https://www.osha.gov/dcsp/osp/) covering private sector employees. State Plans are OSHA-approved job safety and health programs operated by individual states instead of federal OSHA.

## State Program (Cal/OSHA)

* The [California Division of Occupational Safety and Health](http://www.dir.ca.gov/dosh/) (Cal/OSHA) protects workers and the public from safety hazards through its Occupational Safety and Health, elevator, amusement ride, aerial tramway, ski lift, and pressure vessel inspection programs, and also provides [consultative assistance](https://www.dir.ca.gov/DOSH/consultation.html) to employers.
* Cal/OSHA covers all public and private sector employers in the state with the exception of those which the [U.S. Occupational Safety and Health Administration](http://www.osha.gov/dcsp/osp/stateprogs/california.html) (OSHA) has jurisdiction over.
* Cal/OSHA is an [OSHA-approved occupational safety and health program](http://www.osha.gov/dcsp/osp/stateprogs/california.html). OSHA-approved programs must set job safety and health standards that are at least as effective as the [comparable standards](http://www.dol.gov/compliance/guide/osha.htm) included in the federal OSH Act. Cal/OSHA has also implemented some [state-specific standards](http://www.dir.ca.gov/dosh/PublicSafety.html), including standards that apply to elevators, aerial passenger tramways, amusement rides, pressure vessels, and mine safety training.
* Cal/OSHA also offers free [consultative assistance](http://www.dir.ca.gov/dosh/consultation.html) to California employers through on-site visits, telephone support, publications, eTools and educational outreach.

**Injury and Illness Prevention Program (IIPP)**

Employers in California are generally required to have an effective written **Injury and Illness Prevention Program (IIPP)**, with [certain exceptions](http://www.dir.ca.gov/dosh/etools/09-031/exceptions.htm). Cal/OHSA offers employers an [etool](http://www.dir.ca.gov/dosh/etools/09-031/) to assist in developing a written IIPP or improving an existing IIPP. The etool will produce a written IIPP after employers [answer a set of questions](http://www.dir.ca.gov/dosh/etools/09-031/how.htm). An employer's answers will automatically appear underlined in a written IIPP that is specific to their workplace.

There are also [effectiveness questions](http://www.dir.ca.gov/dosh/etools/09-031/effectiveness.pdf) for employers to evaluate how effective their IIPPs are, and [sample forms and checklists](http://www.dir.ca.gov/dosh/etools/09-031/tools.htm) to help employers put their IIPPs into practice and document what they have done.

**Heat Illness Prevention Regulations**

Cal/OSHA's [heat illness prevention regulations](http://www.dir.ca.gov/dosh/HeatIllnessInfo.html) apply to all [outdoor places of employment](http://www.dir.ca.gov/dosh/heatIllnessQA.html). In addition, the following industries are subject to additional requirements in high heat (95°F or above):

* Agriculture;
* Construction;
* Landscaping;
* Oil and gas extraction; and
* Transportation and delivery of agricultural products and of construction or other heavy materials (e.g., furniture, lumber, freight, cargo, cabinets, industrial or commercial materials).

The regulations establish **standards** regarding employees' access to shade and water, and (among other things) require employers to establish high-heat and emergency response **procedures**, **training**, and a **heat illness prevention plan**. [Click here](http://www.dir.ca.gov/dosh/heatIllnessQA.html) for additional information.

Affected employers should review the [regulations](http://www.dir.ca.gov/title8/3395.html) in their entirety for additional standards and requirements. Cal/OSHA's [heat illness prevention website](http://www.dir.ca.gov/dosh/HeatIllnessInfo.html) features several resources for employers, including guidance, Q&As, training materials, and sample procedures.

## Reporting Requirements

All employers are required to report the serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment immediately by telephone or telegraph to the [nearest District Office of Cal/OSHA](http://www.dir.ca.gov/dosh/DistrictOffices.htm).

Note: An employer is generally prohibited from **discharging or in any manner discriminating against** any employee because the employee has (among other things) **reported** a work-related fatality, injury, or illness; **requested access** to occupational injury or illness reports and records that are made or maintained under state regulations; or **exercised any other rights** protected by the federal [Occupational Safety and Health Act](https://webapps.dol.gov/elaws/elg/osha.htm). Additional details are contained in the [text of the law](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=6310).

## Recordkeeping Requirements

Employers with more than 10 employees and whose establishments are not classified as a partially exempt industry generally must record work-related injuries and illnesses that [meet certain criteria](http://www.dir.ca.gov/dosh/etools/recordkeeping/faq/FAQ143007.htm) using Cal/OSHA Forms 300, 300A and 301, [available here](http://www.dir.ca.gov/dosh/etools/recordkeeping/CaStandard/CalStandard.htm). Partially exempt industries include establishments in specific low hazard retail, service, finance, insurance or real estate industries.

**Covered employers** must also **electronically submit** injury and illness data to OSHA that they are already required to record on their OSHA injury and illness forms, as follows:

* Establishments with **250 or more employees** in industries covered by the recordkeeping regulation must submit information from their 2017 Forms 300A by **July 1, 2018**. Beginning in 2019, the information must be submitted by March 2.
* Establishments with **20-249 employees** in [certain high-risk industries](https://www.osha.gov/recordkeeping/NAICScodesforelectronicsubmission.pdf) must submit information from their 2017 Forms 300A by July 1, 2018. Beginning in 2019, the information must be submitted by March 2.

[Click here](http://app.worksafe360.com/Safety-101/Electronic-Recordkeeping-Requirement/) for more information on this requirement.

Cal/OSHA's [Employer Records of Occupational Injury and Illnesses](http://www.dir.ca.gov/dosh/etools/recordkeeping/index.html) is an interactive educational module that may help employers understand their responsibilities to report and record work-related injuries and illnesses.

## Poster Requirements

Employers covered by the state plan are required to post the following:

* **California (CA) Safety & Health Protection on the Job** (Must be at least **8 1/2 by 14 inches with 10 point type**; designed to be printed on 11 x 17-inch paper)
  + [Poster in English](http://www.dir.ca.gov/dosh/dosh_publications/SHPSTRENG012000.pdf) - PDF format

Employers whose operations are not within the issues covered by the state plan must post the federal notice:

* **OSHA Job Safety and Health Protection: It's the Law** (Must be at least **8 1/2 by 14 inches with 10 point type**)
  + [Poster in English](http://www.osha.gov/Publications/osha3165.pdf) – PDF format
  + [Poster in Spanish](http://www.osha.gov/Publications/osha3167.pdf) – PDF format

In addition, employers of 11 or more employees are required to post [Form 300A, *Summary of Work-Related Injuries and Illnesses*](http://www.dir.ca.gov/dosh/doshreg/apndxb300afinal.pdf), from February 1 – April 30 of each year.  The annual summary also must be mailed or provided to any employees who normally do not report at least weekly to a location where the annual summary for their workplace is posted.

## Contact Information

**Department of Industrial Relations**[California Division of Occupational Safety and Health](http://www.dir.ca.gov/dosh/dosh1.html)  
1515 Clay Street, Suite 1901   
Oakland, CA 94612   
(510) 286-7000   
Fax (510) 286-7037

**U.S. Department of Labor**[Occupational Safety & Health Administration](http://www.osha.gov/index.html)  
200 Constitution Avenue  
Washington, D.C. 20210  
(800) 321-OSHA (6742)

## Overtime

# Overtime Rates in California (CA)

This page features information on the following California overtime topics:

* [Basic Rules](#CA_Overtime_Basic_Rules)
* [Alternative Workweeks](#CA_Overtime_Alternative_Workweeks)
* [Exemptions](#CA_Overtime_Exemptions)
* [Domestic Workers](#CA_Overtime_Domestic_Workers)
* [Agricultural Workers](#CA_Overtime_Agricultural_Workers)
* [Additional Information](#CA_Overtime_Additional_Information)

## Basic Rules

California requires private employers to pay overtime as follows:

* Employees are entitled to 1 ½ times their regular rates of pay for work in excess of 8 hours per day or 40 hours per week.
* Employees must be paid at double their regular rates of pay for any hours worked in excess of 12 hours per day.
* Employees who work on a 7th consecutive workday must be paid at 1 ½  times their regular rates of pay for the first 8 hours, then double their regular rates of pay for any hours worked in excess of 8.

## Alternative Workweeks

* Employers may adopt an [alternative workweek schedule](http://www.dir.ca.gov/dlse/FAQ_OvertimeExceptions.htm) of not more than 10-hour workdays in a 40-hour workweek. For these alternative schedules, employees generally must be paid overtime as follows:
  + All work performed in any workday beyond the schedule established by the agreement u**p to 12 hours a day or beyond 40 hours per week** must be paid at **one and one-half (1 1/2**) times the employee’s regular rate of pay.
  + All work performed in excess of 12 hours per day must be paid at **double** the regular rate of pay
  + Any work in excess of eight (8) hours on those days worked **beyond the regularly scheduled number of workdays established by the alternative workweek agreement** must be paid at **double** the employee’s regular rate of pay.
  + **Note**: If an employer, whose employees have adopted an alternative workweek agreement, requires an employee to work **fewer** hours than those that are regularly scheduled by the agreement, the employer must pay the employee as follows:
    - At a rate of **one and one-half (1 1/2)** times the employee's regular rate of pay for all hours worked in excess of eight (8) hours
    - At a rate of **double** the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced work hours.

## Exemptions

* California [exempts certain employees](http://www.dir.ca.gov/dlse/FAQ_OvertimeExemptions.htm) from its overtime rules, including:
  + Those working in an executive, administrative, or professional capacity;
  + Outside salespersons;
  + [Computer software employees](http://www.dir.ca.gov/OPRL/ComputerSoftware.pdf) whose compensation is at least **$43.58** per hour, or an annual salary of not less than **$90,790.07** for full time employment and paid not less than **$7,565.85** per month; and
  + [Licensed physicians and surgeons](http://www.dir.ca.gov/OPRL/Physicians.pdf) whose compensation is at least **$79.39** per hour.

The [California Supreme Court](http://www.courts.ca.gov/opinions/archive/S204804.PDF) has ruled that an employer may not attribute commission wages paid in one pay period to other pay periods in order to satisfy the [minimum earnings prong](https://govt.westlaw.com/calregs/Document/IE6B65E20D47F11DE8879F88E8B0DAAAE?contextData=(sc.Search)&rank=1&originationContext=Search+Result&navigationPath=Search%2fv3%2fsearch%2fresults%2fnavigation%2fi0ad6002400000147c6bc3b758e2e32dd%3fstartIndex%3d1%26Nav%3dREGULATION_PUBLICVIEW%26contextData%3d(sc.Default)&list=REGULATION_PUBLICVIEW&transitionType=SearchItem&listSource=Search&viewType=FullText&t_T1=8&t_T2=11040&t_S1=CA+ADC+s) of the commissioned employee exemption (Section 3(D)).

According to an [opinion](http://www.courts.ca.gov/opinions/archive/A147540.PDF) by the California Court of Appeal (First Appellate District), in determining [**exempt**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=515.) status, **monetary payments alone** determine whether the mandated minimum salary rate has been met under state law. California follows the federal [**"free and clear" rule**](https://www.ecfr.gov/cgi-bin/text-idx?SID=c5623db7a79158ff9752c6ffe7ebe8ad&mc=true&node=pt29.3.541&rgn=div5#se29.3.541_1606). In determining whether the salary rate for exempt employees is satisfied under the "free and clear" rule, the value of any payments in kind, or other forms of remuneration (e.g., employer-provided **meals or lodging**), **cannot be used** as a credit against the required minimum salary. **Employers with questions about the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.**

## Domestic Workers

Under [state law](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB241), a domestic work employee who is a personal attendant (as defined in the law) must not be employed more than 9 hours in any workday or more than 45 hours in any workweek unless the employee receives 1 ½ times his or her regular rate of pay for all hours worked over 9 hours in any workday and for all hours worked more than 45 hours in the workweek. For more information, please [click here](http://www.dir.ca.gov/dlse/DomesticWorkerBillOfRights-FAQ.html).

## Agricultural Workers

California has enacted [legislation](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB1066) to extend the payment of overtime compensation to agricultural employees after eight hours of work in a day or 40 in a week in a phased in implementation.

 Highlights of the law include the following:

* Beginning January 1, 2019, any person employed in an agricultural occupation must not be employed more than **nine and one-half hours** in any one workday or work in excess of **55 hours** in any one workweek, unless the employee receives one and one-half times that employee's regular rate of pay for all hours worked over nine and one-half  hours in any workday or over 55 hours in any workweek. This requirement will apply to an employer who employs **25 or fewer employees** commencing January 1, 2022.
* Beginning January 1, 2020, any person employed in an agricultural occupation must not be employed more than **nine hours** in any one workday or work in excess of **50 hours** in any one workweek, unless the employee receives one and one-half times that employee's regular rate of pay for all hours worked over nine hours in any workday or over 50 hours in any workweek. This requirement will apply to an employer who employs **25 or fewer employees** commencing January 1, 2023.
* Beginning January 1, 2021, any person employed in an agricultural occupation must not be employed more than **eight and one-half hours** in any one workday or work in excess of **45 hours** in any one workweek, unless the employee receives one and one-half  times that employee's regular rate of pay for all hours worked over eight and one-half hours in any workday or over 45 hours in any workweek. This requirement will apply to an employer who employs **25 or fewer employees** commencing January 1, 2024.
* Beginning January 1, 2022, any person employed in an agricultural occupation must not be employed more than **eight hours** in any one workday or work in excess of **40 hours** in any one workweek, unless the employee receives one and one-half times that employee's regular rate of pay for all hours worked over eight hours in any workday or over 40 hours in any workweek. This requirement will apply to an employer who employs **25 or fewer employees** commencing January 1, 2025.
* Also beginning January 1, 2022, any work performed by a person employed in an agricultural occupation **in excess of 12 hours** in one day must be compensated for such excess work at the rate of no less than **twice the employee's regular rate of pay**. This requirement will apply to an employer who employs **25 or fewer employees** commencing January 1, 2025.

The law also requires the Department of Industrial Relations to update Industrial Welfare Commission Wage Order No. 14-2001 (Regulating Wages, Hours and Working Conditions in the Agricultural Occupations) to be consistent with the law, except that any existing provision in the wage order providing greater protections or benefits to agricultural employees will continue in full force and effect, notwithstanding any provision of the law.

## Additional Information

For more information about California general overtime provisions, please [click here](http://www.dir.ca.gov/dlse/FAQ_Overtime.htm). You may also contact the [California Labor Commissioner's Office](http://www.dir.ca.gov/dlse/DistrictOffices.htm) closest to your workplace.

## Personal Information Protection

# Personal Information Protection in California (CA)

California regulates the protection of personal information as follows:

### What is Considered Personal Information

Personal information is generally defined as, [among other things](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798.80-1798.84):

* An individual's first name or first initial and his or her last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:
  + Social security number.
  + Driver's license number or California identification card number.
  + Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.
  + Medical information.
  + Health insurance information (effective January 1, 2016), defined as an individual’s insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual’s application and claims history, including any appeals records.
  + Information or data collected through the use or operation of an automated license plate recognition system (as defined under [state law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB34) (§ 1798.90.5)).

* A **username or email address** in combination with a password or security question and answer that would permit access to an online account.

Note: Personal information generally does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

### Requirements for Employers

A business that owns or licenses (or “maintains,” effective January 1, 2015) personal information about a California resident generally must implement and maintain reasonable security procedures and practices (appropriate to the nature of the information) to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

Note: The terms “own” and “license” include personal information that a business retains as part of its internal customer account or for the purpose of using that information in transactions with the person to whom the information relates. The term “maintain” includes personal information that a business maintains but does not own or license.   
  
A business must take all reasonable steps to dispose, or arrange for the disposal, of customer records within its custody or control containing personal information when the records are no longer to be retained by the business by:

* Shredding;
* Erasing; or
* Otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

For the provisions of the law concerning disposal of customer records, “personal information” means any information that identifies, relates to, describes, or is capable of being associated with a particular individual. [Click here](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798.80-1798.84) for more information.

Note**: Driver’s license information** obtained by an employer must be treated as **private and confidential** and (among other things) must not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive.

**Social Security Numbers**Under California law ([Civil Code Section 1798.85](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798.85-1798.89)), employers are generally prohibited from taking the following actions:

* Publicly posting or publicly displaying in any manner an individual’s social security number;
* Printing an individual’s social security number on any card required for the individual to access products or services provided by the employer;
* Requiring an individual to transmit his or her social security number over the Internet (unless the connection is secure or the social security number is encrypted);
* Requiring an individual to use his or her social security number to access an Internet web site (unless a password or unique personal identification number or other authentication device is also required to access the site);
* Printing an individual’s social security number on any materials that are mailed to the individual (unless state or federal law requires the social security number to be on the document); or
  + Note: Social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed may not be printed (in whole or in part) on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

* Selling, advertising for sale, or offering to sell an individual’s social security number or releasing an individual’s social security number for marketing purposes.
  + Note: Under [California law](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1710), employers are not prohibited from releasing an individual’s social security number if the release of the social security number is incidental to a larger transaction and is necessary to identify the individual in order to accomplish a legitimate business purpose. The law does not prohibit the release of an individual’s social security number for a purpose specifically authorized or specifically allowed by federal or state law.

**Breach Notification**State law ([Civil Code Section 1798.82](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1798.82)) requires a business to notify any California resident whose unencrypted [personal information](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1798.82) was acquired (or reasonably believed to have been acquired) by an unauthorized person. Effective as of January 1, 2017, a person or company that conducts business in California, and that owns or licenses computerized data that includes **personal information**, must disclose a **breach of the security of the system** following discovery or notification of the breach in the security of the data to a California resident:

* Whose **unencrypted** personal information was (or is reasonably believed to have been) acquired by an unauthorized person; or
* Whose **encrypted** personal information—along with the **encryption key or security credential**—was (or is reasonably believed to have been) acquired by an unauthorized person and the person or company that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information **readable or useable**.

[Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2828) to read the text of the amended law. [Click here](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1798.82) for additional information, including information regarding the required timing and content of such notice. (Note: New content and formatting requirements became effective as of January 1, 2016. [Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB570) and scroll to section 2.3 of Civil Code Section 1789.82 for more information.)

If the business providing the notification was the source of the breach, it must offer to provide appropriate **identity theft prevention and mitigation services**, if any, at no cost to the affected person for at least **12 months**, along with all information necessary to take advantage of the offer to any person whose information was or may have been breached—if the breach exposed or may have exposed certain [personal information](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1798.82).

Any person or business that is required to issue a security breach notification to more than 500 California residents as a result of a single breach of the security system must [electronically submit](https://oag.ca.gov/ecrime/databreach/report-a-breach) a single sample copy of that security breach notification, excluding any personally identifiable information, to the state attorney general.

### For More Information

* [California Civil Code §§ 1798.80-1798.84](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798.80-1798.84)
* [California Department of Justice: Data Security Breach Reporting](https://oag.ca.gov/ecrime/databreach/reporting)
* [California Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=127)
* [Confidentiality of Social Security Numbers](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798.85-1798.89)
* [Federal Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810)

## Posters

# Notices and Posters in California (CA)

The following posters are mandatory for California employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## California (CA) State Poster Requirements:

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| California (CA) Discrimination & Harassment in Employment are Prohibited | **Additional Notice Requirement:** In addition to displaying this poster in the workplace, employers are required to distribute an information sheet on sexual harassment to all employees. An employer may either distribute a [brochure](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH_SexualHarassmentPamphlet.pdf) (also available as a fact sheet; either the brochure or [fact sheet](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-185P-ENG.pdf) fulfills an employer's responsibility to provide employees an information sheet regarding sexual harassment) or develop an equivalent document that meets the requirements of Government Code section 12950. ([Click here](http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment) for Spanish materials.) | [English](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH_WorkPlaceDiscriminationHarassmentPoster.pdf) (PDF) [Spanish](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH_WorkPlaceDiscriminationHarassmentPoster_SP-1.pdf) (PDF) |
| California (CA) Transgender Rights | Employers must post this notice regarding **transgender rights** in a prominent and accessible location in the workplace. | [English](https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/11/DFEH_E04P-ENG-2017Nov.pdf) (PDF) |
| California (CA) Emergency Phone Numbers |  | [English](http://www.dir.ca.gov/dosh/dosh_publications/s500pstr.pdf) (PDF) |
| California (CA) Minimum Wage |  | [English](http://www.dir.ca.gov/iwc/MW-2017.pdf) (PDF) [Spanish](http://www.dir.ca.gov/iwc/MW-2017-Spanish.pdf) (PDF) |
| California (CA) Industrial Welfare Commission Wage Orders | Note: IWC wage orders, which govern wages, hours and working conditions in California, must be posted by all employers in an area frequented by employees, where they may be easily read during the workday. | [Current Industry Wage Orders](http://www.dir.ca.gov/iwc/wageorderindustries.htm) (PDF) |
| California (CA) No Smoking Signage | Employers must conspicuously post "No smoking" signs at entrances of any building or structure where smoking is prohibited throughout.  Employers must also conspicuously post signs stating, "Smoking is prohibited except in designated areas," at entrances of buildings where smoking is limited to certain areas. | [Sample No Smoking Poster in English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1411&libID=1432) (Word)  [Sample "Smoking is Prohibited Except in Designated Areas" Poster in English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=7720&libID=7938) (Word) |
| California (CA) Notice to Employees: Injuries Caused by Work | Advises employees of workers' compensation benefits. Claims administrators and employers need to revise the notice they are currently using and send it to the DWC administrative director for review and approval or they may download and use this version. NOTE: Employers may obtain professionally printed copies of the poster and workers’ comp claim form from their claims administrator. | [English](http://www.dir.ca.gov/DWC/NoticePoster.pdf) (PDF)  [Spanish](http://www.dir.ca.gov/DWC/NoticePoster.pdf) (PDF) |
| California (CA) Notice to Employees: Unemployment Insurance, Disability Insurance, & Paid Family Leave |  | [English](http://www.edd.ca.gov/pdf_pub_ctr/de1857a.pdf) (PDF) |
| California (CA) Unemployment Insurance Benefits |  | [English](http://www.edd.ca.gov/pdf_pub_ctr/de1857d.pdf) (PDF) |
| California (CA) Your Rights and Obligations as a Pregnant Employee | This notice replaces former Notice A. It satisfies employers' Pregnancy Disability Leave (PDL) posting requirements. According to the Department of Fair Employment and Housing, employers will not be penalized if they have not replaced Notice A with this notice by April 1, 2016.  [Click here](http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment) for additional languages. | [English](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/RightsObligationsPregnantEe_ENG.pdf) (PDF) |
| California (CA) Family Care and Medical Leave (CFRA Leave) and Pregnancy Disability Leave | This notice replaces former Notice B. It satisfies employers' California Family Rights Act (CFRA) posting requirements.  [Click here](http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment) for additional languages. | [English](http://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/CFRA_PregnancyLeave_English.pdf) (PDF) |
| California (CA) Paid Sick Leave | Employees will accrue paid sick days at the rate of 1 hour per every 30 hours worked, beginning at the commencement of employment or July 1, 2015 (whichever is later). | [English](http://www.dir.ca.gov/DLSE/Publications/Paid_Sick_Days_Poster_Template_(11_2014).pdf) (PDF) |
| California (CA) Payday Notice |  | [English](http://www.dir.ca.gov/dlse/PaydayNotice.pdf) (PDF) |
| California (CA) Right to Vote Notice | Employers must post 10 days before a statewide election. | [English](http://elections.cdn.sos.ca.gov/pdfs/tov-english.pdf) (PDF)  [Spanish](http://elections.cdn.sos.ca.gov/pdfs/tovsp.pdf) (PDF) |
| California (CA) Safety Health Protection on the Job | Must be at least **8 1/2 by 14 inches with 10 point type**; designed to be printed on 11 x 17-inch paper | [English](http://www.dir.ca.gov/dosh/dosh_publications/SHPSTRENG012000.pdf) (PDF) |
| California (CA) Whistleblowers Protection | Special size requirements: 8.5 x 14 inch paper with margins no larger than one-half inch in order to conform to the statutory requirement that the lettering be larger than size 14 point type | [English](http://www.dir.ca.gov/dlse/WhistleblowersNotice.pdf) (PDF) |
| California (CA) Prevailing Wage Rate Determination | Businesses awarded public work contracts must post a copy of the prevailing wage rate determination at each jobsite. [Click here](http://www.dir.ca.gov/oprl/DPreWageDetermination.htm) for more information regarding prevailing wage rate determinations. |  |
| California (CA) Notice of Workers' Compensation Carrier and Coverage | States the name of the employer's current compensation insurance carrier, or the fact that the employer is self-insured. Obtained from the employer's workers' compensation insurance carrier. |  |
| California (CA) Rights of Victims of Domestic Violence, Sexual Assault, and Stalking | Employers with **25 or more employees** must inform each employee **in writing** of his or her rights regarding **domestic violence, sexual assault, and stalking** established under [California Labor Code § 230.1](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2337) and [other related provisions of state law](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=230.) (§§ 230(c), (e), and (f)). The information must be provided **to new employees upon hire and to other employees upon request**.  If an employer elects not to use the model notice developed by the Labor Commissioner, the notice provided by the employer to its employees **must be substantially similar in content and clarity** to the notice developed by the Labor Commissioner. | [English](http://www.dir.ca.gov/dlse/Victims_of_Domestic_Violence_Leave_Notice.pdf) (PDF)  [Spanish](http://www.dir.ca.gov/dlse/Victims_of_Domestic_Violence_Leave_Notice_spanish.pdf) (PDF) |
| California (CA) Notice of Inspection by Immigration Agencies | An employer must generally provide a notice to each current employee of any inspections of federal [Forms I-9](https://www.uscis.gov/i-9) or other employment records conducted by an immigration agency within **72 hours** of receiving notice of the inspection. Such notice must be posted in the language the employer normally uses to communicate employment-related information to the employee. [Click here](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB450) (§ 90.2(a)(1)) for more details. | [English](https://www.dir.ca.gov/DLSE/LC_90.2_EE_Notice.pdf) (PDF) [Spanish](https://www.dir.ca.gov/DLSE/LC_90.2_EE_Notice_Spanish.pdf) (PDF) |

| **Berkeley** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Minimum Wage Poster | [Click here](http://www.ci.berkeley.ca.us/MWO/) for additional languages. | [English](http://www.ci.berkeley.ca.us/uploadedFiles/Housing/Level_3_-_General/Official%20Notice.pdf)  (PDF) |

| **Los Angeles** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Fair Chance Initiative for Hiring (Ban the Box) | Note: A downloadable Notice to Applicants and Employees is available for both [city contractors](https://bca.lacity.org/Uploads/fciho/Notice%20to%20Applicants%20and%20Employees%20for%20City%20Contractors.pdf) (who are subject to a related [separate ordinance](http://clkrep.lacity.org/onlinedocs/2014/14-0746_ORD_184653_12-9-16.pdf)) and [private employers](https://bca.lacity.org/Uploads/fciho/Notice%20to%20Applicants%20and%20Employees%20for%20Private%20Employers.pdf). Additional resources are also available by clicking [here](http://bca.lacity.org/fair-chance). | [English](https://bca.lacity.org/Uploads/fciho/Notice%20to%20Applicants%20and%20Employees%20for%20Private%20Employers.pdf) (PDF) (private employers with 10 or more employees)  [Spanish](https://bca.lacity.org/Uploads/fciho/Notice%20to%20Applicants%20and%20Employees%20for%20Private%20Employers.pdf) (PDF) (private employers with 10 or more employees) |
| Minimum Wage and Paid Sick Leave Poster | [Click here](http://www.wagesla.lacity.org/) for additional sizes and languages. | [English](http://wagesla.lacity.org/sites/g/files/wph471/f/2017-MWO-Poster-EN-11.pdf) (PDF)  [Spanish](http://wagesla.lacity.org/sites/g/files/wph471/f/2017-MWO-Poster-SP-11.pdf) (PDF) |
| County of Los Angeles Minimum Wage Ordinance **(County of Los Angeles)** | Every employer must post this notice in a conspicuous place at any workplace or jobsite located within the unincorporated areas of the County where any Employee works. Posting reproductions or facsimiles of this notice must be at least 8 1/2 inches by 14 inches, and the printing size is in at least a 10 point font. This poster must be displayed in a conspicuous and accessible place at job sites, in English, Spanish, and the primary language used by the employer to communicate with employees regarding employees' work functions, if other than English or Spanish. [Click here](http://dcba.lacounty.gov/wps/portal/dca/main/home/wageenforcement/informationforbusinesses) for additional languages. | [English](http://file.lacounty.gov/dca/cms1_245570.pdf) (PDF)  [Spanish](http://file.lacounty.gov/dca/cms1_245863.pdf) (PDF) |

| **Oakland** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Minimum Wage / Paid Sick Leave / Service Charge |  | [English](http://www2.oaklandnet.com/government/o/CityAdministration/o/ContractingandPurchasing/OAK061391) (PDF)  [Spanish](http://www2.oaklandnet.com/government/o/CityAdministration/o/ContractingandPurchasing/OAK061393) (PDF)  [Chinese](http://www2.oaklandnet.com/government/o/CityAdministration/o/ContractingandPurchasing/OAK061392) (PDF) |

| **San Jose** | **Notes** | **Poster Format** |
| --- | --- | --- |
| San Jose Official Minimum Wage Bulletin |  | [English](https://www.sanjoseca.gov/minimumwage) (PDF)  [Spanish](https://www.sanjoseca.gov/minimumwage) (PDF)  [Vietnamese](https://www.sanjoseca.gov/minimumwage) (PDF)  [Chinese](https://www.sanjoseca.gov/minimumwage) (PDF) |
| San Jose Opportunity to Work Notice | The ordinance generally applies to employers with 36 or more employees (additional details on coverage are available by [clicking here](http://www.sanjoseca.gov/DocumentCenter/View/54088)). | [English](http://www.sanjoseca.gov/DocumentCenter/View/65743) (PDF) |

| **San Francisco** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Minimum Wage Poster |  | [English](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF)  [Spanish](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF)  [Chinese](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF)  [Vietnamese](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF)  [Russian](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF)  [Tagalog](http://sfgov.org/olse/sites/default/files/Document/minimum%20wage%20poster%20v%206.2.pdf) (PDF) |
| Paid Sick Leave Ordinance San Francisco |  | [English](http://sfgov.org/olse/sites/default/files/Document/2017%20-%20Joint%20Paid%20Sick%20leave%20poster%20electronic2.pdf) (PDF) |
| San Francisco "Ban the Box" Ordinance | Employers with 20 or more employees | [English](http://sfgov.org/olse/modules/showdocument.aspx?documentid=11778) (PDF)  [Spanish](http://sfgov.org/olse/modules/showdocument.aspx?documentid=12073) (PDF)  [Chinese](http://sfgov.org/olse/modules/showdocument.aspx?documentid=12072) (PDF)  [Tagalog](http://sfgov.org/olse/modules/showdocument.aspx?documentid=12071) (PDF) |
| San Francisco Health Care Security Ordinance (HCSO) | The Health Care Security Ordinance (HCSO) requires Covered Employers to make health care expenditures for their covered employees and mandated that the Department of Public Health (DPH) create the Health Access Plan (HAP), now called Healthy San Francisco. Healthy San Francisco is only one option by which a covered employer can satisfy its obligation to make the required health care expenditure (HCE). Covered employers may also purchase health insurance coverage for their covered employees, make payments to the City for the benefit of their covered employees, or make the required HCE in a variety of other manners.  The San Francisco Office of Labor Standards Enforcement (OLSE) has released the 2018 health care expenditure rates concerning the [Health Care Security Ordinance](http://sfgov.org/olse/health-care-security-ordinance-hcso) (HCSO).   * **2018 Health Care Expenditure Rates**: Beginning January 1, 2018, the health care expenditure rate will be **$2.83 per hour for large businesses** (100 or more employees total) and **$1.89 per hour for medium-sized businesses** (20-99 employees total). * **Final Rules**: The OLSE has also released a set of [final rules](http://sfgov.org/olse/sites/default/files/Document/HCSO%20Files/HCSO%20Rules%20Correction%20FINAL%20Posted%2010%2010%202017.pdf), which aim to implement the HCSO's **employer spending requirement**. Among other things, the final rules address covered employees and employers; calculating and making **health care expenditures**; health care **surcharges**; additional employer **responsibilities**; and **enforcement procedures**. Affected employers are advised to read the final rules in their entirety.   + Reminder: For hours payable on and after **January 1, 2017**, **only irrevocable health care expenditures will be counted** toward the HCSO employer spending requirement.   [Click here](http://sfgov.org/olse/health-care-security-ordinance-hcso) for additional HCSO resources.  [2018 NOTICE Heath Care Security Ordinance (HCSO)](https://sfgov.org/olse/sites/default/files/Document/2018%20HCSO%20Poster%20-%20%2012%2006%2017.pdf): All Covered Employers--businesses with 20 or more employees and nonprofit organizations with 50 or more employees--must post the notice at every workplace or job site.  [General Information on the HCSO](http://sfgsa.org/index.aspx?page=418)  [2017 Employer Annual Reporting Form](https://etaxstatement.sfgov.org/olse/)  [Waiver Form](http://sfgov.org/olse/sites/default/files/Document/HCSO%20Files/Employee%20Voluntary%20Waiver%20Form%20-%2011.01%20Final.pdf) ([Click here](https://sfgov.org/olse/sites/default/files/Document/HCSO%20Files/HCSO%20Rules%20Correction%20FINAL%20Posted%2010%2010%202017_0.pdf) for more information) |  |
| San Francisco Family Friendly Work Ordinance | Employers with **20 or more employees** must comply with the [Family Friendly Workplace Ordinance](https://sfgov.legistar.com/LegislationDetail.aspx?From=RSS&ID=1461682&GUID=6ABD9857-7D17-4772-8AA0-3B1C357BD053) and must conspicuously post a notice informing employees of their rights under the ordinance in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace or job site. The notice is available in [multiple languages](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/11256-FFWO%20Official%20Notice.pdf). | [English](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/11256-FFWO%20Official%20Notice.pdf) (PDF) |
| Formula Retail Employee Rights Ordinances | Covered employers under the "Retail Workers' Bill of Rights" ([formula retail establishments](http://sfgov.org/olse/formula-retail-employee-rights-ordinances) with at least **40 retail sales establishments worldwide and 20 or more employees in San Francisco**) must post the [Formula Retail Employee Rights Notice](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/13056-FRERO_Notice_2015_09_09_final.pdf) in a conspicuous place at any workplace or job site where any of their covered employees work. The notice is formatted for 8.5" x 14" paper. Additional languages are available by [clicking here](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/13056-FRERO_Notice_2015_09_09_final.pdf). | [English](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/13056-FRERO_Notice_2015_09_09_final.pdf) (PDF)    [Spanish](http://sfgov.org/olse/sites/default/files/FileCenter/Documents/13056-FRERO_Notice_2015_09_09_final.pdf" \o "Spanish" \t "_blank) (PDF) |
| San Francisco Paid Parental Leave Ordinance | [Covered employers](http://sfgov.org/olse/paid-parental-leave-ordinance) must post the required Paid Parental Leave Ordinance poster at every work place and job site. The poster should be printed on 8.5" x 14" paper. | [English](http://sfgov.org/olse/sites/default/files/Document/OLSE%20parental%20leave%20poster%201.1.pdf) (PDF) |
| San Francisco Protections for Nursing Mothers Ordinance | San Francisco has enacted an **ordinance** that imposes certain obligations on employers regarding **nursing mothers**. Among other things, each private employer must develop and implement a **policy** regarding lactation accommodation. Such policy must **meet the elements** set forth in § 3300I.5(a) of the [ordinance](https://sfgov.legistar.com/View.ashx?M=F&ID=5300121&GUID=9B8E2215-DD83-4B8A-9133-249A5039D781).   The employer's lactation accommodation policy **must be distributed to all employees upon hiring**. The employer must also offer a copy of the policy to **any employee who inquires about or requests pregnancy or parental leave**. If the employer has an **employee handbook** or **set of policies** that the employer makes available to employees, the lactation accommodation policy **must be included** in those materials. The San Francisco Office of Labor Standards Enforcement is also expected to create (and make available on its [website](http://sfgov.org/olse/)) a **model lactation accommodation policy** and a model lactation accommodation **request form**. |  |
| San Francisco Salary History Ordinance | Employers must post a notice in certain places and must send a copy to each labor union or representative of workers with which the employer has certain agreements. The notice must be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted. [Click here](https://sfgov.legistar.com/View.ashx?M=F&ID=5328258&GUID=A694B95B-B9A4-4B58-8572-E015F3120929#page=7) (§ b) for additional details.  The City is expected to release the notice by July 1, 2018—the operative date of the ordinance. [Click here](http://sfgov.org/olse/consideration-salary-history-ordinance) for updates regarding the notice and salary history ordinance.   Note: The ordinance contains additional provisions regarding [city contractors](https://sfgov.legistar.com/View.ashx?M=F&ID=5282302&GUID=9B58E3DF-EBD7-46FC-BFFB-32E073CFF9E0#page=12) (see Chapter 12K). |  |

## California (CA) Industry-Specific Poster Requirements:

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| California (CA) Human Trafficking | Special size requirement: minimum 8.5 x 11 inches with a size 16 font  The following businesses and establishments must post this notice: on-sale general public premises licensees; certain adult or sexually oriented businesses; primary airports; intercity passenger rail or light rail stations; bus stations; truck stops; emergency rooms within general acute care hospitals; urgent care centers; farm labor contractors; privately operated job recruitment centers; roadside rest areas; certain businesses or establishments that offer massage or bodywork services for compensation; and hotels, motels, and [bed and breakfast inns](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC&sectionNum=24045.12.) (not including personal residences). [Click here](http://oag.ca.gov/human-trafficking/sb1193) for more information.  This notice must be posted in English and Spanish. A third language posting is required for establishments located in [specific counties](http://oag.ca.gov/human-trafficking/sb1193/counties).  Note: Legislation updates the model human trafficking notice to include a **number that individuals may text**. On or before January 1, 2019, the state Department of Justice is expected to revise and update the model notice to comply with the requirements of the law and make the updated model notice available for download on the Department's [website](https://oag.ca.gov/human-trafficking/sb1193/counties). A business or establishment required to post the model notice is not required to post the updated model notice until on and after January 1, 2019.  Employers may review the California laws ([SB-225](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB225) and [AB-260](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB260)) for additional details. | [English](http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/HumanTraffickMandate_ENG.pdf?) (PDF)  [Spanish](http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/HumanTraffickMandate_SP.pdf?) (PDF) |
| California (CA) Access to Medical & Exposure Records | Employers using hazardous or toxic substances | [English](http://www.dir.ca.gov/dosh/dosh_publications/Access_En.pdf) (PDF) [Spanish](http://www.dir.ca.gov/dosh/dosh_publications/Access_Sp.pdf) (PDF) |
| California (CA) Farm Labor Contractor Statement of Pay Rates (Licensed farm labor contractors) | Note: This posting must be at least 12 inches high and 10 inches wide. The downloaded version of this posting may not comply with this size requirement. Also, the posting must be displayed prominently where work is to be performed and on all vehicles used by the licensee for transportation of employees. | [English](http://www.dir.ca.gov/dlse/DLSE-445.pdf) (PDF)  [Spanish](http://www.dir.ca.gov/dlse/DLSE-445.pdf) (PDF) |
| California (CA) Operating Rules for Industrial Trucks | Employers operating forklifts and other types of industrial trucks or tow tractors | [English](http://www.dir.ca.gov/dosh/dosh_publications/IndTrucks_Eng.pdf) (PDF) [Spanish](http://www.dir.ca.gov/dosh/dosh_publications/IndTrucks_Spa.pdf) (PDF) |

**Cosmetology Notice**

Under a [new law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2437) in California, beginning July 1, 2017 (upon availability of the posting notice developed by the Labor Commissioner), an **establishment licensed by the Board of Barbering and Cosmetology** **is required to post a notice** pertaining to workplace rights and wage and hour laws, in languages that include English, Spanish, Vietnamese, and Korean. [Click here](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2437) for more information.

## California (CA) Additional Required Notices and Pamphlets

Employers must provide a copy of the following notices and pamphlets to each employee when appropriate:

* Notice to Employee Pursuant to the California [Wage Theft Protection Act](http://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html): Employers must provide to each new employee notice of specified information, including: the rate(s) of pay; designated pay day; allowances claimed (e.g., meal or lodging allowances) as part of the minimum wage; and the basis of wage payment (whether paying by hour, shift, day, week, piece, etc.), including any applicable rates for overtime. The law requires that the notice be provided at the time of hiring and within 7 days of a change if the change is not listed on the employee’s pay stub for the following pay period. The notice must be provided in the language the employer normally uses to communicate employment-related information. This [template](http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf) meets the statute’s requirements.
  + Under the state's [paid sick leave law](http://www.dir.ca.gov/dlse/Paid_Sick_Leave.htm), such notice must also state that an employee “may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.” A revised template is available by [clicking here](http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf).

* [Notice to Employees](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=11566&libID=11810) informs employees that their employer is required to send copies of *Employee’s Withholding Allowance Certificate* (Form W-4 [federal] or DE 4 [state]) to the Franchise Tax Board (FTB) if the certificate meets certain conditions. Please refer to "Marital Status, Withholding Allowances, and Exemptions (Form W-4 and DE 4)" in the *California Personal Income Tax Withholding* section of the [California Employer’s Guide](http://www.edd.ca.gov/pdf_pub_ctr/de44.pdf) for further information.
* Workers’ Compensation Pamphlet to New Employees: Employers must provide a written notice to every new employee concerning his or her rights, benefits, and obligations under state workers' compensation law, either at the time of hire or by the end of the first pay period. Such notice must be available in both [English](http://www.dir.ca.gov/dwc/DWCPamphlets/TimeOfHirePamphlet.pdf) and [Spanish](http://www.dir.ca.gov/dwc/DWCPamphlets/TimeofHirePamphlet_Spanish.pdf) (where there are Spanish-speaking employees). [Click here](http://www.dir.ca.gov/dwc/dwcrep.htm) for customizable Word templates provided by the Department of Industrial Relations.
* The following pamphlets explain employees' benefit rights:
  + [For Your Benefit - California's Programs for the Unemployed](http://www.edd.ca.gov/pdf_pub_ctr/de2320.pdf) – Provides information on Unemployment Insurance, Disability Insurance, Paid Family Leave, and Job Service benefits available to the employee.
  + [Disability Insurance Provisions](http://www.edd.ca.gov/pdf_pub_ctr/de2515.pdf) – This brochure outlines the Disability Insurance program.
  + [Paid Family Leave](http://www.edd.ca.gov/pdf_pub_ctr/de2511.pdf) – This brochure outlines the Paid Family Leave insurance program.

Note: Voluntary Disability Insurance (DI) Plan insurers have similar literature. Voluntary DI Plan employers must also supply claim forms to their employees. [Further information](http://www.edd.ca.gov/Disability/Employer_Voluntary_Plans.htm) is available on Voluntary DI Plans.

* All employers are [required to notify](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1847) all of their employees of both the [California Earned Income Tax Credit](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1847) (EITC) and the [federal Earned Income Tax Credit](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1847) (EITC).
* Notice to Employee as to Change in Relationship - Written notice must be given immediately to employees of their discharge, layoff, leave of absence, or change in employment status. [This sample](http://www.edd.ca.gov/payroll_taxes/pdf/NoticetoEmployeeastoChangeinRelationship.pdf) meets the minimum requirements. You may wish to prepare the employee notice in duplicate and keep a copy for your files. Notices prepared by the employer **must** include the information on the sample Notice to Employee as to Change in Relationship.
* The [Worker Adjustment and Retraining Notification Act](http://www.edd.ca.gov/Jobs_and_Training/Layoff_Services_WARN.htm) requires certain employers to give affected employees at least 60 days written advance notice of any plant closing or mass layoff.

**SUMMARY:** Provide the [Notice to Employees](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=11566&libID=11810), [For Your Benefit – California's Programs for the Unemployed](http://www.edd.ca.gov/pdf_pub_ctr/de2320.pdf),  [Paid Family Leave](http://www.edd.ca.gov/pdf_pub_ctr/de2511.pdf), [Workers' Compensation Pamphlet](http://www.dir.ca.gov/dwc/DWCPamphlets/TimeOfHirePamphlet.pdf) (for newly-hired employees), and [Disability Insurance Provisions](http://www.edd.ca.gov/pdf_pub_ctr/de2515.pdf) pamphlets to each employee. Provide [information](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1847) about the California and federal Earned Income Tax Credits (EITCs) to each employee within one week before or after providing them their W-2 or 1099.

Provide the Notice to Employee as to change in Relationship and/or Worker Adjustment and Retraining Notification (WARN) notice, as applicable.

No written notice is required if it is a voluntary quit, promotion or demotion, change in work assignment or location (some changes in location require a WARN notice), or if work stopped due to a trade dispute.

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in California (CA)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.

California requires employers to maintain the following types of records:

## Wages/Hours/Payroll Records

* The following information must be retained for 3 years for each employee and must be accessible to state regulators:
  + Name;
  + Address;
  + Age, if a minor;
  + Hours worked daily;
  + Wages; and
  + Number of piece-rate units earned and any applicable piece rates, if the employee is paid on a piece rate basis.
* If the employer is subject to [Wage Order Requirements](http://www.dir.ca.gov/IWC/IWC.html), the following information must be retained for 3 years for each employee:
  + Full name;
  + Address;
  + Birth date, if a minor;
  + Occupation;
  + Social security number;
  + Time records;
  + Total wages paid each payroll period; and
  + Total hours worked in the payroll period and rate of pay.
* Although not required, it is advisable to keep wage records for at least 4 years.

Note:  Employers may not prohibit their employees from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned. For more information, please [click here](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0451-0500/ab_469_bill_20111009_chaptered.pdf).

**E-File and E-Pay Mandate**

A California law (known as the "E-File and E-Pay Mandate") requires employers to **electronically submit employment tax returns, wage reports, and payroll tax deposits** to the state Employment Development Department (EDD). Beginning January 1, 2017, employers with **10 or more employees** are required to electronically submit tax returns, wage reports, and payroll tax deposits. **All remaining employers** will be required to electronically submit this information beginning January 1, 2018. [Click here](http://www.edd.ca.gov/payroll_taxes/E-file_and_E-pay_Mandate_for_Employers.htm) for more information.

### Wages/Hours/Payroll Records for Janitors

Effective January  1, 2017, employers of [janitors](https://www.dol.gov/whd/regs/compliance/wage/p11150.htm) (including any individual predominantly working, whether as an employee, independent contractor, or a franchisee, as a janitor)  must keep accurate records for 3 years, showing all of the following:

* The names and addresses of all employees engaged in rendering actual services for any business of the employer.
* The hours worked daily by each employee, including the times the employee begins and ends each work period.
* The wage and wage rate paid each payroll period.
* The age of all minor employees.
* Any other conditions of employment.

## Discrimination

* The California Fair Employment and Housing Act requires employers with 5 or more employees to maintain all applications, personnel or employment referral records for a period of at least 2 years after the files are initially created or received.
* Under the state's equal pay provisions, employers must maintain records of wages and wage rates, job classifications, and other terms and conditions of employment for each employee. The records must be kept for 3 years.
* Employers must retain the personnel files of terminated employees for 2 years after termination and the files of rejected applicants for 2 years after the rejection.

## Employee Access to Records

* California law requires that employers allow current and former employees access to their personnel files and records that relate to the employee's performance or to any grievance concerning the employee.
* To facilitate the inspection, employers must do the following:
  + Maintain a copy of each employee's personnel records for at least 3 years after termination of employment;
  + Make the contents of those personnel records available for inspection to the current or former employee, at reasonable intervals and at reasonable times, **but not later than 30 calendar days from the date the employer receives a written request** (unless the employer and employee have agreed in writing to a longer period not to exceed 35 calendar days from the employer's receipt of the written request); and
  + Provide a copy of such records upon written request from the current or former employee within the same time period (the employer may not charge the employee more than the actual copy costs for reproduction of the records):
    - For*current employees*, the employer must provide a copy at the place where the employee reports to work, or at another location agreeable to the employer and the requester. If the employee is required to inspect or receive a copy at a location other than the place where he or she reports to work, no loss of compensation to the employee is permitted.
    - For *former employees*, the employer must provide a copy at the location where the employer stores the records, unless the parties mutually agree in writing to a different location. A former employee may receive a copy by mail if he or she reimburses the employer for actual postal expenses.
* An employer is required to comply with only one request per year by a former employee to inspect or receive a copy of his or her personnel records.
* Categories of records that are generally considered to be "[personnel records](http://www.dir.ca.gov/dlse/faq_righttoinspectpersonnelfiles.htm)" are those that are used or have been used to determine an employee's qualifications for promotion, additional compensation, or disciplinary action, including termination. Some examples include:
  + Performance reviews;
  + Attendance records; and
  + Warning and discipline notices.
* Personnel records **do not** include items such as letters of reference or records obtained prior to employment or in connection with a promotional exam. [Click here](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2651-2700/ab_2674_bill_20120930_chaptered.pdf) for more information.

## Same Sex Relationships

# Same-Sex Relationships in California (CA)

## California State Law

California recognizes same-sex relationships under state law as follows:

### Same-Sex Marriage

* Same-sex marriage is legal in California as of June 28, 2013.
  + Note: On November 4, 2008, California state voters passed a ballot initiative known as Proposition 8, which amended the state constitution to define marriage as a union between a man and a woman. As a result, same-sex marriages were not permitted in California during this time.

* Same-sex couples legally married in another jurisdiction are considered already legally married under California marriage licensing and certification laws.
  + Note: During the time that same-sex marriages were not legal in California, the state recognized same-sex marriages performed in other jurisdictions as domestic partnerships.

### Domestic Partnerships

* Unmarried persons of the same sex may establish a domestic partnership in California.
  + Registered domestic partners have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses.

* A legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under California law, is recognized as a valid domestic partnership in the state.

**Domestic Partnership Forms**

* [Declaration of Domestic Partnership](http://dp.cdn.sos.ca.gov/forms/sf-dp1.pdf) (Form NP/SF DP-1) - PDF Format
* [Confidential Declaration of Domestic Partnership](http://dp.cdn.sos.ca.gov/forms/sf-dp1a.pdf) (Form NP/SF DP-1A) - PDF Format
* [Notice of Termination of Domestic Partnership](http://dp.cdn.sos.ca.gov/forms/sf-dp2.pdf) (Form NP/SF DP-2) - PDF Format
* [Revocation of Termination of Domestic Partnership](http://dp.cdn.sos.ca.gov/forms/sf-dp3.pdf) (Form NP/SF DP-3) - PDF Format

[Click here](http://www.sos.ca.gov/dpregistry/) for more information. For information concerning state tax benefits available for registered domestic partners, [click here](https://www.ftb.ca.gov/individuals/faq/dompart.shtml).

## Smoking

# Smoking and Tobacco Use in the Workplace in California (CA)

California regulates smoking and the use of tobacco in the workplace as follows:

### No-Smoking Requirements

* Employers **are generally required to prohibit smoking** in an enclosed space at a place of employment. Workplaces, or portions thereof, not covered by the smoking restrictions include:
  + 20% of the guest rooms of hotels, motels, and similar transient lodging;
  + Retail or wholesale tobacco shops and private smokers' lounges;
  + Truck cabs or truck tractors, if no nonsmoking employees are present;
  + Theatrical production sites, if smoking is an integral part of the story;
  + Medical research or treatment sites, if smoking is integral to the research or treatment being conducted;
  + Private residences, except for homes licensed as family day care homes, during the hours of operation and in those areas where children are present;
  + Patient smoking areas in long-term health care facilities.

Note: An employer or owner-operator of an owner-operated business must not knowingly or intentionally permit (and a person must not engage in) the smoking of tobacco products at a place of employment or in an enclosed space. An “owner-operated business” is a business having no employees, independent contractors, or volunteers, in which the owner-operator of the business is the only worker.

### Electronic Cigarettes

* A law recasts and broadens the definition of "tobacco product" under state law to include **electronic cigarettes**. By broadening the definition of "tobacco products," the measure extends existing laws that relate to tobacco products (e.g., **workplace smoking laws**) to **electronic cigarettes**.
  + Note: The law also states that certain retailers of tobacco products (including **electronic cigarettes**), which are not subject to a tobacco tax, must apply for a license and pay an annual license fee of $265, beginning January 1, 2017. Additional details and obligations are described in the [law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162SB5).

### Posting Requirements

* Employers must conspicuously post "No smoking" signs at entrances of any building or structure where smoking is prohibited throughout.
  + [Sample "No Smoking" Poster in English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1411&libID=1432) - Microsoft Word
* Employers must also conspicuously post signs stating, "Smoking is prohibited except in designated areas," at entrances of buildings where smoking is limited to certain areas.
  + [Sample "Smoking is Prohibited Except in Designated Areas" Poster in English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=7720&libID=7938) - Microsoft Word

[Click here for more information.](http://www.dir.ca.gov/dosh/dosh_publications/smoking.html)

## Unemployment

# Unemployment Insurance in California (CA)

* [California Unemployment Insurance Program](http://www.edd.ca.gov/Unemployment/default.htm)
* [California Unemployment Forms and Publications](http://www.edd.ca.gov/unemployment/forms_and_publications.htm)
* [Change in Relationship Notice Requirement (§1089, Cal. Unemp. Ins. Code)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=UIC&sectionNum=1089.)
* [Sample Notice](http://www.edd.ca.gov/Payroll_Taxes/pdf/NoticetoEmployeeastoChangeinRelationship.pdf)
* [File a UI Claim Over the Internet](https://eapply4ui.edd.ca.gov/)
* [File a UI Claim by Telephone](http://www.edd.ca.gov/Unemployment/Telephone_Numbers.htm)
* [Employer Resources](http://www.edd.ca.gov/Unemployment/Employer_Information.htm)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

#### [Employment Development Department](http://www.edd.ca.gov/)

Account Services Group, MIC 28  
PO Box 826880  
Sacramento, CA 94280-0001

(888) 745-3886

## Wage Payment Timing

# Wage Payment Timing in California (CA)

Employers are required to pay wages in California as follows:

* Employers are generally required to pay employees at least twice in a calendar month on days designated in advance as regular paydays:
  + Wages earned between the 1st and 15th days of the calendar month must be paid no later than the 26th day of the month during which the work was performed.
  + Wages earned between the 16th and last day of the month must be paid by the 10th day of the following month.
* Employers who use other payroll periods, such as weekly, biweekly, or semimonthly, must pay their employees within 7 days of the close of the pay period.
* Overtime wages must be paid no later than the payday for the payroll period following the period during which the overtime wages were earned.

Note: Executive, professional and administrative employees covered by the [Fair Labor Standards Act](http://www.dol.gov/whd/flsa/) may be paid on a monthly basis.  
   
For more information, please [click here](http://www.dir.ca.gov/dlse/FAQ_Paydays.htm).

## Itemized Wage Statements

Pursuant to [California law](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=226.), semimonthly or every time an employee is paid wages, whether by check, in cash, or otherwise, he or she must be given a detachable part of the check or a separate writing showing required information.

The following information is required to be on the itemized statement:

* Gross wages earned;
* Total hours worked (not required for salaried employees who are exempt from payment of overtime under [California law](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=515.) or any applicable [Industrial Welfare Commission Order](http://www.dir.ca.gov/Iwc/WageOrderIndustries.htm))\*;
* The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate basis;
* All deductions (all deductions made on written orders of the employee may be aggregated and shown as one item);
* Net wages earned;
* The inclusive dates of the period for which the employee is paid;
* The name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number;
* The name and address of the legal entity that is the employer; and
* All applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

\*Note: Effective January 1, 2017, a [new law](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2535) clarifies this particular exception. Under the new law, an itemized wage statement furnished by an employer will **not be required to show total hours worked** by the employee if any of the following apply:

* The employee's compensation is **solely based on a salary and the employee is exempt from the payment of overtime** under [California law](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=515.) (§ (a)) or any applicable [order of the Industrial Welfare Commission](http://www.dir.ca.gov/Iwc/WageOrderIndustries.htm) (IWC).
* The employee is **exempt from the payment of minimum wage and overtime** under certain exemptions, including (among other things):
  + The exemption for persons employed in an **executive, administrative, or professional capacity** provided in any applicable IWC wage order.
  + The exemption for **outside salespersons** provided in any applicable IWC wage order.
  + The overtime exemption for **computer software professionals** paid on a salaried basis provided in [California law](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=515.5.&lawCode=LAB).
  + The exemption for individuals who are the **parent, spouse, child, or legally adopted child** of the employer provided in any applicable IWC wage order.

In a recent decision, a [California Court of Appeal](http://www.courts.ca.gov/opinions/archive/D069403.PDF) concluded that the [California Labor Code](http://leginfo.legislature.ca.gov/faces/codedisplayexpand.xhtml?tocCode=LAB) does not require employers to include the monetary value of **accrued paid vacation time** in employee wage statements **unless and until a payment is due at the termination of the employment relationship**.

**Itemized Wage Payment (Pay Stub) Examples**

* [Employees Paid an Hourly Wage](http://www.dir.ca.gov/dlse/PayStub.pdf) (Note: This itemized statement is not applicable to salaried exempt employees.)
* [Employees Paid on a Piece Rate Basis](http://www.dir.ca.gov/dlse/PayStubForPieceRate.pdf)

For further information, please [click here](http://www.dir.ca.gov/dlse/faq_paydays.htm).

## Final Paycheck Timing Chart

[Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3269) to view a chart outlining the final paycheck timing requirements for each state.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in California (CA)

This page features the following topics regarding workers' compensation:

* [Overview](#CA_WC_Overview)
* [Workers' Compensation Forms & Notices](#CA_WC_Forms_)
* [Workers' Compensation Publications](#CA_WC_P)
* [Workers' Compensation Posters](#CA_WC_Posters)
* [State Workers' Compensation Contact Information](#CA_WC_Contact_Information)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in California below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [DLSR 5020: Employer's Report of Occupational Injury or Illness](http://www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf)
* [DWC RGS-1: Petition for Permission to Negotiate a Section 3201.7 Labor-Management Agreement](http://www.dir.ca.gov/dwc/FORMS/DWC_RG1.pdf)
* [DWC 1: Workers' Compensation Claim Form](http://www.dir.ca.gov/dwc/DWCForm1.pdf)
  + [Click here](http://www.dir.ca.gov/dwc/forms.html#Employer) for additional languages.
* [Click here](http://www.dir.ca.gov/dwc/forms.html#Frequently-Use-Forms) for additional forms.

### Forms for Employees

* [California Workers Compensation Time of Hire Pamphlet](http://www.dir.ca.gov/dwc/DWCPamphlets/TimeOfHirePamphlet.pdf)
  + [Click here](http://www.dir.ca.gov/dwc/DWCPamphlets/TimeofHirePamphlet_Spanish.pdf) for the pamphlet in Spanish.
  + Note: This pamphlet meets the requirements under CA Labor Code Section 3551 to notify new employees about their workers' compensation rights and benefits either **at the time of hire or by the end of the first pay period**.
* [IW Guide 01: How to File a Workers' Compensation Claim Form](http://www.dir.ca.gov/dwc/iwguides/IWGuide01.pdf)
* [DWC 1: Workers' Compensation Claim Form](http://www.dir.ca.gov/dwc/DWCForm1.pdf)
  + [Click here](http://www.dir.ca.gov/dwc/forms.html#Employer) for additional languages.
* [WCAB 1: Application for Adjudication of Claim](https://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/ADJ/DWC1.pdf)
* [Click here](http://www.dir.ca.gov/dwc/iwguides.html) for additional forms.

### Forms to Submit to Government Agencies

* [WCAB 10: Answer to Application for Adjudication of Claim](https://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/ADJ/WCABDWCForm10.pdf)
* [DIA 10: Notice of Employee Death](https://www.dir.ca.gov/dwc/diaform510.pdf)
* [WCAB 24: Pre-Trial Conference Statement](https://www.dir.ca.gov/dwc/FORMS/WCABForm24.pdf)
* [QME 31.5: Replacement Panel Request](https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm31_5.pdf)
* [Click here](http://www.dir.ca.gov/dwc/forms.html#Court) for additional forms.

### Forms for Insurance Carriers

* [DWC 9767.4: Cover Page for Medical Provider Network Application or Plan for Reapproval](http://www.dir.ca.gov/dwc/dwcpropregs/MPNForm.pdf)
* [DWC 9767.8: Notice of Medical Provider Network Plan Modification](http://www.dir.ca.gov/dwc/FORMS/MPN_MaterialModification.pdf)
* [DWC 9767.17.5: MPN Response to Petition for Suspension or Revocation of a Medical Provider Network](http://www.dir.ca.gov/dwc/DWCPropRegs/MPNRegulations/MPN-Final-%20Regulations/FORMS/DWCForm9767.17.5PartB.Strikeout.pdf)
* [Click here](https://www.dir.ca.gov/dwc/forms.html#MPN) for additional forms.

### Forms for Doctors & Medical Facilities

* [5021: Doctor's First Report of Occupational Injury or Illness](http://www.dir.ca.gov/dwc/forms/5021.pdf)
* [DWC PR-4: Primary Treating Physician's Permanent and Stationary Report](http://www.dir.ca.gov/dwc/PR-4.pdf)
* [DWC PR-2: Primary Treating Physician's Progress Report](http://www.dir.ca.gov/dwc/PR-2.pdf)
* [Click here](https://www.dir.ca.gov/dwc/forms.html#Medical) for additional forms.

## Workers' Compensation Publications

* [A Guidebook for Injured Workers](http://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.html)
* [Division of Workers' Compensation/Workers' Compensation Appeals Board - Policy and Procedural Manual](http://www.dir.ca.gov/WCAB/WCAB_Policy_ProcedureManual/WCABPolicy_ProcedureIndex.html)
* [Helping Injured Employees Return to Work](http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf)
* [Click here](http://www.dir.ca.gov/dwc/dwcrep.htm#2) for additional publications.

## Workers' Compensation Posters

* [Workers' Compensation Notice—Injuries Caused by Work](http://www.dir.ca.gov/DWC/NoticePoster.pdf) - PDF format
* California Notice of Workers' Compensation Carrier and Coverage -States the name of the employer's current compensation insurance carrier, or the fact that the employer is self-insured (**obtained from the employer's workers' compensation insurance carrier**).

## State Workers' Compensation Contact Information

**California Department of Industrial Relations**[Division of Workers' Compensation (DWC)](http://www.dir.ca.gov/dwc/dwc_home_page.htm)  
*Street Address:* 1515 Clay Street, 6th Floor  
Oakland, California 94612  
  
*Mailing Address:* Post Office Box 429003  
San Francisco, CA 94142  
Phone: (800) 736-7401 or (415) 703-5011  
Email: [dwc@dir.ca.gov](mailto:dwc@dir.ca.gov)   
  
[Division of Workers' Compensation Medical Unit](http://www.dir.ca.gov/dwc/MedicalUnit/imchp.html)  
*Street Address:* 1515 Clay Street, 18th Floor  
Oakland, California 94612  
  
*Mailing Address:* Post Office Box 71010  
Oakland, CA 94612  
Phone: (800) 794-6900 (in California) or (510) 286-3700  
Complaint Line: (800) 999-1041  
  
[Workers' Compensation Appeals Board (WCAB)](http://www.dir.ca.gov/WCAB)  
*Street Address:* 455 Golden Gate Avenue, 9th floor   
San Francisco, CA 94102-3660  
  
*Mailing Address:* Post Office Box 429459  
San Francisco, CA 94142-9459  
Information and Assistance Division Phone: (800) 736-7401 or (415) 703-5020  
  
[Self-Insurance Plans (SIP)](http://www.dir.ca.gov/SIP)  
11050 Olson Drive, Suite 230  
Rancho Cordova, CA 95670  
Phone: (916) 464-7000  
Fax: (916) 464-7007   
Email:[SIP@dir.ca.gov](mailto:SIP@dir.ca.gov)   
  
[State Compensation Insurance Fund (SCIF)](http://www.statefundca.com/?WT.svl=5)  
P.O. Box 8192  
Pleasanton, CA 94588   
Phone: (888) 782-8338

# Connecticut

## Arrests and Convictions

# Arrests and Convictions in Connecticut (CT)

Connecticut regulates the use of arrest and conviction records by private employers as follows:

### 'Ban the Box' Law

Effective as of January 1, 2017, employers are prohibited from inquiring about a prospective employee's **prior arrests**, **criminal charges**, or **convictions** on an initial employment application, unless:

* The employer is **required to do so** by an applicable state or federal law; or
* A **security or fidelity bond** or an equivalent bond is required for the position for which the prospective employee is seeking employment.

[Click here](https://www.cga.ct.gov/2016/ACT/pa/2016PA-00083-R00HB-05237-PA.htm) to read the text of the law.

### Permitted Access to Records

* Employers may obtain employee or applicant conviction information, which includes state records that a person was convicted of a criminal offense, and the terms of the sentence.
* An employment application form that contains any question concerning the criminal history of the applicant must contain a notice, in clear and conspicuous language, that:
  + The applicant is not required to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased;
  + Criminal records subject to erasure are records pertaining to a finding of delinquency or that a child was a member of a family with service needs, an adjudication as a youthful offender, a criminal charge that has been dismissed or nolled, a criminal charge for which the person has been found not guilty or a conviction for which the person received an absolute pardon; and
  + Any person whose criminal records have been so erased shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may swear to this under oath.

### Prohibited Use of Records

* Employers may not ask or require an employee or applicant to disclose the existence of any arrest, criminal charge or conviction, if the records have been erased, and **may not discriminate based on erased criminal records.**
* Employers are required to keep job applications containing criminal history information confidential.

The state Board of Pardons and Paroles may issue a certificate of rehabilitation to an eligible offender to relieve him or her of certain barriers to gaining employment or obtaining a credential (such as an occupational license) resulting from a criminal conviction.  Key provisions of the law include the following:

* Employers are generally prohibited from **denying employment** to a prospective employee or **discharging or discriminating** against an employee based solely on a conviction for which the person received a certificate of rehabilitation.
* There is a rebuttable presumption against admission of evidence of the prior criminal conviction of an applicant or employee in an action alleging that an employer has been **negligent in hiring an applicant or retaining an employee**, if:
  + The applicant or employee held a valid provisional pardon or certificate of rehabilitation at the time such alleged negligence occurred; and
  + A party establishes (by a preponderance of the evidence) that the employer knew that the applicant or employee held a valid provisional pardon or certificate of rehabilitation at the time such alleged negligence occurred.

[Click here](http://www.cga.ct.gov/2014/ACT/PA/2014PA-00027-R00SB-00153-PA.htm) for more information.

### Obtaining Conviction Records

* To request a criminal history record, employers should contact the Connecticut Department of Public Safety's Bureau of Identification.

**Connecticut Department of Public Safety**

[State Police Bureau of Identification](http://www.ct.gov/despp/cwp/view.asp?a=4212&q=494532)

## Child Labor

# Child Labor in Connecticut (CT)

## Minimum Wage for Minors

Subject to certain [exceptions](http://www.cga.ct.gov/2001/pub/Chap558.htm#sec31-58.htm), the minimum hourly wage for an employee who is less than 18 years of age is 85% of the state minimum wage for the first 200 hours of employment, and is equal to the state minimum wage after 200 hours. However, where federal and state law have different minimum wage rates, the higher standard applies.

## For More Information

* [Public Act 08-108 ("An Act Concerning Minors in the Workplace")](http://www.ctdol.state.ct.us/wgwkstnd/minors/PublicAct08-108.pdf)
* [Connecticut Wage & Workplace FAQs](http://www.ctdol.state.ct.us/wgwkstnd/faqs-employees.htm)
* [Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/employminors.htm)
* [FAQs for Minors](http://www.ctdol.state.ct.us/wgwkstnd/faqs-minors.htm)
* [Employers' Checklist for Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgchklst.htm)
* [Working Papers Manual](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Career/WB/WP.pdf) (State Department of Education website)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Connecticut (CT)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Restrictions on Time & Hours Worked

**Persons Under 18 Years (enrolled in and not graduated from a secondary institution)**

* Restaurants—during school weeks:
  + 6 a.m. to 11 p.m. (midnight if school vacation/not prior to a school day/not attending school)
  + 6 hours per day/32 hours per week
  + 8 hours per day on Friday, Saturday, Sunday
* Restaurants—during non-school weeks:
  + 8 hours per day/48 hours per week
  + 6 days per week
* Recreational, Amusement, and Theater—during school weeks:
  + 6 a.m. to 11 p.m. (midnight if school vacation/not prior to a school day/not attending school)
  + 6 hours per day/32 hours per week
  + 8 hours per day on Friday, Saturday, Sunday
* Recreational, Amusement, and Theater—during non-school weeks:
  + 8 hours per day/48 hours per week
  + 6 days per week
* Manufacturing and Mechanical—during school weeks:
  + 6 a.m. to 10 p.m. (11 p.m. if school vacation/not prior to a school day/not attending school)
  + 6 hours per day/32 hours per week
  + 8 hours per day on Friday, Saturday, Sunday
* Manufacturing and Mechanical—during non-school weeks:
  + 8 hours per day/48 hours per week
  + 6 days per week
* Retail/Mercantile—during school weeks:
  + 6 a.m. to 10 p.m. (11 p.m. if school vacation/not prior to a school day/not attending school/ 12:00 midnight in a supermarket—if more than 3,500 square feet—when no school the next day)
  + 6 hours per day/32 hours per week
  + 8 hours per day on Friday, Saturday, Sunday
* Retail/Mercantile—during non-school weeks:
  + 8 hours per day/48 hours per week
  + 6 days per week
* Hairdressing, Bowling Alley, Pool Hall, or Photography Gallery—during school weeks:
  + 6 a.m. to 10 p.m.
  + 6 hours per day/32 hours per week
  + 8 hours per day on Friday, Saturday, Sunday
* Hairdressing, Bowling Alley, Pool Hall, or Photography Gallery—during non-school weeks:
  + 8 hours per day/48 hours per week
  + 6 days per week

Note: Connecticut law allows minors under the age of 18 who have graduated from high school to work at the same daily and weekly hours and times of day as adults. Employers in the restaurant industry may be subject to additional [requirements](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgtime.htm).

**Persons Under 18 Years (not enrolled in and not graduated from a secondary institution)**

* Retail/Mercantile:
  + 8 hours per day/48 hours per week
  + 6 days per week
* Restaurant, Manufacturing, Mechanical, Recreation, Amusement, and Theater:
  + 9 hours per day/48 hours per week
  + 6 days per week

Note: For all occupations, work experience as part of an approved educational plan will not be counted towards permitted hourly limits.

**14 & 15 Year-Old Minors May Not Be Employed**:

* During school hours.
* Before 7 a.m. or after 7 p.m., except from July 1 to Labor Day, when evening hours are extended to 9 p.m.
* More than 3 hours per day on school days or 8 hours on non-school days.
* More than 18 hours a week in school weeks or 40 hours in non-school weeks.

## For More Information

* [Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/employminors.htm)
* [FAQs for Minors](http://www.ctdol.state.ct.us/wgwkstnd/faqs-minors.htm)
* [Employers' Checklist for Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgchklst.htm)
* [Working Papers Manual](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Career/WB/WP.pdf) (State Department of Education website)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Connecticut (CT)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## State Restrictions on Duties Performed

Note: This is not an exhaustive list of job restrictions. For a complete list of prohibited occupations for minors, employers may review the [state](http://www.ctdol.state.ct.us/wgwkstnd/employminors.htm) and [federal](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl) child labor laws.

**Prohibited Occupations and Places of Employment For All Minors Under the Age of 18 Years**

* Manufacturing and storage of explosives
* Motor vehicle driving and outside helper
* Mining
* Logging and sawmilling
* The use of electrical tools, circuits, or equipment (except double insulated hand tools)
* Exposure to radioactive substances or ionization radiation
* Power-driven hoisting apparatus
* Power-driven metal-forming, punching or shearing machines
* Slaughtering or meat packing, processing or rendering. This includes **electric meat slicers**.
* Brick, tile, and kindred products manufacturing
* Wrecking, demolition, and shipbreaking
* Roofing operations
* Excavation operations
* Automotive maintenance and repair, except (the following are permitted):
  + Island work
  + Changing passenger car tires (no truck tires)
  + Use of air hand tools
  + Preparing cars for painting, limited to sanding and masking (no spray painting or welding)
  + Hand cleaning and washing of motor vehicles (no flammable liquids)
  + Clerical or bench work

* Beverage bottling
* Soldering, welding, brazing, smelting, rolling, flame cutting, or any other types of metal processing
* Brick, clay or tile manufacturing
* Coke and tar products processing/manufacturing
* Dry cleaning/laundry operations
* Processing of food products
* Construction, except (the following are permitted):
  + Landscaping (planting small trees, shrubs, etc.)
  + General yard work/cleaning (no riding reel lawn mowers)
  + Brush painting & window cleaning (no ladders over 6 feet, no flammable cleaners/thinners, etc.)
  + Clerical/shipping/stock work

* Glazing/glass cutting operations
* Heat treating operations or helper
* Ice manufacturing
* Installation/maintenance/repair of electrical machinery/equipment
* Paper/paper products/paperboard manufacturing
* Plastic/plastic products manufacturing
* Pharmaceutical products manufacturing
* Operation of foot, hand or power presses
* Printing operations
* Pressure testing
* Synthetic fiber manufacturing
* Rubber/synthetic rubber products manufacturing/processing
* Spray painting and dipping
* Stone cutting and processing
* Leather products processing/tanning
* Sewing machine operation using needles over 1/16 inch diameter
* Tire recapping, vulcanizing or manufacturing
* Textile machinery operations
* Trash/cardboard compactor

Note: Minors who are high school graduates are exempt from Connecticut employment prohibited to minors, **but not from the federal employment prohibitions**. This is only a partial list of prohibited occupations for minors under the age of 18 years. See the [state regulations](http://www.sots.ct.gov/sots/lib/sots/regulations/title_31/023.pdf) for a more complete list or contact the [Connecticut Department of Labor](http://www.ctdol.state.ct.us/wgwkstnd/minors/wg18yrs.htm) at (860) 263-6791. Employers in the restaurant industry may also be subject to additional [requirements](http://www.ctdol.state.ct.us/wgwkstnd/minors/wg18yrs.htm).

**Prohibited Places of Employment for 14 & 15 Year-Olds**

* Restaurant/food service
* Recreational establishments
* Manufacturing industries
* Mechanical/service industries
* Mercantile/solicitation (see below)\*
* Theatrical industry
* Barber shops
* Any other business types not listed on the Permitted Occupation list (see below).

\*15-year olds may be employed or permitted to work in any mercantile establishment as a bagger, cashier, or stock clerk ([see P.A. 08-108](http://www.ctdol.state.ct.us/wgwkstnd/minors/PublicAct08-108.pdf)).

Note: There are some exceptions for school-to-career, cooperative work experience, and city/town summer work-recreation programs. Inquiries about these programs should be directed to school/town officials.

**Permitted Occupations for 14 & 15 Year-Olds**

* Agriculture
* Street trades (newspaper delivery, shoe shining, baby-sitting, etc.)
* Hospitals (no food service or laundry)
* Convalescent homes (no food service or laundry)
* Hotels and motels (no food service or laundry)
* Banks
* Insurance companies
* Professional offices (lawyers, CPAs, etc.)
* Municipalities (library attendants, recreation departments, etc.)
* Golf caddies
* Acting
* Household chores for private homeowners (yard work, etc.)
* Licensed summer camps
* Mercantile/solicitation (see below)\*

\*15-year olds may be employed or permitted to work in any mercantile establishment as a bagger, cashier, or stock clerk ([see P.A. 08-108](http://www.ctdol.state.ct.us/wgwkstnd/minors/PublicAct08-108.pdf)).

## For More Information

* [Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/employminors.htm)
* [FAQs for Minors](http://www.ctdol.state.ct.us/wgwkstnd/faqs-minors.htm)
* [Employers' Checklist for Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgchklst.htm)
* [Working Papers Manual](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Career/WB/WP.pdf) (State Department of Education website)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Connecticut (CT)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Statement of Age/Working Papers

Each business that employs a minor must obtain a certificate stating the age of such minor. A statement of age/working papers are obtained by minors from most local public high schools with the employer's written promise of employment and the minor's proof of age. The Connecticut Department of Labor provides the following [checklist](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgwrkpap.htm) for minors applying for a statement of age/working papers:

* Is the minor at least 16 years old (15 years old for retail establishments during vacation weeks)?
* Does the minor have an employer's written promise of employment?
* Does the minor have proof of age such as a birth certificate, baptismal certificate, or passport?
* Does the minor have his or her Social Security card?
* Is the job permitted for the minor’s age according to Connecticut's laws/regulations?
* Is the industry permitted for the minor’s age according to Connecticut's laws/regulations?
* Are the time and hours of work permitted by law?

If the answers to all of the above questions are "yes," minors are instructed to take their "promise of employment" and proof of age to the public high school in their town, or contact their Superintendent of Schools. *Minors must have working papers before they start work*. For more information, please [click here](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Career/WB/WP.pdf).

## Recordkeeping

* Working certificates must be kept for workers under the age of 18.

## Poster

* [Employment of Minors in Mercantile/Retail Trades](http://www.ctdol.state.ct.us/wgwkstnd/poster-minorsretail.pdf) – PDF Format
* [Employment of Minors in Restaurant/Food Service](http://www.ctdol.state.ct.us/wgwkstnd/poster-minorsrestaurant.pdf) – PDF Format

## For More Information

* [Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/employminors.htm)
* [FAQs for Minors](http://www.ctdol.state.ct.us/wgwkstnd/faqs-minors.htm)
* [Employers' Checklist for Employment of Minors](http://www.ctdol.state.ct.us/wgwkstnd/minors/wgchklst.htm)
* [Working Papers Manual](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Career/WB/WP.pdf) (State Department of Education website)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

## Continuation of Benefits

# Continuation of Benefits in Connecticut (CT)

## Connecticut Continuation of Coverage ("mini-COBRA")

Connecticut requires all employers (including those with fewer than 20 employees) to allow individuals to elect continuation coverage under a group plan under certain circumstances. Self-insured plans are not subject to the state law.

**Note**: Connecticut treats both partners who have entered into civil unions and same-sex spouses the same as heterosexual spouses for insurance purposes. For more information, please see [this bulletin](http://www.ct.gov/cid/lib/cid/BullIC21rev.pdf) released by the State of Connecticut Insurance Department.

### Qualifying Events

Employees and eligible spouses and dependent children (i.e., unmarried children under 26 and stepchildren, on the same basis as biological children) who experience a loss of coverage due to a qualifying event listed below are eligible to elect continuation coverage for up to 30 months:

* Layoff;
* Reduction of hours;
* Leave of absence; or
* Termination of employment (except for gross misconduct).

If the reduction of hours, leave of absence, or termination of employment results from an employee’s eligibility to receive Social Security income, continuation of coverage for the employee and the employee’s covered dependents must be provided [until midnight of the day preceding the employee’s eligibility for Medicare benefits](https://www.cga.ct.gov/current/pub/chap_700c.htm#sec_38a-554). As a result:

* If the employee becomes eligible for Social Security income because of retirement, the maximum period of continuation would be 3 years (early retirement at age 62 to Medicare eligibility at age 65).
* If the employee becomes eligible for Social Security income because of disability, the maximum period of continuation would be 2 years (the 24-month waiting period from when the employee is entitled to receive Social Security disability benefits before he or she is automatically enrolled in Medicare).
* If the employee becomes eligible for Social Security income because of a family member's death, the period of coverage is less definite, as it will depend upon the employee's age. It is possible that coverage could extend for a period of time greater than 3 years.

Regardless of an individual’s eligibility for other group insurance, employers must provide the option to continue coverage:

* During an employee’s absence due to illness or injury, for the employee and the employee’s covered dependents during the continuance of such illness or injury for up to 12 months; and
* Upon termination of the group plan, coverage for covered individuals who were totally disabled on the date of termination must be continued without premium payment during the continuance of the disability for 12 months following the month in which the plan was terminated if a claim is submitted for coverage within one year of the plan's termination.

An employee's spouse and dependent children can continue coverage under a group health plan due to the following qualifying events, for the time periods set forth for such events under federal COBRA (36 months):

* The employee dies;
* There is a divorce, court ordered annulment, or legal separation; or
* The child loses dependent status.

Additionally, employers with 100 or more employees who close or relocate a business facility generally must offer all affected employees and their dependents up to 120 days of continuation coverage paid by the employer. This coverage terminates if the covered person becomes eligible for other group coverage. Upon termination of the 120 day coverage, employees and their eligible dependents may be eligible for additional continuation coverage as provided above.

### Employer/Employee Notice Requirements

* Plan participants and beneficiaries generally must be sent an election notice not later than 14 days after the plan administrator receives notice that a qualifying event has occurred.
* Qualified beneficiaries who become entitled to elect continuation coverage must be given an election period of at least 60 days (from the date of the election notice) to choose whether or not to elect continuation coverage.

### Premium Payments

With certain exceptions, employers may generally require a qualified beneficiary electing continuation coverage to pay up to 102% of the premium at the group rate. The first payment for continuation coverage must be made not later than 45 days after the date of election.

### How Coverage May Be Terminated

Continuation of benefits may generally be terminated before the end of the maximum period of coverage for the following reasons:

* The individual becomes eligible for other group insurance that does not impose any preexisting condition exclusion for a preexisting condition of the qualified beneficiary;
* Any required premium is not paid in full on time;
* The employer ceases to provide any group health plan for its employees;
* For the employee’s spouse, at the end of the month following the month in which a divorce, court-ordered annulment or legal separation is obtained (except that the spouse must be able to continue coverage for the amount of time they are entitled to under federal COBRA);
* Any reason the plan would terminate coverage of a participant or beneficiary not receiving continuation coverage (such as fraud); or
* For employees or dependents age 65 or older who become eligible for Medicare benefits.

In addition, with respect to a child who has no mental or physical handicap, coverage may terminate at **the later of**:

* 36 months; or
* The end of the month following the month in which the child marries; ceases to be a Connecticut resident (except for children under 19 or full-time students); becomes covered under a plan through the child's own employment; or reaches age 26.

### For More Information

* [Connecticut General Statutes (§§ 38a-538, 554)](http://www.cga.ct.gov/2010/ACT/PA/2010PA-00013-R00HB-05219-PA.htm)
* [Connecticut Insurance Department](http://www.ct.gov/cid/site/default.asp)
* [Fact Sheet on Extension of Continuation of Group Health Coverage to 30 Months](http://www.ct.gov/cid/lib/cid/30_Month_Continuation_Fact_Sheet.pdf)
* [Connecticut Continuation Coverage Election Notice](http://www.ct.gov/cid/lib/cid/Connecticut_Continuation_Coverage_Election_Notice.pdf)
* [Connecticut Continuation Coverage General Notice](http://www.ct.gov/cid/lib/cid/COBRA_-_Continuation_Coverage_General_Notice.pdf)
* [Connecticut Insurance Department: Continuation of Group Health Coverage](http://www.ct.gov/cid/cwp/view.asp?Q=434920&A=1272)

## Deductions From Wages

# Deductions from Wages in Connecticut (CT)

## Permissible Deductions

* Employers are generally prohibited from withholding or diverting any portion of an employee’s wages **unless**:
  + The employer is required or empowered to do so by state or federal law (such as income taxes);
  + The employer has [written authorization](http://www.ctdol.state.ct.us/wgwkstnd/forms-employer.htm) from the employee for deductions on a form approved by the Labor Commissioner;
  + The deductions are authorized by the employee, in writing, for medical, surgical or hospital care or service, without financial benefit to the employer and recorded in the employer’s wage record book;
  + The deductions are for contributions attributable to [automatic enrollment](http://www.cga.ct.gov/current/pub/chap_558.htm#sec_31-71j) in certain [retirement plans](http://www.cga.ct.gov/current/pub/chap_558.htm#sec_31-71e) established by the employer; or
  + The employer is required under the law of another state to withhold income tax of such other state with respect to:
    - Employees performing services of the employer in such other state; or
    - Employees residing in such other state.

* An allowance (deduction) not to exceed $1.50 per week or the actual cost, whichever is lower, may be permitted to apply as part of the minimum fair wage for **the maintenance of wearing apparel or for the laundering and cleaning of such apparel** when the service has been performed.
  + "Apparel" means uniforms or other clothing supplied by the employer for use in the course of employment (but does not include articles of clothing purchased by the employee or clothing usually required for health, comfort or convenience of the employee).

To receive permission to deduct from wages for specific reasons, employers can submit a [sample deduction form](http://www.ctdol.state.ct.us/wgwkstnd/forms-employer.htm) for consideration. Typical deductions are for employee loans or purchases, credit union, uniforms, and advances on fringe benefits.

### Wage Statements

With each wage payment, employers must furnish to each employee a written record of **hours worked**, the **gross earnings** showing straight time and overtime as separate entries, itemized deductions, and net earnings—except that the furnishing of a record of hours worked and the separation of straight time and overtime do not apply in the case of any employee with respect to whom the employer is specifically exempt from the keeping of time records and the payment of overtime under state or federal law.

Note: Such records may be **furnished electronically**—with the employee's explicit consent. If the record of hours is furnished electronically, the employer must provide a means for each employee to securely, privately, and conveniently **access and print** such record. The employer must also incorporate reasonable safeguards regarding any information contained in the record furnished electronically to protect the confidentiality of an employee's personal information.

## Prohibited Deductions

* Employers are generally prohibited from withholding or diverting any portion of an employee’s wages unless one of the conditions above is satisfied. Additionally, employers are generally prohibited from:
  + Withholding any part of the wages of any person due to any agreement (expressed or implied) requiring notice before leaving employment;
  + Deducting any part of the wages agreed to be paid upon the representation or understanding that such deduction is necessary to secure or continue in employment;
  + Requesting or requiring reimbursement from an employee for any loss or shortage incurred in the course of the employer’s business as a result of any wrongdoing on the part of a customer; and
  + Making a discount or deduction from an individual's wages, when his or her wages (or any part thereof) are paid at an earlier time than they regularly would have been paid.

* When protective garments such as gloves, boots or aprons are necessary to safeguard the worker or prevent injury to an employee or are required in the interest of sanitation, such garments must be provided, paid for, and maintained by the employer without charge upon the employee.

## For More Information

* [Withholding of Part of Wages](http://www.cga.ct.gov/current/pub/chap_558.htm#sec_31-71e)
* [Sample Deduction Forms](http://www.ctdol.state.ct.us/wgwkstnd/forms-employer.htm)

## Discrimination

# Discrimination in Connecticut (CT)

This page features information on the following topics regarding discrimination in Connecticut:

* [Overview](#CT_Discrimination_Overview)
* [Coverage](#CT_Discrimination_Coverage)
* [Prohibited Employer Actions](#CT_Discrimination_Prohibited_Employer_Actions)
* [Additional Information](#CT_Discrimination_Additional_Information)

## Overview

Connecticut law prohibits employment discrimination based on protected categories such as race, color, religious creed, age, sex, disability, and genetic information.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the law, "employer" includes (among other entities) any person (including businesses) or employer who employs **3 or more persons**.

## Prohibited Employer Actions

It is a discriminatory practice in violation of the law to perform (among other things) the actions described below.

**Discrimination.** It is generally a discriminatory practice for an employer **to refuse to hire or employ or to bar or to discharge from employment** any individual or **to discriminate against** such individual in compensation or in terms, conditions, or privileges of employment because of the individual's race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, physical disability (e.g., blindness), or status as a veteran.

**Retaliation.** It is a discriminatory practice for any employer to discharge, expel, or otherwise discriminate against any person because such person has **opposed any discriminatory employment practice**, or **filed a complaint**, testified, or assisted in any proceeding under certain provisions of [state law](https://www.cga.ct.gov/current/pub/chap_814c.htm) (§ 46a-82, § 46a-83, or § 46a-84).

**Aiding, abetting, and compelling.** It is a discriminatory practice for any employer to **aid, abet, incite, compel, or coerce** the doing of any act declared to be a discriminatory employment practice or to attempt to do so.

**Pregnancy.** It is a discriminatory practice for an employer (among other things): to **terminate** a woman's employment because of her **pregnancy**; to refuse to grant a **reasonable leave of absence** for disability resulting from her pregnancy; or to deny to that employee (who is disabled as a result of pregnancy) any **compensation** to which she is entitled as a result of the accumulation of disability or leave benefits accrued under the employer's plans.

Additionally, an employer is prohibited from (among other things) failing or refusing to make a **reasonable accommodation** for an employee or person seeking employment due to her pregnancy, unless the employer can demonstrate that such accommodation would impose an **undue hardship**. Employers are also prohibited from requiring an employee to take a **leave of absence** if a reasonable accommodation can be provided in lieu of such leave.

[Click here](https://www.cga.ct.gov/2017/ACT/pa/2017PA-00118-R00HB-06668-PA.htm) for more details, including definitions of pertinent terms.

**Harassment.** It is a discriminatory practice for an employer (or its agent) to **harass** any employee or person seeking employment on the basis of **sex or gender identity or expression**.

"**Sexual harassment**" is any **unwelcome sexual advances or requests for sexual favors** or any conduct of a sexual nature when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**Child-bearing plans and familial responsibilities.** It is a discriminatory practice for an employer to request or require information from an employee or person seeking employment relating to the individual's **child-bearing age or plans, pregnancy, function of the individual's reproductive system, use of birth control methods, or the individual's familial responsibilities**, unless such information is directly related to a bona fide occupational qualification or need. However, an employer (through a physician) may request from an employee any such information which is directly related to workplace exposure to substances which may cause birth defects or constitute a hazard to an individual's reproductive system or to a fetus if the employer first informs the employee of the hazards involved in exposure to such substances.

**Protecting employees from hazards.** It is a discriminatory practice for an employer—after informing an employee (under the paragraph immediately above) of a workplace exposure to substances which may cause birth defects or constitute a hazard to an employee's reproductive system or to a fetus—to fail or refuse (upon the employee's request) **to take reasonable measures to protect the employee from the exposure or hazard identified**, or to fail or refuse to inform the employee that the measures taken may be the subject of a complaint filed under the provisions of the law.

Note: The law is not intended to prohibit an employer from taking **reasonable measures** to protect an employee from exposure to such substances. "**Reasonable measures**" are those measures which are consistent with business necessity and are least disruptive of the terms and conditions of the employee's employment.

**Genetic information.** It is a discriminatory practice for an employer to request or require **genetic information** (i.e., information about genes, gene products, or inherited characteristics that may derive from an individual or a family member) from an employee or person seeking employment; or to **discharge, expel, or otherwise discriminate against** any person on the basis of genetic information.

[Click here](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-60) for more details, including exclusions.

Note: Information regarding certain discrimination on the basis of criminal records (including details on employer coverage) is available by [clicking here](https://www.cga.ct.gov/current/pub/chap_557.htm#sec_31-51i).

## Additional Information

* [Connecticut Statutes](https://www.cga.ct.gov/current/pub/chap_814c.htm#sec_46a-60)

## Drug Testing

# Drug and Alcohol Testing in Connecticut (CT)

Connecticut regulates the use of drug and alcohol testing by private employers as follows:

### Testing of Prospective Employees

* Employers must inform prospective employees of the intent to conduct a urinalysis drug test in writing at the time of application for employment.

### Testing of Employees

* Employers who have reasonable suspicion that an employee is under the influence of drugs or alcohol which adversely affects or could adversely affect the employee's job performance may require a urinalysis drug test.
* Employers may require a random urinalysis drug test if:
  + Such test is authorized under federal law;
  + The employee serves in an occupation which has been [designated as a high-risk or safety-sensitive occupation](http://www.ctdol.state.ct.us/wgwkstnd/highrisk.htm) according to regulations adopted by the Connecticut Labor Commissioner; or
  + The urinalysis is conducted as part of an employee assistance program sponsored or authorized by the employer in which the employee voluntarily participates.

## Connecticut's Medical Marijuana Act

Under the [law](http://www.cga.ct.gov/2012/ACT/PA/2012PA-00055-R00HB-05389-PA.htm), an employer is prohibited from refusing to hire a person or from discharging, penalizing or threatening an employee solely because the person or employee is qualified to use medical marijuana or because of the person’s or employee’s status as a primary caregiver who has agreed to undertake responsibility for managing the well-being of a patient with respect to the palliative use of marijuana. An employer may, however, prohibit the use of intoxicating substances during work hours or discipline an employee for being under the influence of intoxicating substances during work hours. For more information, please [click here](http://www.ct.gov/dcp/cwp/view.asp?a=1620&q=503670).

Note: According to an [opinion](https://www.gpo.gov/fdsys/pkg/USCOURTS-ctd-3_16-cv-01938/pdf/USCOURTS-ctd-3_16-cv-01938-0.pdf) by a federal U.S. District Court, federal law does not prevent enforcement of Connecticut law that prohibits employers from **firing or refusing to hire** a medical marijuana patient. An individual who uses medical marijuana in compliance with state law **may maintain a cause of action** against an employer who refuses to employ him or her for this reason. **Employers with questions about the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.**

### For More Information

* [Connecticut Workplace Law on Drug Testing](http://www.ctdol.state.ct.us/wgwkstnd/laws-regs/statute31-51t-thru-31-51aa.htm)

## Employee Leave

# Jury Duty in Connecticut (CT)

Connecticut law prohibits employers from dismissing, threatening or coercing employees who are summoned for jury service, respond to a jury summons, or serve as a juror. Employers are generally required to pay full time employees their regular wages for the first 5 days of jury service.

For more information, please [click here](http://www.jud.ct.gov/Publications/JA027.pdf).

# Military Leave in Connecticut (CT)

Employers may not discriminate against any individual because of membership in the state or U.S. armed forces. [CT General Statutes §52-571aa](https://www.cga.ct.gov/current/pub/chap_925.htm#sec_52-571aa).

## Leave from Employment

The employer of any employee who—as a part of that employee's service in the **armed forces of the state**, any **reserve component** of the armed forces of the United States, or the **National Guard of any other state**—is ordered to **perform military duty** (including meetings or drills) during regular working hours must allow that employee a **leave of absence** to perform military duty.

No employee may be subjected to any loss or reduction of vacation or holiday privileges because of such absence, or be prejudiced by reason of such absence regarding promotion or continuance in office or employment, or to reappointment to office or reemployment.

# Victim Leave in Connecticut (CT)

## Leave for Victims of Family Violence

Employers with 3 or more employees are required to permit an employee who is a victim of family violence to take either paid or unpaid leave (including compensatory time, vacation time, personal days or other time off), which is reasonably necessary to:

* Seek medical care or psychological or other counseling for physical or psychological injury or disability for the victim,
* Obtain services from a victim services organization on behalf of the victim,
* Relocate due to such family violence, or
* Participate in any civil or criminal proceeding related to or resulting from such family violence.

The law does not require an employer to provide paid leave for a victim of family violence if the employee is not otherwise entitled to paid leave under the employer’s policy or if the employee has already exhausted the maximum amount of paid leave to which he or she is entitled during the calendar year. However, if paid leave is exhausted or not provided, the employer must grant unpaid leave. An employer may limit the amount of unpaid leave to 12 days during any calendar year.

If the need to take leave is foreseeable, an employer may require up to 7 days advance notice from the employee. Otherwise, an employer may require notice as soon as practicable.

An employee’s right to take leave for family violence may not affect any other leave provided under state or federal law.

For more information, please see Public Act No. 10-144 by [clicking here](http://www.cga.ct.gov/2010/ACT/PA/2010PA-00144-R00HB-05497-PA.htm).

# Voting Leave in Connecticut (CT)

Connecticut currently has no voting leave laws for private sector employers.

# Paid Sick Leave in Connecticut (CT)

Employers of **50 or more employees** are required to provide annual paid sick leave to each of the employer’s service workers in Connecticut. Employers must annually determine if they meet the 50-employee threshold based on **the number of employees on their payroll for the week containing October 1st**.

Employers are prohibited from terminating or dismissing any employee, or transferring any employee from one worksite to another **solely in order to not qualify as a covered employer** under the law.

### Mandatory Paid Sick Leave

Under the [paid sick leave law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf), sick leave begins to accrue for service workers at the rate of 1 hour of paid sick leave for every 40 hours worked, in 1-hour increments up to a maximum of 40 hours per calendar year. Workers are entitled to carry over up to 40 unused accrued hours from the current calendar year to the next calendar year. Workers are entitled to carry over up to 40 unused accrued hours from the **current year** to the **next year**. The law defines "year" as **any 365-day period an employer uses to calculate employee benefits**. [Click here](http://www.cga.ct.gov/2014/ACT/PA/2014PA-00128-R00HB-05269-PA.htm) for more information.

A “service worker” is defined in the [law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf) as an employee who is:

* Paid on an hourly basis or not exempt from the minimum wage and overtime compensation requirements of the [federal Fair Labor Standards Act](http://www.dol.gov/whd/regs/compliance/hrg.htm); and
* Primarily engaged in one of the occupations listed in Section 1(7) of the [statute](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf) and identified by occupation code numbers and titles used by the [federal Bureau of Labor Statistics Standard Occupational Classification System](http://www.bls.gov/SOC/#classification).

The [law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf) does not apply to charitable organizations exempt under Section 501(c)(3) of the Internal Revenue Code that provide recreation, child care and education.

### Use of Paid Sick Leave

An eligible service worker is able to use accrued paid sick leave for:

* The service worker’s (or child’s or spouse’s) illness, injury or health condition;
* The medical diagnosis, care or treatment of the service worker’s (or child’s or spouse’s) mental or physical illness, injury or health condition;
* Preventative medical care for the service worker (or child or spouse); and
* Medical care or counseling  for a service worker who is a victim of family violence or sexual assault; obtaining services from a victim services organization; relocating; or participating in civil or criminal proceedings related to the family violence or sexual assault.

### Obligations for Employers

Employers with **50 or more employees** are required to provide notice to each service worker at the time of hiring:

* Of the entitlement to sick leave;
* Of the amount and terms of the sick leave;
* That retaliation by an employer against an employee who requests or uses sick leave is prohibited; and
* That the employee has the right to file a complaint with the CT Department of Labor for violations of this law.

Employers may satisfy this notice requirement by displaying a poster in both English and Spanish at the employer’s place of business.

An employer may take disciplinary action against a service worker who uses the paid sick leave for other purposes, but may not retaliate against a worker who requests or uses paid sick leave in accordance with the [law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf) or who files a complaint with the Commissioner of the CT Department of Labor alleging violations of the [law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf).

### Posters and More Information

The Connecticut Department of Labor has issued [information](http://www.ctdol.state.ct.us/wgwkstnd/SickLeave.htm) to assist employers and the general public in understanding and complying with the [paid sick leave law](http://www.cga.ct.gov/2011/act/pa/2011PA-00052-R00SB-00913-PA.htm) including:

* Posters in [English](http://www.ctdol.state.ct.us/wgwkstnd/NoticeSickLeavePoster2014%20.pdf) and [Spanish](http://www.ctdol.state.ct.us/wgwkstnd/DOLNOTSpanish.pdf) which satisfy the notice requirements of the law.
* [Guidance](http://www.ctdol.state.ct.us/wgwkstnd/SickLeaveGuidance.pdf) for employers and employees in answering questions concerning the law, such as definitions of certain terms used in the law and a list of occupations which qualify as “service workers.”

For more information, please [click here](http://www.ctdol.state.ct.us/wgwkstnd/SickLeave.htm). Employers may also read the [law](http://www.cga.ct.gov/2011/ACT/Pa/pdf/2011PA-00052-R00SB-00913-PA.pdf) in its entirety and review [amendments](http://www.cga.ct.gov/2014/ACT/PA/2014PA-00128-R00HB-05269-PA.htm) to the law which became effective January 1, 2015.

## Family and Medical Leave

# Family Leave (FMLA) in Connecticut (CT)

## The Connecticut Family & Medical Leave Act

The [Connecticut Supreme Court](http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR306/306CR115.pdf) has held that the term “employer” in the Connecticut Family & Medical Leave Act applies to businesses that employ 75 or more persons in the state of Connecticut. To read the court’s opinion in its entirety, please [click here](http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR306/306CR115.pdf).

Employers with 75 or more employees (as determined annually on October 1st) are required to grant eligible employees a total of 16 workweeks of unpaid leave during any 24-month period for one or more of the following reasons:

* Upon the birth of a son or daughter of the employee;
* Upon the placement of a son or daughter with the employee for adoption or foster care;
* In order to care for the spouse, or a son or daughter or parent of the employee or parent of the employee’s spouse, if such spouse, son, daughter, parent or parent of the employee’s spouse has a serious health condition;
* Because of a serious health condition of the employee;
* In order to serve as an organ or bone marrow donor; or
* Because of any qualifying exigency (as determined in [federal regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=73d1baf033c9c46a985ed62f062e7b49&mc=true&node=se29.3.825_1126&rgn=div8)) arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty—or has been notified of an impending call or order to active duty—in the [armed forces](https://www.cga.ct.gov/current/pub/chap_506.htm#sec_27-103).

Note: For purposes of state family and medical leave, "parent" means a biological parent, foster parent, adoptive parent, stepparent, or legal guardian of an eligible employee or an eligible employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a son or daughter. [Click here](https://www.cga.ct.gov/current/pub/chap_557.htm#sec_31-51kk) for more definitions.

An eligible employee is an employee who has been employed for at least 12 months by the employer with respect to whom leave is requested, and for at least 1000 hours of service with such employer during the 12-month period preceding the first day of the leave.

The 24-month period is to be determined by any one of the following methods:

* Consecutive calendar years;
* Any fixed 24-month period, such as 2 consecutive fiscal years or a 24-month period measured forward from an employee's first date of employment;
* A 24-month period measured forward from an employee's first day of leave taken under the law; or
* A rolling 24-month period measured backward from an employee's first day of leave taken under the law.

**Joint Employment**Where the employee performs work which simultaneously benefits **two or more employers**, or **works for two or more employers at different times** during the workweek, a joint employment relationship is generally considered to exist in situations such as:

* Where there is an arrangement between employers to share an employee’s services or to interchange employees;
* Where an employer acts directly or indirectly in the interest of the other employer in relation to the employee; or
* Where the employers are not completely disassociated with respect to the employee’s employment and may be deemed to share control of the employee (directly or indirectly) because an employer controls, is controlled by, or is under common control with the other employer.

In joint employment relationships, only the primary employer is responsible for giving required notices to its employees, and providing FMLA leave. Factors considered in determining which is the "primary" employer include authority/responsibility to:

* Hire and fire;
* Assign/place the employee;
* Make payroll; and
* Provide employment benefits.

Employees jointly employed by two employers must be counted by both employers—whether or not maintained on one of the employer’s payroll—in determining employer coverage and employee eligibility.

### For Additional Information

* [Amendments to Connecticut Family & Medical Leave Act](https://www.cga.ct.gov/2016/ACT/pa/2016PA-00195-R00SB-00262-PA.htm)
* [Connecticut Department of Labor: Family and Medical Leave](http://www.ctdol.state.ct.us/wgwkstnd/fmla.htm)
* [Joint Employment Under the Connecticut Family & Medical Leave Act](http://www.sots.ct.gov/sots/lib/sots/regulations/title_31/051z_qq.pdf)  (§ 31–51qq–4)

## Mandatory Paid Sick Leave

Employers of **50 or more employees** are required to provide annual paid sick leave to each of the employer’s service workers in Connecticut. [Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=4343) for more information.

## Pregnancy Disability Leave

Employers (or their agents) with **3 or more employees** are generally prohibited from terminating a woman’s employment because of her pregnancy. In addition, the following rules apply:

* Employers must grant to employees a reasonable leave of absence for disability resulting from pregnancy;
* Employers must not deny any compensation to an employee disabled due to pregnancy to which she is entitled as a result of the accumulation of disability or leave benefits accrued under plans maintained by the employer;
* Employers must reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits upon her signifying her intent to return—unless the employer’s circumstances have so changed as to make it impossible or unreasonable to do so;
* Employers must make a reasonable effort to transfer a pregnant employee to any suitable temporary position which may be available in any case in which she gives **written notice** of her pregnancy to her employer, and the employer or pregnant employee reasonably believes that continued employment in her position may cause injury to the employee or her fetus;
* Employers must inform the pregnant employee that a transfer (as described above) may be appealed under the law; and
* Employers must inform their employees (by any reasonable means) that they must give written notice of their pregnancy in order to be eligible for transfer to a temporary position.

## Military Caregiver Leave

Employers with **75 or more employees** are covered by the state military caregiver leave provisions.

Subject to [certain provisions](http://www.cga.ct.gov/current/pub/chap_557.htm#sec_31-51mm), an [eligible employee](http://www.cga.ct.gov/current/pub/chap_557.htm#sec_31-51kk)—who is the spouse, son or daughter, parent or next of kin of a current member of the [armed forces](http://www.cga.ct.gov/current/pub/chap_506.htm#sec_27-103), who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty—is entitled to a one-time benefit of **26 workweeks of leave during any 12-month period** for each armed forces member per serious injury or illness incurred in the line of duty. Such 12-month period begins on an employee’s first day of leave taken to care for a covered armed forces member, and ends on the date 12 months after the first day of leave.

In any case in which a husband and wife entitled to leave under the military caregiver provisions are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period.

## Final Pay Requirements

# Final Paycheck Requirements in Connecticut (CT)

## If the Employee is Involuntarily Terminated

The final paycheck is due no later than the business day following the day of discharge.

## If the Employee Quits

The final paycheck is due no later than the next regular payday, either through the regular payment channels or by mail.

## Payment of Unused Benefits on Termination

Accrued fringe benefits, including but not limited to paid vacations, holidays, sick days and earned leave, must be paid upon termination if an employer policy or collective bargaining agreement provides for the payment of such benefits.

More information regarding [final paycheck requirements](http://www.cga.ct.gov/current/pub/chap_558.htm#sec_31-71c) and [payment of unused benefits](http://www.ctdol.state.ct.us/wgwkstnd/laws-regs/DOL-74.pdf) on termination is available from the State of Connecticut.

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in Connecticut (CT)

There is no requirement for private employers in Connecticut to enroll and participate in the federal work authorization program commonly known as [E-Verify](http://www.uscis.gov/e-verify) to verify the employment eligibility of employees hired to work.

Note: Federal law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. [Click here](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Immigration-Reform-and-Control-Act.aspx) for more information.

## Meal and Rest Breaks

# Meals & Rest Breaks in Connecticut (CT)

Connecticut requires private employers to provide employees meal breaks as follows:

* Employees who work 7 and one-half or more consecutive hours must be provided a meal period of at least 30 consecutive minutes (to be provided at some time after the first 2 hours of work and before the last 2 hours), unless:
  + Requiring compliance would be adverse to public safety;
  + The duties of the position may only be performed by one employee;
  + Less than 5 employees are employed on a shift at a single place of business and the employee works on that shift;
  + The continuous nature of the employer's operations requires that employees be available to respond to urgent or unusual conditions at all times and such employees are paid for break and meal periods; or
  + The employer provides 30 or more total minutes of paid rest or meal periods to employees within each 7 and one-half hour work period.
* An employer and employee may enter into a written agreement providing for a different schedule of meal periods.

[Connecticut Department of Labor](http://www.ctdol.state.ct.us/)

## Minimum Wage

# Minimum Wage Rate in Connecticut (CT)

* Effective Jan. 1, 2017, Connecticut's minimum wage rate is **$10.10 per hour**. The gratuity allowance for certain [waitpersons and bartenders](https://www.ctdol.state.ct.us/wgwkstnd/BasicGuidetoWageandHour111615.pdf) is 36.8% of the minimum wage for waitpersons, and 18.5% for bartenders.
  + [Poster in English](http://www.ctdol.state.ct.us/wgwkstnd/DOL-75.pdf)  - PDF format
  + [Poster En Español](http://www.ctdol.state.ct.us/wgwkstnd/dol-75s.pdf)  - PDF format

**Special Note Regarding Tipped Employees**: If an employee's tips and the cash wage do not equal the minimum wage, the employer must make up the difference.

**Special Note Regarding Minor Employees**: Subject to certain [exceptions](http://www.cga.ct.gov/2001/pub/Chap558.htm#sec31-58.htm), the minimum hourly wage for an employee who is less than 18 years of age is 85% of the state minimum wage for the first 200 hours of employment, and is equal to the state minimum wage after 200 hours. However, where federal and state law have different minimum wage rates, the higher standard applies.

**Note**: The Connecticut minimum wage rate automatically increases to 1/2 of 1 percent above the rate set in the [Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840) if the federal minimum wage rate equals or becomes higher than the Connecticut minimum wage.  [Click here](https://www.cga.ct.gov/2014/ACT/PA/2014PA-00001-R00SB-00032-PA.htm) for more information.

### For More Information

* [Public Act 08-108 ("An Act Concerning Minors in the Workplace")](http://www.ctdol.state.ct.us/wgwkstnd/minors/PublicAct08-108.pdf)
* [Stop Work Order Law](http://www.cga.ct.gov/2007/ACT/PA/2007PA-00089-R00SB-00931-PA.htm) (Penalties For Concealing Employment or Other Information Related To Workers' Compensation Premiums)
* [Connecticut Wage & Workplace FAQs](http://www.ctdol.state.ct.us/wgwkstnd/faqs-employees.htm)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840)
* [Minimum Wage Information from the U.S. Department of Labo](https://www.dol.gov/general/topic/wages/minimumwage)r

**[Connecticut Department of Labor](http://www.ctdol.state.ct.us/" \o "Connecticut Department of Labor" \t "_blank)**200 Folly Brook Blvd.  
Wethersfield, CT 06109  
Phone: (860) 263-6000

## New Hire Reporting

# New Hire Reporting in Connecticut (CT)

Connecticut requires private employers to submit information regarding newly hired employees and certain employees who are returning to work to the Department of Labor, Office of Research as follows:

### Reporting Requirements

* Employers must file [Form CT-W4](http://www.ct.gov/drs/lib/drs/forms/2016withholding/ct-w4.pdf) for each newly hired or recalled employee within 20 days of the date of hire or reemployment (employers reporting electronically must transmit twice monthly every 12-16 days).

### How to Submit Reports

* Employers may report via the Internet through the Connecticut Department of Labor's [Online New Hire Reporting System](http://www1.ctdol.state.ct.us/newhires/).
* Employers may also mail or fax the completed [Form CT-W4](http://www.ct.gov/drs/lib/drs/forms/2016withholding/ct-w4.pdf) to the Connecticut Department of Labor.

**Connecticut Department of Labor**[Online New Hire Reporting System](http://www1.ctdol.state.ct.us/newhires/)  
Office of Research, ATTN: CT-W4  
200 Folly Brook Blvd.  
Wethersfield, CT 06109  
(860) 263-6310  
Fax: (800) 816-1108  
  
**Federal Multistate Employer New Hire Notification:**U.S. Department of Health and Human Services  
Office of Child Support Enforcement  
Multi-State Employer Registration  
Box 509, Randallstown, MD 21133  
(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

This state/jurisdiction does not have a state plan applicable to private sector employees. Please visit the federal Occupational Safety and Health Administration's [website](https://www.osha.gov/) for applicable federal requirements.

## Overtime

# Overtime Rates in Connecticut (CT)

Connecticut currently has no overtime law requiring private employers to pay more than the [federal overtime rate](http://www.dol.gov/whd/overtime_pay.htm) equal to 1 ½ times an employee's regular rate of pay for hours worked in excess of 40 per workweek.

Consistent with the [federal sleep-time exemption](http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=27104), a law allows a “sleep-time” exclusion from overtime pay requirements for certain homecare workers, if certain conditions are met. [Click here](https://www.hr360.com/Subscriptions/InnerPage.aspx?id=8613) for more information.

**The Fluctuating Workweek Method and Exceptions**   
The Connecticut Supreme Court has held that state wage laws generally do not prohibit use of the **fluctuating workweek method** to derive an employee's regular rate (for the purpose of calculating overtime pay). Under the **fluctuating workweek method**, an employee's regular rate of pay is calculated by dividing total weekly pay by the number of hours he or she **actually works in a given week**. This method is used to calculate the regular rate for salaried employees whose work hours fluctuate week to week and for employees whose pay varies each week because of **commissions**.

A state [wage order](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/%7B95738940-3D65-4797-B3A9-FA7935AAFC8F%7D) applicable to employees in the **mercantile trade** (including retail sales employees) requires **mercantile employers** to determine an employee's regularly hourly rate (for calculating overtime when an employee is paid a commission in whole or in part) by dividing the employee's weekly pay by the hours the employee **usually works in a week**. The wage order's command to use a "divide by **usual hours**" method prevents use of the fluctuating workweek method's "divide by **actual hours**" method (except when an employee's actual hours match his or her usual hours).

[Click here](http://jud.ct.gov/external/supapp/Cases/AROcr/CR326/326CR109.pdf) to read the text of the opinion. **Employers with questions as to the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.**

**Connecticut Department of Labor**

[Division of Wage and Workplace Standards](http://www.ctdol.state.ct.us/wgwkstnd/index.htm)

200 Folly Brook Boulevard  
Wethersfield, CT 06109   
860-263-6000

## Personal Information Protection

# Personal Information Protection in Connecticut (CT)

Connecticut regulates the protection of personal information as follows:

### What is Considered Personal Information

Personal information is generally defined as an individual's first name or first initial and last name, in combination with any one (or more) of the following data:

* Social Security number;
* Driver's license number or state identification card number; or
* Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

Note: Personal information generally does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

### Requirements for Employers

* Any person who conducts business in Connecticut, and who (in the ordinary course of business) owns, licenses, or maintains computerized data that includes personal information, must provide notice of any breach of security following the discovery of the breach to any Connecticut resident whose personal information was breached (or is reasonably believed to have been breached).
* Such notice must generally be made without unreasonable delay, but not later than **90 days after the discovery of such breach**—unless a shorter time is required under federal law—subject to the requests of law enforcement and the completion of an investigation by the business to determine the nature and scope of the incident, to identify the individuals affected, or to restore the reasonable integrity of the data system.
* The person who conducts business in Connecticut, and who (in the ordinary course of business) owns, licenses, or maintains computerized data that includes personal information, must—not later than the time when notice is provided to the resident—also provide notice of the breach of security to the state [attorney general](http://www.ct.gov/ag/site/default.asp).
  + Note: Such individuals also must offer to each resident who has had [certain personal information](http://www.cga.ct.gov/2015/ACT/PA/2015PA-00142-R00SB-00949-PA.htm) breached (or reasonably believed to have been breached) appropriate **identity theft prevention services** and (if applicable) **identity theft mitigation services**.
    - Such service(s) must be provided at **no cost** to such resident for a period of at least **12 months**.
    - Such person must also provide **all information necessary to enroll** in the service(s) and must include information on how affected residents can place a **credit freeze** on their credit files.

* Any person that maintains computerized data that includes personal information that the person does not own must notify the owner or licensee of the information of any breach of the security of the data immediately following its discovery, if the personal information of a Connecticut resident was breached (or is reasonably believed to have been breached).
* Notice required under the law may be provided by [certain methods](http://www.cga.ct.gov/current/pub/chap_669.htm#sec_36a-701b) (§ e).
* Entities that maintain [certain policies](http://www.cga.ct.gov/current/pub/chap_669.htm#sec_36a-701b) are deemed to be in compliance with the law. [Click here](http://www.cga.ct.gov/current/pub/chap_669.htm#sec_36a-701b) for more information (§ f).

### For More Information

* [Connecticut Personal Information Protection Law](http://www.cga.ct.gov/current/pub/chap_669.htm#sec_36a-701b)
* [2015 Amendments to the Law](http://www.cga.ct.gov/2015/ACT/PA/2015PA-00142-R00SB-00949-PA.htm)

## Posters

# Notices and Posters in Connecticut (CT)

The following posters are mandatory for Connecticut employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## Connecticut (CT) State Poster Requirements:

| **Posting Requirements** | **Notes** |  | **Poster Format** |
| --- | --- | --- | --- |
| Connecticut (CT) Paid Sick Leave Law | Required of employers of 50 or more employees |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/NoticeSickLeavePoster2014%20.pdf) (PDF)  [Spanish](http://www.ctdol.state.ct.us/wgwkstnd/DOLNOTSpanish.pdf) (PDF) |
| Connecticut (CT) Discrimination is Illegal |  |  | [English](http://www.ct.gov/chro/lib/chro/Discrimination_Is_Illegal_Poster_2017.10.16.pdf) (PDF)  [Spanish](http://www.ct.gov/chro/lib/chro/Discrimination_is_Illegal_Spanish_2016-09.pdf) (PDF) |
| Connecticut (CT) Minimum Wage |  |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/DOL-75.pdf) (PDF)  [Spanish](http://www.ctdol.state.ct.us/wgwkstnd/dol-75s.pdf) (PDF) |
| Connecticut (CT) Sexual Harassment is Illegal | The Connecticut Commission on Human Rights and Opportunities strongly recommends, but does not require, that the poster also include a statement concerning: (1) the employer's policies and procedures regarding sexual harassment; (2) a statement concerning the disciplinary action that may be taken if sexual harassment has been committed; and (3) a contact person at the place of employment to whom one can report complaints of sexual harassment or direct one's concerns regarding sexual harassment. |  | [English](http://www.ct.gov/chro/lib/chro/Sexual_Harassment_Flyer.pdf) (PDF)  [Spanish](http://www.ct.gov/chro/lib/chro/Sexual_Harassment_is_Illegal_Spanish_2016-09.pdf) (PDF) |
| Connecticut (CT) Unemployment Insurance | Contact the Connecticut Department of Labor at (860) 263-6550 for this poster. You will need your Federal Tax ID to receive this poster. |  |  |
| Connecticut (CT) Workers' Compensation |  |  | [English](http://wcc.state.ct.us/download/acrobat/notice.pdf) (PDF) |
| Connecticut (CT) Notice of Electronic Monitoring |  |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/ElectMonitoring.pdf) (PDF) |
| Connecticut (CT) Office of the Healthcare Advocate |  |  | [English](http://www.ct.gov/oha/lib/oha/documents/oha_poster_english_2011.pdf) (PDF)  [Spanish](http://www.ct.gov/oha/lib/oha/documents/oha_poster-spanish_2011.pdf) (PDF) |
| Connecticut (CT) Prevailing Wage Law | Contractors and subcontractors performing work for the state |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/prevailing-rates/PrevWagePoster.pdf) (PDF) |
| Connecticut (CT) Job Safety and Health (Public sector only) | Must be at least **8 1/2 by 14 inches with 10 point type** |  | [English](http://www.ctdol.state.ct.us/osha/SHposter.pdf) (PDF) |
| Connecticut (CT) Clean Indoor Air Act | Employers of fewer than 5 employees must post signs that clearly designate nonsmoking areas.  Certain establishments where smoking is prohibited by law (e.g., health care institutions, retail food stores, restaurants and bars) must post signs stating that smoking is prohibited by state law. Signs must be posted in a conspicuous place and must meet specific size requirements. [Click here](https://www.cga.ct.gov/current/pub/chap_368m.htm#sec_19a-342) for more information.  To request free signs, contact the Connecticut Department of Health at (860) 509-8251. |  |  |
| Connecticut (CT) Pregnancy Discrimination | Effective October 1, 2017, employers with **3 or more employees** must (among other things) **provide written notice** of the right to be free from discrimination in relation to pregnancy, childbirth, and related conditions, including the right to a reasonable accommodation to the known limitations related to pregnancy under the law to: **new employees** at the **commencement of employment**; **existing employees** within **120 days** after the law takes effect; and **any employee who notifies the employer of her pregnancy** within **10 days** of such notification.  An employer may comply with the provisions of the law by **displaying a poster in a conspicuous place**, accessible to employees, at the employer's place of business that contains the information required by the law in both **English** and **Spanish**. [Click here](https://www.cga.ct.gov/2017/ACT/pa/pdf/2017PA-00118-R00HB-06668-PA.pdf) for additional information. |  | [English](https://www.ctdol.state.ct.us/gendocs/SS46a%20Pregnancy%20Disability%20Poster.pdf) (PDF)  [Spanish](https://www.ctdol.state.ct.us/gendocs/SS46a%20Pregnancy%20Disability%20Poster%20spanish.pdf) (PDF) |

## Connecticut (CT) Industry-Specific Poster Requirements:

| **Industry-Specific** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Connecticut (CT) Minimum Fair Wage Rates | Required for Employers in Mercantile Trade | [English](http://www.ctdol.state.ct.us/wgwkstnd/DOL-78.pdf) (PDF) |
| Connecticut (CT) Employment of Minors in Mercantile/Retail Trades |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/poster-minorsretail.pdf) (PDF) |
| Connecticut (CT) Minimum Fair Wage Rates | Required for Employers in Restaurant and Hotel Restaurant Occupations | [English](http://www.ctdol.state.ct.us/wgwkstnd/DOL-79.pdf) (PDF) |
| Connecticut (CT) Employment of Minors in Restaurant/Food Service |  | [English](http://www.ctdol.state.ct.us/wgwkstnd/poster-minorsrestaurant.pdf) (PDF) |

Note: Connecticut also has specific wage orders with regulations that cover beauty shops, dry cleaning and laundry businesses. Posters with these regulations must be posted at the place of business and are provided by the Labor Department free of charge. Employers may request these posters by calling 860-263-6790.

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in Connecticut (CT)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.   
  
Connecticut requires employers to maintain the following types of records:

### Wages/Hours/Payroll

* The following information must be retained for 3 years for each employee:
  + Name;
  + Home address;
  + Occupation;
  + Total daily and weekly hours worked showing the beginning and ending time of each work period, computed to the nearest unit of 15 minutes;
  + Total hourly, daily, or weekly basic wage;
  + Overtime wage as a separate item;
  + Additions to and deductions from wages each pay period;
  + Total wages paid each pay period; and
  + Working certificates for 16 to 18 year old employees.

### Safety and Health/Workers' Compensation

* Employers must keep a record of injuries that result in incapacity for one day or more.
* Employers must report accidents to the commissioner within 15 days that result in death or absence for 1 week or more. The report must contain the following:
  + Employee’s name;
  + Time of the accident;
  + Nature of the injury; and
  + General description of the location in the establishment and machine, if any, that was used during the accident.
  + Note: Effective January 1, 2018, when an employee makes a claim for workers' compensation benefits, employers must include a copy of any withholding order received by the employer with its [first report of occupational illness or injury](http://wcc.state.ct.us/download/acrobat/fri.pdf) to its workers' compensation carrier. [Click here](https://www.cga.ct.gov/2017/ACT/pa/2017PA-00027-R00HB-07037-PA.htm) to read the text of the law.
* Each year, employers must submit a list of all toxic substances to the Labor Department.

### Child Labor

* Working certificates must be kept for workers under the age of 18.

## Employee Access to Records

* Employers must, within 7 business days after receiving a written request from a current employee (and within 10 business days for a former employee), permit such employee to inspect, and if requested, copy his or her [personnel file](http://www.cga.ct.gov/2001/pub/Chap563a.htm#sec31-128a.htm), if such a file exists. In the case of a former employee, the employer must receive the employee's written request no later than one year after termination of employment.
* The inspection must take place during regular business hours at a location at or reasonably near the employee's place of employment.
* Each employer who has personnel files is required to keep them for at least one year after an employee's termination.
* A copy of any documentation of any disciplinary action imposed on an employee must be provided to the employee within one business day of the date the action is imposed. Employers must immediately provide an employee with a copy of any documented notice of that employee's termination of employment.
* Employers must include a statement, in clear and conspicuous language, in any documented disciplinary action, notice of termination or performance evaluation, that the employee may submit a written statement explaining the employee's disagreement with any of the information contained in such document. Any such statement must be maintained as part of the employee's personnel file and must accompany any transmittal or disclosure from such file or records made to a third party.

[Click here](http://cga.ct.gov/2013/ACT/pa/pdf/2013PA-00176-R00SB-00910-PA.pdf) for more information.

## Security of Employment Applications

* Employers are required by law to manage the retention and destruction of employment applications in a secure manner.
* Employers who wish to dispose of applications must take specific steps to destroy applications or make them impossible to read in a secure environment.

## Same Sex Relationships

# Same-Sex Relationships in Connecticut (CT)

## Connecticut State Law

Connecticut recognizes same-sex relationships under state law as follows:

### Same-Sex Marriage

* Same-sex marriage is legal in Connecticut.
* Connecticut recognizes marriages, civil unions, and other relationships that provide substantially the same rights, benefits, and responsibilities between two persons of the same sex entered into in another jurisdiction and recognized as valid in that jurisdiction.

[Click here](http://www.jud.ct.gov/lawlib/law/marriage.htm) for more information.

### Civil Unions

* Effective October 1, 2010, existing civil unions in Connecticut merged into marriages by operation of law.

[Click here](http://www.cga.ct.gov/current/pub/chap_815f.htm#sec_46b-38rr) for more information.

## Smoking

# Smoking and Tobacco Use in the Workplace in Connecticut (CT)

Connecticut regulates smoking and the use of tobacco in the workplace as follows:

### No-Smoking Requirements

* Employers with 5 or more employees are required to prohibit smoking in enclosed business facilities under the employer's control. Certain areas and establishments are not subject to the prohibition, including:
  + Tobacco shops and tobacco bars;
  + Smoking areas in correctional and psychiatric facilities;
  + Outdoor dining areas where 75% of the outdoor seating capacity is in a "no smoking" area and such area is clearly designated as such; and
  + Lodging operations where 25% of the guestrooms may be designated as smoking rooms.
* Certain establishments must be smoke-free regardless of the number of employees, including:
  + Restaurants and bars;
  + Retail food stores;
  + Hospitals, nursing homes, rest homes, homes for the elderly, home health care agencies, and infirmaries;
  + School buildings during school hours and activities;
  + Elevators, private or publicly owned; and
  + Dormitories in public or private institutions of higher education.
* Employers with fewer than 5 employees must establish one or more work areas, sufficient to accommodate nonsmokers who request to utilize such an area, where smoking is prohibited.
  + The employer must clearly designate the existence and boundaries of each nonsmoking area by posting signs which can be readily seen by employees and visitors.
  + In the areas where smoking is permitted, existing physical barriers and ventilation systems must be used to the extent practicable to minimize the effect of smoking in adjacent nonsmoking areas.

### Designated Smoking/Non-Smoking Areas

* Employers with 5 or more employees may designate one or more smoking rooms if:
  + The air from the smoking room is exhausted directly to the outside by an exhaust fan;
  + The employer complies with all applicable ventilation standards;
  + The room is located in a nonwork area (except for custodial or maintenance work carried out when the room is unoccupied);
  + The room is for the use of employees only; and
  + Sufficient nonsmoking break rooms for nonsmoking employees are provided.

### Electronic Cigarettes

**Prohibited Use**Individuals are prohibited from using [electronic cigarettes](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm) in the following areas (among other places):

* Any area of a health care institution;
* Any area of a retail food store;
* Any [restaurant](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm);
* Any area of an establishment with a permit issued for the sale of alcoholic liquor under [state law](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm);
  + Note: The law makes certain exceptions for the outdoor portion of the premises of such establishments, provided—in the case of any seating area maintained for the service of food—at least 75% of the outdoor seating capacity is an area in which smoking is **prohibited** and which is clearly **designated with written signage as a nonsmoking area**. (However, any temporary seating area established for special events and not used on a regular basis is not subject to the prohibition on the use of electronic cigarettes or the signage requirement.);
* The bar area of a bowling establishment holding a permit under [state law](https://www.cga.ct.gov/2015/pub/chap_545.htm#sec_30-37c);
* Within certain [child care facilities](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm);
* Any passenger elevator; or
* Any area of a facility equipped with screens for the simulcasting of off-track betting race programs or jai alai games.

Note: The operator of a hotel, motel, or similar lodging may allow guests to use electronic cigarettes in up to 25% of the rooms offered as accommodations to guests.

**Exceptions**The law does not apply to (among other places):

* Designated smoking areas in psychiatric facilities;
* Establishments without a permit for the sale of alcoholic liquor that sell electronic cigarettes or liquid nicotine containers on-site and allow their customers to use such systems, products, or containers on-site;
* Smoking rooms provided by employers for employees under [state law](https://www.cga.ct.gov/2015/pub/chap_557.htm#sec_31-40q); or
* Certain [tobacco bars](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm).

**Preemption of Local Law**The provisions of the law supersede and preempt the provisions of any municipal law or ordinance relative to the use of electronic cigarettes effective prior to, on, or after October 1, 2015.  
  
[Click here](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm) to read the text of the law.

### Posting Requirements

* Employers of fewer than 5 employees must post signs that clearly designate nonsmoking areas.
* Certain establishments where smoking is prohibited by law (e.g., health care institutions, retail food stores, restaurants and bars) must post signs stating that smoking is prohibited by state law. Signs must be posted in a conspicuous place and must meet specific size requirements. [Click here](https://www.cga.ct.gov/current/pub/chap_368m.htm#sec_19a-342) for more information.
* In each room, elevator, area, or building in which the use of [electronic cigarettes](#ecig) is prohibited, the person in control of the premises must post (or cause to be posted) signs stating that such use is prohibited by state law. Signs must be posted in a conspicuous place and must meet specific size requirements. [Click here](https://www.cga.ct.gov/2015/ACT/PA/2015PA-00206-R00HB-06283-PA.htm) for more information.
* To request free signs, contact the Connecticut Department of Health at (860) 509-8251.

[Click here for more information.](http://www.cga.ct.gov/current/pub/chap_557.htm#sec_31-40q)

## Unemployment

# Unemployment Insurance in Connecticut (CT)

* [Connecticut Unemployment Insurance Program](http://www.ctdol.state.ct.us/UI-Online/index.htm)
* [File a UI Claim Over the Internet](http://www.ctdol.state.ct.us/progsupt/unemplt/M1A/LogInIntro.htm)
* [File a Claim by Telephone](http://www.ctdol.state.ct.us/progsupt/unemplt/claimant-guide/uc-288.pdf#page=5)
* [Employer Resources](http://www.ctdol.state.ct.us/UI-Online/UI-EmployerNeedsToKnow.htm)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

[**Connecticut Department of Labor**](http://www.ctdol.state.ct.us/)   
200 Folly Brook Blvd   
Wethersfield, CT 06109-1114   
(860) 263-6000

## Wage Payment Timing

# Wage Payment Timing in Connecticut (CT)

Employers in Connecticut are generally required to pay wages weekly—or once every two weeks—on a regular pay day which is designated in advance by the employer and not more than 8 days after the end of the pay period.

* If the regular pay day falls on a nonwork day, payment must be made on the preceding workday.

Note: The labor commissioner may, upon application, waive this requirement with respect to any particular week or weeks, and may also, upon application, permit an employer to establish regular pay periods less frequently than once every two weeks, provided each affected employee is paid in full at least once in each calendar month on a regularly established schedule.  
   
For more information, please [click here](http://www.ctdol.state.ct.us/wgwkstnd/laws-regs/DOL-74.pdf#week).

### Methods of Payment

Each employer generally must pay wages, salary, or other compensation **using one or more of the following methods**:

* Cash;
* By negotiable checks;
* Upon an employee's written or electronic request, by direct deposit; or
* By payroll card, provided the requirements of state and federal law are satisfied.

The law also allows employers to furnish certain employee pay information electronically to employees if specified conditions are met. [Click here](https://www.cga.ct.gov/2016/ACT/pa/2016PA-00125-R00SB-00211-PA.htm) for more information.  
   
[Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3269) to view a chart outlining the final paycheck timing requirements for each state.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in Connecticut (CT)

This page features the following topics regarding workers' compensation:

* [Overview](#CT_WC_Overview)
* [Workers' Compensation Forms & Notices](#CT_WC_Forms_)
* [Workers' Compensation Publications](#CT_WC_P)
* [Workers' Compensation Poster](#CT_WC_Posters)
* [State Workers' Compensation Contact Information](#CT_WC_SWC)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in Connecticut below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [Employer's First Report of Occupational Injury or Illness](http://wcc.state.ct.us/download/acrobat/fri.pdf)
* [Employer Medical Care Plan Application Package](http://wcc.state.ct.us/download/acrobat/ppo-app.pdf)
* [Employer Safety and Health Committee Information Package](http://wcc.state.ct.us/download/acrobat/shpacket.pdf)
* [Click here](http://wcc.state.ct.us/download/forms.htm) for additional forms.

### Forms for Employees

* [30C: Notice of Claim for Compensation](http://wcc.state.ct.us/download/acrobat/30c.pdf)
* [30D: Dependent's Notice of Claim](http://wcc.state.ct.us/download/acrobat/30d.pdf)
* [WCR-1: Rehabilitation Request](http://wcc.state.ct.us/download/acrobat/rehabapp.pdf)
* [Click here](http://wcc.state.ct.us/download/forms.htm) for additional forms.

### Forms to Submit to Government Agencies

* [Form 43: Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits](http://wcc.state.ct.us/download/acrobat/43.pdf)
* [Hearing Request](http://wcc.state.ct.us/download/acrobat/hr.pdf)
* [Employer's First Report of Occupational Injury or Illness](http://wcc.state.ct.us/download/acrobat/fri.pdf)
* [Click here](http://wcc.state.ct.us/download/forms.htm) for additional forms.

### Forms for Insurance Carriers

* [Employer's First Report of Occupational Injury or Illness](http://wcc.state.ct.us/download/acrobat/fri.pdf)
* [Form 36: Notice of Intention to Reduce or Discontinue Payments](http://wcc.state.ct.us/download/acrobat/36.pdf)
* [Form 43: Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits](http://wcc.state.ct.us/download/acrobat/43.pdf)
* [Form 44: Order to Second Injury Fund in Cases of Concurrent Employment](http://wcc.state.ct.us/download/acrobat/44.pdf)
* [Click here](http://wcc.state.ct.us/download/forms.htm) for additional forms.

### Forms for Doctors & Medical Facilities

* [Authorization for Release of Medical Records](http://wcc.state.ct.us/download/acrobat/HIPAARel.pdf)
* [Employee Medical & Work Status Form](http://wcc.state.ct.us/download/acrobat/work-status.pdf)
* [Form 42: Physician's Permanent Impairment Evaluation](http://wcc.state.ct.us/download/acrobat/42.pdf)
* [Click here](http://wcc.state.ct.us/download/forms.htm) for additional forms.

## Workers' Compensation Publications

* [An Employee's Pocket Guide to Connecticut Workers' Compensation](http://wcc.state.ct.us/download/acrobat/pocket-guide.pdf)
* [Bulletin 51: Statute Book](http://wcc.state.ct.us/download/acrobat/bulletin51statutes.pdf)
* [Employer Medical Care Plan Application Package](http://wcc.state.ct.us/download/acrobat/ppo-app.pdf)
* [Click here](http://wcc.state.ct.us/download/publications.htm) for additional publications.

## Workers' Compensation Poster

* [Notice to Employees](http://wcc.state.ct.us/download/acrobat/notice.pdf) - PDF format

## State Workers' Compensation Contact Information

[**Connecticut Workers' Compensation Commission**](http://wcc.state.ct.us/)Capitol Place   
21 Oak Street, Fourth Floor   
Hartford, CT 06106   
Phone: (800) 223-9675 (toll-free in Connecticut) or (860) 493-1500   
Fax: (860) 247-1361  
Email: [wcc.chairmansoffice@po.state.ct.us](mailto:wcc.chairmansoffice@po.state.ct.us)  
   
[Compensation Review Board (CRB)](http://wcc.state.ct.us/wcc/crb.htm)  
Capitol Place   
21 Oak Street  
Hartford, CT 06106   
Phone: (203) 493-1500   
Fax: (203) 247-1361

# Florida

## Arrests and Convictions

# Arrests and Convictions in Florida (FL)

Florida employers may generally access conviction and arrest records, criminal history, correctional and release information, and wanted persons lists. However, state law generally prohibits employers from accessing sealed records containing criminal charges or requiring applicants to admit charges contained in a sealed or expunged record.

**Additional requirements and exceptions to the information above may apply**. For more information, please contact the [Division of Criminal Justice Information Services](http://www.fdle.state.fl.us/Criminal-History-Records/Obtaining-Criminal-History-Information.aspx) at (850) 410-8109.

## Child Labor

# Child Labor in Florida (FL)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Minimum Wage for Minors

Florida does not have a generally applicable state minimum wage rate for minor employees.

## General Rules & Restrictions

* Under [Florida law](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/Sections/0450.012.html), “child” or “minor” means any person 17 years of age or younger, unless:
  + The person is or has been married;
  + The person’s disability of nonage has been removed by a court of competent jurisdiction;
  + The person is serving or has served in the Armed Forces of the United States;
  + It has been found by a court having jurisdiction over the person that it is in the best interest of such minor to work and the court specifically approves any employment of such person, including the terms and conditions of such employment; or
  + The person has graduated from an accredited high school or holds a high school equivalency diploma.
* Minors of any age may be employed:
  + As pages in the Florida Legislature.
  + By the entertainment industry as prescribed in ss. [450.012](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/Sections/0450.012.html) and [450.132](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/Sections/0450.132.html).
  + In domestic or farm work in connection with their own homes or the farm or ranch on which they live, or directly for their own parents or guardian, or in the herding, tending, and management of livestock, during the hours they are not required by law to be in school.
* No person 10 years of age or younger shall engage in the sale and distribution of newspapers.
* Except as provided above, no person 13 years of age or younger shall be employed, permitted, or suffered to work in any gainful occupation at any time.
* No person 17 years old or younger, whether or not such person’s disabilities of nonage have been removed by marriage or otherwise, shall be employed, permitted, or suffered to work in any place where alcoholic beverages are sold at retail, except as provided under [state law](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0500-0599/0562/Sections/0562.13.html).
* A person under the age of 18, whether or not such person’s disabilities of nonage have been removed by marriage or otherwise, may not be employed, permitted, or suffered to work in an adult theater, as defined under [state law](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0800-0899/0847/Sections/0847.001.html).

## For More Information

* [Florida Minimum Wage Information](http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notices)
* [Florida Statutes—Child Labor](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html)
* [Florida Regulations—Child Labor](https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61L-2)
* [Florida Child Labor Law Poster](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Florida (FL)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Restrictions on Time & Hours Worked

**Minors 14 & 15**

* Minors 14 and 15 generally may not work during school hours (some [exceptions](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) apply);
* Minors 14 and 15 generally may not work more than 6 consecutive days in any one week;
* When school is in session, minors 14 and 15:
  + May work up to 15 hours per week;
  + May not work before 7 a.m. or after 7 p.m. and for no more than 3 hours a day on school days, when a school day follows; and
  + May work up to 8 hours on Friday, Saturday, Sunday, and on nonschool days (when school days do not follow) until 9 p.m.;
* When school is not in session (summer vacation; winter, spring breaks), minors 14 and 15:
  + May work up to 8 hours per day and up to 40 hours per week; and
  + May not work before 7 a.m. or after 9 p.m.

Note: [Click here](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) for rules regarding the agriculture industry.

**Minors 16 and 17**

* Minors 16 and 17 generally may not work during school hours unless they meet a criterion of certain [hour restrictions](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf);
* Minors 16 and 17 generally may not work more than 6 consecutive days in any one week;
* When school is in session, minors 16 and 17:
  + May work up to 30 hours per week; and
  + May not work before 6:30 a.m. or later than 11 p.m. and for no more than 8 hours a day when school is scheduled the following day (on days when school does not follow, there are no hour restrictions);
* When school is not in session (summer vacation; winter, spring breaks), there are generally no limitations.
  + [Hazardous occupations](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) still apply for minors.

Note: [Click here](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) for rules regarding the agriculture industry.

**Exemptions**

* The following workers are exempt from hour restrictions ([hazard restrictions](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) still apply until a worker turns 18)
  + Minors who hold waivers from a public school or Child Labor Compliance;
  + Minors who are or have been married;
  + Minors who have either graduated from an accredited high school, or hold a high school equivalency diploma;
  + Minors who have served in the U.S. Armed Forces; or
  + Minors who are enrolled in high school work programs.

Note: A court may authorize an exemption from age and hour restrictions.

## For More Information

* [Florida Statutes—Child Labor](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html)
* [Florida Regulations—Child Labor](https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61L-2)
* [Florida Child Labor Law Poster](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Florida (FL)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## State Restrictions on Duties Performed

Note: This is not an exhaustive list of job restrictions. For a complete list of prohibited occupations for minors, employers may review the [state](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html) and [federal](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl) child labor laws.

**Minors under the age of 18 may not work in these occupations:**

* Working in or around explosives or radioactive substances
* Operating motor vehicles
* Logging or sawmilling
* Operating power-driven meat processing machines to include meat and vegetable slicers; slaughtering, meat packing, processing, or rendering
* Working on any scaffolding, roofs or ladders above 6 feet; roofing
* Wrecking, demolition or excavation
* Mining occupations
* Operating power-driven bakery; metal-forming, punching, and shearing machines; woodworking, paper products or hoisting machines
* Manufacturing brick and tile products
* Operating circular saws, band saws, & guillotine shears
* \*\* Working with compressed gases exceeding 40 p.s.i.
* \*\* Working in or around toxic substances, corrosives or pesticides
* \*\* Firefighting
* \*\* Working with electrical apparatus or wiring
* \*\* Operating or assisting to operate tractors over 20 PTO horsepower, forklifts, earthmoving equipment, and harvesting, planting, or plowing machinery or any moving machinery

**Minors 14 and 15 may not work in these occupations:**

* Operating any power-driven machinery other than office machines, including all power mowers and cutters
* Maintaining or repairing an establishment, machines, or equipment
* Working in freezers or meat coolers
* Operating, setting up, adjusting, or cleaning power-driven meat or vegetable slicers, grinders, food choppers, cutters, and bakery-type mixers
* Operating motor vehicles
* Manufacturing, mining, or processing occupations where goods are manufactured, mined, or processed
* Cooking (some exceptions apply) & baking
* Working in occupations in Transportation, Warehouse and Storage, Communications, and Construction (except clerical); boiler or engine rooms
* Loading and unloading trucks
* Working in public messenger services
* \*\* Handling certain dangerous animals
* \*\* Conducting door-to-door sales of products as employment (some exceptions)
* \*\* Spray painting

*\*\* Prohibited solely under state law.*

## For More Information

* [Florida Statutes—Child Labor](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html)
* [Florida Regulations—Child Labor](https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61L-2)
* [Florida Child Labor Law Poster](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Florida (FL)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Meal and Rest Periods

* Minors who are 17 years of age and younger may work no more than 4 consecutive hours without a 30-minute uninterrupted break, except for:
  + Minors 16 and 17 years of age who have graduated from high school or received a high school equivalency diploma;
  + Minors who are within the required school attendance age limit who hold a valid certificate of exemption issued by the school superintendent;
  + Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency; and
  + Children in domestic service in private homes, children employed by their parents, or pages in the Florida Legislature.
* Minor means any person 17 years of age or younger, unless:
  + The person is or has been married;
  + The person's disability of nonage has been removed by a court;
  + The person is serving or has served in the U.S. Armed Forces;
  + A court finds it is in the best interest of the minor to work and the court specifically approves the terms and conditions of the employment; or
  + The person has graduated from an accredited high school or holds a high school equivalency diploma.

## For More Information

* [Florida Statutes—Child Labor](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html)
* [Florida Regulations—Child Labor](https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61L-2)
* [Florida Child Labor Law Poster](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

# Child Labor in Florida (FL)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Work Permits/Age Certificates

* Any person who hires, employs, or suffers to work any child must ([among other things](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/Sections/0450.045.html)) first obtain and keep on record during the entire period of such employment proof of the child’s age. This requirement is satisfied by:
  + A photocopy of the child’s birth certificate;
  + A photocopy of the child’s driver license;
  + An age certificate issued by the district school board of the district in which the child is employed, certifying the child’s date of birth; or
  + A photocopy of a passport or visa which lists the child’s date of birth.
* "Work Permits" and/or "Working Papers" are generally [not required](https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1031&clientCode=7601&XACT_DEFN_ID=11377) in Florida and are not issued by either schools or a governmental agency in Florida.

## Recordkeeping

The following documents must be maintained for the duration of the minor’s employment:

* Proof of age, such as:
  + Birth certificate photocopy;
  + Driver's license photocopy;
  + Age certificate;
  + Passport; or
  + Visa.
* Waiver authorizations; and
* Proof of exemption from minor status.

## Poster

* All employers of minors must post in a conspicuous place on the property or place of employment, where it may be easily read, the following poster notifying minors of the child labor laws:
  + **Florida (FL) Child Labor Law**
    - [PDF Format](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) (designed to be printed on 8.5 x 14 inch paper)

## For More Information

* [Florida Statutes—Child Labor](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIContentsIndex.html)
* [Florida Regulations—Child Labor](https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61L-2)
* [Florida Child Labor Law Poster](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)

## Continuation of Benefits

# Continuation of Benefits in Florida (FL)

## Florida Continuation of Coverage ("mini-COBRA")

Florida requires small employers (those with fewer than 20 employees) to provide individuals who would lose coverage under a group health plan due to a qualifying event ("qualified beneficiaries") the right to elect continuation coverage for up to 18 months.

The term "qualified beneficiary" refers to any individual who, on the day before the qualifying event, is:

* The covered employee (except if terminated for gross misconduct);
* The covered employee's spouse; or
* The employee's dependent child.

### Qualifying Events

Continuation coverage must be provided for up to 18 months due to the following events, which would otherwise result in a loss of coverage to a qualified beneficiary:

* Death of the covered employee;
* Termination or reduction of hours of the covered employee’s employment (except for termination for gross misconduct);
* Divorce or legal separation of the covered employee from his or her spouse;
* Covered employee becomes entitled to Medicare benefits;
* Dependent child ceasing to be a dependent child under the generally applicable requirements of the group health plan; or
* A retiree or the spouse or child of a retiree losing coverage within 1 year before or after commencement of a bankruptcy proceeding by the employer.

A qualified beneficiary who is determined under the federal Social Security Act to have been disabled at the time of a qualifying event may be eligible to continue coverage for an additional 11 months (29 months total), if certain conditions are satisfied.

*Special Rules for Employees Called to Active Duty in the Military Reserve or National Guard*

If a covered employee in the military reserve or National Guard is called to active duty and employment is terminated either after or during the active duty period, the termination is a separate qualifying event, distinct from the qualifying event that may have occurred when the employee was called to active duty. As a result, the employee and other qualified beneficiaries are eligible for a new 18-month benefit period beginning on the later of the date active duty ends or the date of termination of employment.

If a covered employee in the military reserve or National Guard is called to active duty, the following events are qualifying events distinct from the qualifying event that may have occurred when the employee was called to active duty:

* The employee dies during the period of active duty;
* There is a divorce or legal separation of the covered employee from the covered employee's spouse; or
* A dependent child ceases to be a dependent child under the requirements of the employer's group health plan.

### Employer/Employee Notice Requirements

* Notification of the right to continue coverage and required procedures must be included in each policy, contract, and certificate of coverage and in the plan booklet.
* An initial notice describing the right to continuation coverage must also be mailed to each covered employee, spouse, and dependent.
* A qualified beneficiary must give written notice of the occurrence and type of qualifying event within 63 days after the occurrence of a qualifying event.
* Within 14 days after receipt of written notice of a qualifying event, qualified beneficiaries must be sent, by certified mail, an election and premium notice form which provides for the election or nonelection of continuation of coverage under the group health plan and the applicable premium amount due.
* A covered employee or other qualified beneficiary must pay the initial premium and elect continuation coverage in writing within 30 days after receiving the election and premium notice.

### Premium Payments

The premium paid for continuation of coverage may not exceed 115% of the applicable premium, except that an employer may charge up to 150% of the group rate for a qualified beneficiary during an 11-month disability extension.

### How Coverage May Be Terminated

Continuation of benefits may be terminated before the end of 18 months for the following reasons:

* Failure to make timely payment of the applicable premium with respect to any qualified beneficiary;
* A qualified beneficiary becomes covered under any other group health plan, if the qualified beneficiary will not be subject to any exclusion or limitation because of a preexisting condition;
* A qualified beneficiary becomes entitled to Medicare benefits; or
* The employer terminates coverage under the group health plan for all employees and does not replace the plan with similar coverage under another group health plan.

### For More Information

* [Florida Health Insurance Coverage Continuation Act](http://www.leg.state.fl.us/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=continuation+of+coverage&URL=0600-0699/0627/Sections/0627.6692.html)

## Deductions From Wages

## Deductions from Wages in Florida (FL)

## Permissible Deductions

Florida does not have a law generally applicable to private employers regarding permissible deductions from employees' wages.

## Prohibited Deductions

State law concerning prohibited wage deductions is applicable to **certain day laborers**:

* Certain [employers](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0448/0448.html) that operate labor halls (central locations where [day laborers](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0448/0448.html) assemble and are dispatched to work for [third-party users](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0448/0448.html)) are generally prohibited from charging a day laborer:
  + For safety equipment, clothing, accessories, or any other items required by the nature of the work either by law, custom, or as a requirement of the third-party user;
    - Note: Day laborers may be charged the market value of items temporarily provided to the worker if he or she willfully fails to return such items. For other items which the employer makes available for purchase, day laborers must not be charged more than the actual cost of the items to the employer or market value, whichever is less.

* + More than a reasonable amount (not to exceed $1.50 each way) to transport a worker to or from the designated worksite;
  + For directly or indirectly cashing a worker’s check; or
  + More than the actual cost of providing lunch (if lunch is provided at the worksite by the employer).
    - Note: The purchase of lunch must not be a condition of employment.

* No deductions (other than those permitted by federal or state law) may bring the worker’s pay below minimum wage for the hours worked.
* With certain [exceptions](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0448/0448.html), these rules do not apply to:
  + Business entities duly registered as farm labor contractors pursuant to [state law](http://leg.state.fl.us/Statutes/index.cfm/Ch0460/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0450/0450PARTIIIContentsIndex.html);
  + Employee leasing companies (as defined under [state law](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0468/Sections/0468.520.html));
  + Temporary help services engaged in supplying solely white collar employees, secretarial employees, clerical employees, or skilled laborers;
  + Labor union hiring halls; or
  + Labor bureau or employment offices operated by a business entity for the sole purpose of employing an individual for its own use.

## For More Information

* [Florida Labor Pool Act](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0448/0448.html)

## Discrimination

# Discrimination in Florida (FL)

This page features information on the following topics regarding discrimination in Florida:

* [Overview](#FL_Discrimination_Overview)
* [Coverage](#FL_Discrimination_Coverage)
* [Prohibited Employer Actions](#FL_Discrimination_Prohibited_Employer_Actions)
* [Additional Information](#FL_Discrimination_Additional_Information)

## Overview

Florida law prohibits certain employers from discriminating in employment on the basis of certain protected categories, such as race, color, religion, sex, age, and disability.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the law, "employer" means any person—including a business—employing **15 or more employees** for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

## Prohibited Employer Actions

It is generally an unlawful employment practice for an employer to (among other things) take the following actions.

**Discrimination.** It is unlawful for an employer to **discharge** or to **fail or refuse to hire** any individual, or otherwise to **discriminate against** any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

Additionally, it is unlawful for an employer to **limit, segregate, or classify** employees or applicants in any way which would deprive (or tend to deprive) any individual of employment opportunities, or adversely affect any individual's status as an employee, because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

**Retaliation**. It is unlawful for an employer to discriminate against any person because that person has **opposed any practice** which is an unlawful employment practice under the law, or because that person has **made a charge, testified, assisted, or participated** in any manner in an investigation, proceeding, or hearing under the law.

[Click here](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0760/Sections/0760.10.html) for additional prohibited actions and exceptions.

## Additional Information

* [Florida Civil Rights Act](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0760/0760PartIContentsIndex.html&StatuteYear=2017&Title=%2D%3E2017%2D%3EChapter%20760%2D%3EPart%20I)
* [Florida Commission on Human Relations](https://fchr.myflorida.com/employment/)

## Drug Testing

# Drug and Alcohol Testing in Florida (FL)

Florida regulates the use of drug and alcohol testing by private employers as follows:

### Permitted Testing

* Employers may conduct random testing of employees and applicants for certain drugs (including alcohol).

### Medical Marijuana

An [amendment](http://www.leg.state.fl.us/statutes/index.cfm?submenu=3#A10S29) to the state constitution allows certain **medical marijuana use**. A [subsequent law](http://www.flsenate.gov/Session/Bill/2017A/8A/BillText/er/PDF) clarifies that "medical use" does not include (among other things) the use or administration of marijuana in any **public place** (except for [low-THC cannabis](http://www.flsenate.gov/Session/Bill/2017A/8A/BillText/er/PDF#page=7)) or in a qualified patient's **place of employment** (except when permitted by his or her employer). Additionally, the law does not:

* Limit the ability of an employer to establish, continue, or enforce a **drug-free workplace program or policy**;
* Require an employer to **accommodate the medical use of marijuana** in any workplace or any employee working while under the influence of marijuana; or
* Create a **cause of action** against an employer for wrongful discharge or discrimination.

## Florida Drug-Free Workplace Program

* Employers that implement a drug-free workplace program meeting certain requirements may be eligible to receive workers' compensation premium credits. [Click here](https://www.myfloridacfo.com/division/wc/pdf/DFWPman.pdf) for more information.

## Employee Leave

# Jury Duty in Florida (FL)

Employers in Florida must allow employees time off from work to attend jury duty and to serve as jurors. Florida law prohibits employers from dismissing or threatening to dismiss from employment any employee summoned for jury duty because of the nature or length of the jury service. Employers are generally not required to pay employees for absence from work due to jury duty.

For more information, please see Florida Statutes [§40.271](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0040/Sections/0040.271.html).

# Voting Leave in Florida (FL)

Florida currently has no voting leave laws for private sector employees.

## Family and Medical Leave

# Family and Medical Leave in Florida (FL)

## Florida Family and Medical Leave

Florida currently has no comprehensive family and medical leave law requiring private employers to provide leave rights greater than those required by the federal Family and Medical Leave Act (FMLA).

## Final Pay Requirements

# Final Paycheck Requirements in Florida (FL)

Florida law does not address final paycheck requirements. [Click here](https://www.hr360.com/State-Laws/Florida/Wage-Payment-Timing.aspx) for information regarding general wage payment timing requirements in Florida.

## Payment of Unused Benefits on Termination

Florida law does not address the payment of unused benefits upon termination. Generally speaking, an employer who has agreed, either in a written or oral policy or by practice, to pay employees for accrued but unused time off should include such payment in the final paycheck (whether or not a state has enacted a specific law to that effect).

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in Florida (FL)

There is no general requirement for private employers in Florida to enroll and participate in the federal work authorization program commonly known as [E-Verify](http://www.uscis.gov/e-verify) to verify the employment eligibility of employees hired to work.

Note: Federal law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. [Click here](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Immigration-Reform-and-Control-Act.aspx) for more information.

### State Contracts and Subcontracts

As a condition of all contracts for the provision of goods or services to the state in excess of nominal value, all state agencies under the direction of the governor must include an **express requirement that contractors utilize the** [**E-Verify**](http://www.uscis.gov/e-verify) **system** to verify the employment eligibility of all new employees hired by the contractor during the contract term.

Such agencies under the direction of the governor also must include an express requirement that contractors include in such subcontracts the requirement that **subcontractors performing work or providing services pursuant to the state contract utilize the** [**E-Verify**](http://www.uscis.gov/e-verify) **system** to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

[Click here](http://www.flgov.com/wp-content/uploads/orders/2011/11-116-suspend_10-7.pdf) for more information.

### RIDE Program

**Florida** is a participant in the [**Records and Information from Department of Motor Vehicles for E-Verify**](https://www.uscis.gov/e-verify/employers/drivers-license-verification) (RIDE) program. RIDE verifies the validity of driver's license and ID card information by matching the data entered by employers against participating state motor vehicle department records.

[Click here](https://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/Florida_RIDE_Fact_Sheet.pdf) for a fact sheet regarding Florida driver's license and ID card information. A [list of RIDE tips](https://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/RIDE_Tips.pdf) is also available.

## Meal and Rest Breaks

# Meal & Rest Breaks in Florida (FL)

Florida generally does not require private employers to provide employees meal or rest breaks, except as follows:

### Special Requirements for Minors\*

* Minors who are 17 years of age and younger may work no more than 4 consecutive hours without a 30-minute uninterrupted break, except for:
  + Minors 16 and 17 years of age who have graduated from high school or received a high school equivalency diploma;
  + Minors who are within the required school attendance age limit who hold a valid certificate of exemption issued by the school superintendent;
  + Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency; and
  + Children in domestic service in private homes, children employed by their parents, or pages in the Florida Legislature.

**\***  Minor means any person 17 years of age or younger, unless:

* + The person is or has been married;
  + The person's disability of nonage has been removed by a court;
  + The person is serving or has served in the U.S. Armed Forces;
  + A court finds it is in the best interest of the minor to work and the court specifically approves the terms and conditions of the employment; or
  + The person has graduated from an accredited high school or holds a high school equivalency diploma.

[Florida Department of Business and Professional Regulation](http://www.myfloridalicense.com/dbpr/index.html)

## Minimum Wage

# Minimum Wage Rate in Florida (FL)

* The state minimum wage is **$8.25 per hour**, and **$5.23 per hour** for tipped employees who meet the [eligibility requirements for the tip credit under the Fair Labor Standards Act](http://webapps.dol.gov/elaws/faq/esa/flsa/002.htm) (FLSA).
  + [Poster in English](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl_minwage2018.pdf?sfvrsn=2) - PDF format
  + [Poster in Spanish](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl-minwage-2018-in-spanish.pdf?sfvrsn=2) - PDF format
  + [Poster in Creole](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl_-minimum-wage-2018_-haitian-creole.pdf?sfvrsn=2) - PDF format

**Special Note Regarding Tipped Employees**: If an employee's tips and the cash wage do not equal the minimum wage, the employer must make up the difference.

**Minimum Wage for Minors**: Florida does not have a generally applicable state minimum wage rate for minor employees.

### For More Information

* [Florida Minimum Wage Information](http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notices)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840)
* [Minimum Wage FAQs from the U.S. Wage and Hour Division](http://www.dol.gov/dol/topic/wages/minimumwage.htm)

[**Florida Department of Economic Opportunity**](http://www.floridajobs.org/)107 East Madison Street  
Caldwell Building  
Tallahassee, FL 32399  
(850) 245-7105

## New Hire Reporting

# New Hire Reporting in Florida (FL)

Florida requires private employers to submit information regarding newly hired employees, as well as certain employees who are returning to work, to the New Hire Reporting Center as follows:

### Reporting Requirements

* Employers must report the following information for each newly hired or recalled employee within 20 days from the date of hire or reemployment (employers reporting electronically or magnetically must transmit twice monthly every 12-16 days):
  + Employee's name, address, social security number, and date of hire.
  + Employer's name, address, federal identification number, and reemployment assistance identification number (if applicable).

### How to Submit Reports

* Employers may report via the Internet through the Florida [New Hire Reporting Center](https://newhireweb.floridarevenue.com/Public/Login.aspx) or they may create their own [electronic new hire reports](https://newhire.floridarevenue.com/SitePages/faq.aspx?cat=reporting%20reqs) (see "How do I report new hires electronically?").
* Employers may also submit one of the following paper reports which may be faxed or mailed to the New Hire Reporting Center:
  + [New Hire Reporting Form](https://newhire.floridarevenue.com/SiteAssets/docs/FL_New_Hire.pdf);
  + Form W-4 form (the employer's name, federal identification number and address must be written at the top of each form); or
  + A printed list containing all of the required information using at least a 10-point font size (the employer's name, federal identification number and address must be clearly displayed at the top of the report).
* Employers with employees in two or more states who transmit reports magnetically or electronically may designate a single state to which all new hires can be reported after notifying, in writing, the federal Department of Health and Human Services, of this designation.

### Penalties for Failure to Report

* Employers that do not respond to written requests for employment information from state child support enforcement officials can face penalties of up to $500. If the Florida Department of Revenue obtains an [order of noncompliance](http://www.flsenate.gov/Laws/Statutes/2010/409.2578) against an employer, the employer can be liable for the Department's attorneys' fees and court costs.

[**Florida New Hire Reporting Center**](https://newhire.floridarevenue.com/SitePages/home.aspx)P.O. Box 6500  
Tallahassee, FL 32314  
(850) 656-3343 or (888) 854-4791  
Fax: (850) 656-0528 or (888) 854-4762  
  
**Federal Multistate Employer New Hire Notification:**U.S. Department of Health and Human Services  
Office of Child Support Enforcement  
Multi-State Employer Registration  
Box 509, Randallstown, MD 21133  
(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

This state/jurisdiction does not have a state plan applicable to private sector employees. Please visit the federal Occupational Safety and Health Administration's [website](https://www.osha.gov/) for applicable federal requirements.

## Overtime

# Overtime Rates in Florida (FL)

Florida currently has no overtime law requiring private employers to pay more than the [federal overtime rate](http://www.dol.gov/whd/overtime_pay.htm) equal to 1 ½ times an employee’s regular rate of pay for hours worked in excess of 40 per workweek, except as follows:

* Manual laborers are entitled to extra pay for any hours worked over 10 in a day, unless a written contract has been signed by the employer and the employee.

[**Florida Department of Economic Opportunity**](http://www.floridajobs.org/)

107 East Madison Street   
Caldwell Building   
Tallahassee, Florida 32399  
(850) 245-7105

## Personal Information Protection

We are reviewing this state law requirement. Stay tuned for updates.

## Posters

# Notices and Posters in Florida (FL)

The following posters are mandatory for Florida employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## Florida (FL) State Poster Requirements

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Florida (FL) Child Labor Law | Designed to be printed on 8.5 x 14 inch paper | [English](http://www.myfloridalicense.com/dbpr/reg/childlabor/documents/ChildLaborPoster07.18.16.pdf) (PDF) |
| Florida (FL) Discrimination is Prohibited | Designed to be printed on 11 x 17 inch paper | [English](https://fchr.myflorida.com/discrimination-poster/) (PDF)  [Spanish](https://fchr.myflorida.com/discrimination-poster/) (PDF) |
| Florida (FL) Employee Notice for Unemployment Compensation Coverage |  | [English](http://dor.myflorida.com/dor/forms/current/rt83.pdf) (PDF)  [Spanish](http://dor.myflorida.com/dor/forms/current/rt83sp.pdf) (PDF) |
| Florida (FL) Minimum Wage |  | [English](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl_minwage2018.pdf?sfvrsn=2) (PDF)  [Spanish](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl-minwage-2018-in-spanish.pdf?sfvrsn=2) (PDF) [Creole](http://www.floridajobs.org/docs/default-source/2018-minimum-wage/poster-fl_-minimum-wage-2018_-haitian-creole.pdf?sfvrsn=2) (PDF) |
| Florida (FL) Workers' Compensation Anti-Fraud Notice |  | [English](http://www.myfloridacfo.com/division/wc/pdf/Anti-FraudNotice.pdf) (PDF) |
| Florida (FL) Workers' Compensation Notice | Special size requirements: 11 x 17 inch paper | [English](http://www.myfloridacfo.com/Division/WC/pdf/WC-Broken-Arm-Poster-Final-March-2010.pdf) (PDF)  [Spanish](http://www.myfloridacfo.com/Division/WC/pdf/WC-Broken-Arm-Poster-Final-Spanish.pdf) (PDF) |
| Florida (FL) Clean Indoor Air Act | The person in charge of an enclosed indoor workplace may, at his or her discretion, post “NO SMOKING” signs as deemed appropriate.  Establishments where smoking is permitted may also be [required to post signs](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0386/Sections/0386.206.html). | [English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1411&libID=1432) (Word) |
| Florida (FL) Equal Opportunity is the Law | **New Poster Requirement for Employers who Receive Federal Financial Assistance**  Designed to be printed on 8.5 x 14 inch paper | [English](http://www.floridajobs.org/civilrights/moa/tabs/2-A-English33.pdf) (PDF) [Spanish](http://www.floridajobs.org/civilrights/moa/tabs/2-A-Spanish33.pdf) (PDF) |

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in Florida (FL)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.   
  
Florida requires employers to maintain the following types of records:

### Unemployment Insurance

* For purposes of unemployment, the following information must be retained for 5 years for each employee:
  + Name and social security number;
  + Payroll records;
  + Hours worked and wages paid;
  + Dates of payment;
  + Place of employment;
  + Beginning and end dates of each pay period;
  + Dates on which work was performed;
  + Dates of hire/rehire/return to work;
  + Special payments; and
  + Address where records are maintained.

### Safety and Health/Workers' Compensation

* For first-aid cases not required to be reported, employers must keep records of the following information for each employee:
  + Name and social security number;
  + Date and time of accident;
  + Occupation;
  + Whom the injury was reported to and when;
  + Description of the injury/accident, including the cause of injury;
  + Injury or illness that occurred and affected body part; and
  + Location of accident, if different from employer's address.
* For medical only cases, time lost cases or death cases, the employer must report information regarding the injury or illness to the claims-handling entity within 7 days of the employer's knowledge of the injury or disease.
* If an illness or injury results in an employee's death, the employer must notify the state Division of Workers' Compensation within 24 hours of the employer's knowledge.
  + Employers are required to keep a record of work-related deaths for 5 years.
* Employers are required to keep Material Safety Data Sheets (MSDS) for 30 years.
* Employers must retain documentation of the basis for reasonable suspicion of employee drug use and documentation of positive test results for 1 year.

### Child Labor

* The following documents must be maintained for the duration of the minor’s employment:
  + Proof of age, such as:
    - Birth certificate photocopy;
    - Driver's license photocopy;
    - Age certificate;
    - Passport; or
    - Visa.
  + Waiver authorizations; and
  + Proof of exemption from minor status.

## Discrimination

* Employers must retain personnel and other records concerning a pending discrimination complaint until final disposition of the complaint.

## Same Sex Relationships

# Same-Sex Relationships in Florida (FL)

The [U.S. Supreme Court](http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf) has held that states are required to **license a marriage** between two people of the same sex, and to **recognize** a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. It is anticipated that state and local agencies will soon issue guidance on how to proceed. Employers with questions on how to proceed regarding the administration of employee benefits for same-sex couples (or other applicable employment laws) are advised to contact a knowledgeable employment law attorney.

## Smoking

# Smoking and Tobacco Use in the Workplace in Florida (FL)

Florida regulates smoking and the use of tobacco in the workplace as follows:

### No-Smoking Requirements

* Employers are required to prohibit smoking in enclosed indoor workplaces, including:
  + Tenant buildings;
  + Shopping malls;
  + Child and adult care centers;
  + Convenience stores;
  + Beauty and barber shops;
  + Public libraries;
  + Auditoriums and theaters;
  + Health care facilities; and
  + Educational facilities.
* Smoking may be permitted in the following places:
  + Private residences not used commercially to provide child care, adult care, or health care;
  + Retail tobacco shops;
  + Designated smoking guest rooms in hotels or other lodging establishments; and
  + "Stand-alone" bars with incidental food service.
* The proprietor or other person in charge of an enclosed indoor workplace must develop and implement a policy regarding smoking prohibitions.

### Posting Guidelines

* The person in charge of an enclosed indoor workplace may, at his or her discretion, post "NO SMOKING" signs as deemed appropriate.
  + [Sample No Smoking Poster in English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1411&libID=1432) - Microsoft Word
* Establishments where smoking is permitted may also be [required to post signs](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0386/Sections/0386.206.html).

[Click here for more information.](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0386/0386PARTIIContentsIndex.html)

## Unemployment

# Unemployment Insurance in Florida (FL)

* [Florida Unemployment Insurance Program](http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/file-a-claim)
* [Employer Resources](http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/employers)
* [File a UI Claim Over the Internet](https://connect.myflorida.com/Claimant/Core/Login.ASPX)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

[**Reemployment Assistance Center**](http://www.floridajobs.org/job-seekers-community-services)107 East Madison Street   
Caldwell Building   
Tallahassee, Florida 32399-4120    
(800) 204-2418

## Wage Payment Timing

# Wage Payment Timing in Florida (FL)

Florida currently has no general laws regulating the timing of wage payments to private sector employees.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in Florida (FL)

This page features the following topics regarding workers' compensation:

* [Overview](#FL_WC_Overview)
* [Workers' Compensation Forms & Notices](#FL_WC_Forms_)
* [Workers' Compensation Publications](#FL_WC_P)
* [Workers' Compensation Posters](#FL_WC_Posters)
* [State Workers' Compensation Contact Information](#FL_WC_SWC)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in Florida below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [Employee Notification Letter](http://www.myfloridacfo.com/Division/WC/pdf/EmpNotLetter.pdf)
  + Note: This notification must be mailed or hand-delivered to the injured employee within 3 days after the employer/carrier receives notice of the employee's injury.
  + [Click here](http://www.myfloridacfo.com/Division/WC/pdf/EmpNotLetter_sp.pdf) for the Spanish version.
* [DFS-F2-DWC-1: First Report of Injury or Illness](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-1%20(FRoI).pdf)
* [DFS-F2-DWC-1a: Wage Statement](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-1a%20(Wage%20Statement).pdf)
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Default.htm) for additional forms.

### Forms for Employees

* [DFS-F2-DWC-60: Important Workers' Compensation Information for Florida's Workers](http://www.myfloridacfo.com/Division/WC/pdf/information_brochure_for_injured_workers_ENG_print.pdf)
  + Note: This notice is required to be mailed, by the claims administrator, to the injured worker within 3 days after the employer or employee informs the claims administrator of the injury.
  + [Click here](http://www.myfloridacfo.com/Division/WC/pdf/information_brochure_for_injured_workers_SPAN_print.pdf) for the Spanish version.
* [DFS-F2-DWC-1: First Report of Injury or Illness](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-1%20(FRoI).pdf)
* [DFS-F2-DWC-3: Request for Wage Loss/Temporary Partial Benefits](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-3%20(Request%20for%20Wage%20Loss).pdf)
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Default.htm) for additional forms.

### Forms to Submit to Government Agencies

* [DFS-F2-DWC-1: First Report of Injury or Illness](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-1%20(FRoI).pdf)
* [DFS-F2-DWC-19: Employee Earnings Report](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-19%20(Employee%20Earnings).pdf)
* [DFS-F2-DWC-13: Claim Cost Report](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-13%20(Claim%20Cost).pdf)
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Default.htm) for additional forms.

### Forms for Insurance Carriers

* [DFS-F2-DWC-65: Important Workers' Compensation Information for Florida's Employers](http://www.myfloridacfo.com/Division/WC/pdf/information_brochure_for_employers_ENG_print.pdf)
  + Note: This publication is required to be sent to the employer annually by the insurer or its third party administrator.
  + [Click here](http://www.myfloridacfo.com/Division/WC/pdf/information_brochure_for_employers2_SPAN_print.pdf) for the Spanish version.
* [DFS-F2-DWC-30: Authorization and Request for Unemployment Compensation Information](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Interactive%20DFS-F2-DWC-30%20(Request%20for%20Unemployment%20Info).pdf)
* [DFS-F6-DWC-2000: Health Care Provider Violation Referral Form](http://www.myfloridacfo.com/Division/WC/pdf/Interactive-DFS-F6-DWC-2000.pdf)
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Default.htm) for additional forms.

### Forms for Doctors & Medical Facilities

* [DFS-F5-DWC-25: Florida Workers' Compensation Uniform Medical Treatment/Status Report Form](http://www.myfloridacfo.com/Division/WC/pdf/DFS-F5-DWC-25inter.pdf)
  + [Instructions](http://www.myfloridacfo.com/Division/WC/pdf/Form%20DFS-F5-DWC-25-A%20Instructions%20Rev%2001.01.15%20(09.29.15).pdf) for completion of the DWC-25
* [DFS-F5-DWC-10: Statement of Charges for Drugs and Medical Supplies Form](http://www.myfloridacfo.com/Division/WC/pdf/Form%20DFS-F5-DWC-10%20Rev%201-1-15.pdf)
  + [Instructions](http://www.myfloridacfo.com/Division/WC/pdf/Form%20DFS-F5-DWC-10-A%20Instructions%20Rev%2012.08.15.pdf) for completion of the DWC-10 when submitted by pharmacies and home medical equipment providers/suppliers
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Forms/Default.htm) for additional forms.

## Workers' Compensation Publications

* [Workers' Compensation System Guide](http://www.myfloridacfo.com/Division/WC/pdf/WC-System-Guide.pdf)
* [Key Coverage and Exemption Eligibility Requirements](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Brochures/Key-Coverage-Brochure-August-2014.pdf)
* [Drug-Free Workplace Guide](http://www.myfloridacfo.com/Division/WC/pdf/DFWPman.pdf)
* [Click here](http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Brochures/Default.htm) for additional publications.

## Workers' Compensation Posters

* [Notice to Employees](http://www.myfloridacfo.com/Division/WC/pdf/WC-Broken-Arm-Poster-Final-March-2010.pdf) - PDF format
  + [Click here](http://www.myfloridacfo.com/Division/WC/pdf/WC-Broken-Arm-Poster-Final-Spanish.pdf) for the Spanish version.
* [Anti-Fraud Reward Program Notice](http://www.myfloridacfo.com/Division/WC/pdf/Anti-FraudNotice.pdf) - PDF format
  + [Click here](http://www.myfloridacfo.com/Division/WC/pdf/Anti-FraudNotice-Spanish.pdf) for the Spanish version.

## State Workers' Compensation Contact Information

**Florida Department of Financial Services**[Division of Workers' Compensation](http://www.myfloridacfo.com/Division/WC/)  
200 East Gaines Street  
Tallahassee, FL 32399-4220  
  
[Bureau of Compliance](http://www.myfloridacfo.com/Division/WC/Employer/boc.htm)   
Phone: (850) 413-1609

# Illinois

## Arrests and Convictions

# Arrests and Convictions in Illinois (IL)

This page contains the following information regarding arrests and convictions:

* [Permitted Access to Records](#Access_ILCRIM)
* [Prohibited Use of Records](#Use_ILCRIM)
* [Job Applications](#Apps_ILCRIM)
* [State "Ban the Box" Law](file:///C:\Users\RK-PC\Desktop\Ban#State_Box_ILCRIM)
* [Chicago "Ban the Box" Ordinance](file:///C:\Users\RK-PC\Desktop\Ban#CHI_BOX_ILCRIM)
* [Obtaining Conviction Records](#Obtain_ILCRIM)
* [Additional Information](#Additional_Info_ILCRIM)

## Permitted Access to Records

* Employers may request a state records check for convictions.

## Prohibited Use of Records

* Employers with 15 or more employees generally may not inquire into or use criminal history record information ordered expunged, sealed or impounded, or an arrest as the basis for taking certain adverse employment actions.
  + Employers may obtain or use other information which indicates that a person actually engaged in the conduct for which the arrest was made.
* Employers (regardless of size) are generally prohibited from considering expunged juvenile records in employment matters. Employers may not ask—in any format or context—if an applicant has had a juvenile record expunged.

Note: [Day and temporary labor service agencies](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68) (or third-party clients) are **prohibited from charging** any day or temporary laborer for the expense of conducting any **consumer report** (as defined in the federal [Fair Credit Reporting Act](https://www.law.cornell.edu/uscode/text/15/1681a#d)) or any **criminal background check**.

## Job Applications

Regardless of employer size, job applications within Illinois **must contain specific language** stating that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest.   
  
Information about an expunged record obtained by a potential employer—even inadvertently—from a job application that does not contain this specific language (that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest) is treated as [dissemination of an expunged record](http://www.ilga.gov/legislation/publicacts/100/PDF/100-0285.pdf#page=50) by the employer. 

## State "Ban the Box" Law

Employers (with **15 or more employees**) and employment agencies are generally prohibited from inquiring about or into, considering, or requiring disclosure of an applicant’s criminal record or criminal history until he or she has been **determined qualified** for the position and **notified that he or she has been selected for an interview**.

If the employer or employment agency does not conduct an interview, such inquiries, considerations, or disclosures may not be made or requested until after a conditional offer of employment is made.

 These requirements do not apply for positions where:

* Employers are required to exclude applicants with certain criminal convictions from employment under state or federal law;
* A standard fidelity bond (or an equivalent bond) is required and an applicant's conviction of one or more specified criminal offenses would disqualify him or her from obtaining such a bond; or
* Employers employ individuals licensed under the state [Emergency Medical Services Systems Act](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1226&ChapterID=21).

The law does not prohibit an employer from notifying applicants in writing of the specific offenses that will disqualify an applicant from employment in a particular position due to federal or state law or the employer's policy.

[Click here](http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=85&GA=98&DocTypeId=HB&DocNum=5701&GAID=12&LegID=80913&SpecSess=&Session=) to read the text of the law.

## Chicago "Ban the Box" Ordinance

Employers that are not subject to the [state "Ban the Box" law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=303#state) (i.e., employers with **fewer than 15 employees**) may not inquire about or into, consider, or require disclosure of an applicant’s criminal record or criminal history until **after the applicant has been determined qualified for the relevant position and notified that he or she has been selected for an interview** (if there is no interview, until after a conditional offer of employment is extended to the applicant).

These provisions do not apply where:

* Federal or state law excludes applicants with certain criminal convictions from the relevant position;
* A standard fidelity bond or an equivalent bond is required for the relevant position, and an applicant’s conviction of one or more specified criminal offenses would disqualify the applicant from obtaining such a bond (in which case an employer may include a question or otherwise inquire whether the applicant has ever been convicted of any of those offenses); or
* The relevant position requires a license under the [Emergency Medical Services Systems Act](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1226&ChapterID=21).

Note: The ordinance does not prohibit providing written notice of specific offenses that will disqualify an applicant from employment in a particular position.

In the event any employer—**including one subject to the** [**state "Ban the Box" law**](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=303#state)—makes a decision not to hire an applicant that is based (entirely or partially) on the applicant’s criminal record or history, the employer **must inform the applicant** of this basis at the time he or she is informed of the decision.

Note: Additional [requirements](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title2citygovernmentandadministration/chapter2-160humanrights?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=JD_2-160-054) apply to certain public employers (e.g., the City of Chicago or a [sister agency](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title2citygovernmentandadministration/chapter2-160humanrights?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=JD_2-160-020)).

[Click here](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title2citygovernmentandadministration/chapter2-160humanrights?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=JD_2-160-054) to read the text of the ordinance.

## Obtaining Conviction Records

* To request state conviction records, employers should contact the Illinois State Police Department's Bureau of Identification.

## Additional Information

**Illinois State Police**

[Bureau of Identification](http://www.isp.state.il.us/crimhistory/chri.cfm)

## Child Labor

We are reviewing this state law requirement. Stay tuned for updates.

## Continuation of Benefits

# Continuation of Benefits in Illinois (IL)

## Illinois Continuation of Coverage ("mini-COBRA")

Illinois requires employers (including those with fewer than 20 employees) to provide continuation of benefits to employees, spouses and dependent children who lose group health insurance coverage under certain circumstances.

### Qualifying Events

*Termination of Employment or Reduction in Hours of Employment*

Continuation coverage (up to a maximum period of 12 months) must be offered to employees and eligible dependents who were continuously covered under the group policy for 3 months prior to the employee's termination of employment or reduction in hours below the minimum required by the group plan.

Employers are not required to provide continuation of coverage if:

* The employee was terminated for committing a work-related felony and has admitted to or been convicted of such felony;
* The employee was terminated for a work-related theft for which the employer was in no way responsible and the employee has admitted to or been convicted of such theft;
* The individual is covered by Medicare; or
* The individual is covered by any other insured or self-insured plan of group hospital, surgical or medical coverage.

*Employee Divorce, Death or Retirement ("Spousal Continuation")*

Continuation of coverage for spouses and dependent children may be triggered when one of the following qualifying events occurs: divorce from the employee, death of the employee or retirement of the employee. Continuation of coverage due to these qualifying events is available for:

* The divorced or widowed spouse (any age) and dependent children of the employee who were covered under the group plan on the day before the qualifying event.
  + Continuation resulting from an employee's death or divorce must be offered for a maximum period of 2 years if the spouse is under age 55 at the time of the qualifying event. If the spouse is age 55 or older at the time of qualifying event, the maximum period of coverage extends until the spouse is eligible for Medicare.
* The spouse and dependent children of a retired employee, if the spouse is age 55 or older, who were covered under the group plan on the day before the qualifying event.
  + Continuation resulting from an employee's retirement is only available to spouses who are age 55 or older at the time of the retirement.
  + The maximum period of coverage extends until the spouse is eligible for Medicare.

*Attainment of Limiting Age or Death of Insured Parent ("Dependent Child Continuation")*

Dependent children who lose group health insurance coverage due to attainment of the limiting age under the policy or the death of the insured parent must be offered continuation of coverage for a maximum period of 2 years, if the dependent is covered under group coverage on the day before the qualifying event.

Employers are not required to provide continuation of coverage if:

* The child is covered by any other insured or self-insured plan of group hospital, surgical or medical coverage; or
* The child is eligible for coverage under spousal continuation.

### Employer/Employee Notice Requirements

*Termination of Employment/Reduction in Hours*

* Notification of the continuation privilege must be included in each certificate of coverage.
* Employers must notify employees who are terminated or whose hours are reduced of the right to continuation coverage, in person or by mail, within 10 days after the termination or reduction in hours. The employer must also send a copy of the notice to the insurer.
* Employees must request continuation of coverage in writing within the 30-day period following the later of:
  + The date of employment termination or reduction in hours; or
  + The date written notice of the right to continuation is presented or mailed.

*Spousal Continuation Coverage*

* An eligible spouse seeking continuation coverage must notify the employer or the insurer in writing of the dissolution of marriage or the death or retirement of the employee within 30 days of the qualifying event.
* The employer must notify the insurer within 15 days after receiving a request for spousal continuation, and must immediately send a copy of the notice to the spouse.
* The insurance company must provide notice of the right to elect continuation by certified mail, return receipt requested, within 30 days after receipt of notice from the employer.
* The spouse must return the notice of continuation election form by certified mail, return receipt requested, within 30 days after the date it is received from the insurance company.

*Dependent Child Continuation Coverage*

* A dependent child, or a responsible adult acting on behalf of the dependent child, must notify the employer or the insurer in writing within 30 days of the death of the employee or the dependent's attainment of the limiting age.
* The employer, within 15 days of receipt of notice of the qualifying event, must give written notice to the insurance company. If the qualifying event is the death of the employee, the employer must immediately send a copy of the notice to the dependent child or responsible adult at the dependent child's residence.
* The insurance company must provide notice of the right to elect continuation by certified mail, return receipt requested, within 30 days after receipt of notice of the qualifying event.
* The dependent child or responsible adult acting on behalf of the dependent child must return the notice of continuation election form within 30 days after the date it is received from the insurance company.

### Premium Payments

The premium for Illinois continuation coverage generally may not exceed the group rate.  For spouses or former spouses age 55 or older who elect spousal continuation, after the initial two years of coverage, the premium may be adjusted to include a 20% administration fee.

### How Coverage May Be Terminated

Continuation of benefits may generally be terminated for an individual earlier than the maximum period for the following reasons:

* The individual becomes eligible for Medicare;
* The individual becomes covered by any other insured or self-insured group medical, hospital or surgical plan;
* Failure to make timely premium payments for coverage; or
* The employer's group policy is terminated in its entirety and not replaced with another group policy.

In addition to the above reasons:

* Spousal continuation coverage may terminate early if the spouse remarries or if the group coverage would terminate even though the eligible spouse was still married to the employee (unless the employee retires during the election period).
* Dependent child continuation coverage may terminate early when coverage would terminate under the terms of the existing policy if the dependent child was still an eligible dependent of the employee, such as when the employee terminates employment with the employer.

### For More Information

* [Illinois Insurance Code](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=021500050HArt.+XX&ActID=1249&ChapAct=215&nbsp;ILCS&nbsp;5/&ChapterID=22&ChapterName=INSURANCE&SectionID=52237&SeqStart=94000000&SeqEnd=106400000&ActName=Illinois+Insurance+Code.) (§§ 367.2; 367.2-5; 367e)
* [Illinois Department of Insurance Fact Sheet: Illinois Continuation Law](http://insurance.illinois.gov/healthInsurance/continueil.pdf)
* [Illinois Department of Insurance Fact Sheet: Illinois Spousal Continuation Law](http://insurance.illinois.gov/healthInsurance/continueSpouse.pdf)
* [Illinois Department of Insurance Fact Sheet: Illinois Dependent Child Continuation Law](http://insurance.illinois.gov/healthInsurance/continueDepChild.pdf)

## Dependent Status and Health Insurance

Under the federal [Patient Protection and Affordable Care Act](http://cciio.cms.gov/programs/marketreforms/youngadults/index.html) (Health Care Reform), beginning with plan years starting on or after September 23, 2010, group health plans that offer dependent coverage must make the coverage available until a child reaches the age of 26.

Under the Illinois Young Adult Dependent Coverage Law, group health plans that provide dependent coverage must allow coverage for qualifying dependents up to age 26 and up to age 30 for military veteran dependents. The requirements of the federal Affordable Care Act exceed those of the Young Adult Dependent Coverage Law in some respects. For more information, please [click here](http://insurance.illinois.gov/healthInsurance/ya_Dependent.pdf).

## Deductions From Wages

# Deductions from Wages in Illinois (IL)

### Permissible Deductions

* Deductions by employers from wages or final compensation are prohibited, unless such deductions are:
  + Required by law;
  + To the benefit of the employee;
  + In response to a valid wage assignment or wage deduction order; or
  + Made with the **express written consent** of the employee, given freely at the time the deduction is made.
    - Note: The law also contains provisions permitting certain deductions made by certain public entities. [Click here](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2402&ChapterID=68) for more information (§ 9).
* Where the legitimacy of any deduction from wages is in dispute, the amount in question may be withheld if the employer notifies the state Department of Labor on the date the payment is due in writing of the amount that is being withheld and stating the reasons for which the payment is withheld.
* A **day and temporary labor service agency** may deduct the actual market value of reusable equipment provided to the day or temporary laborer by the agency which the laborer fails to return, if the laborer provides a written authorization for such deduction at the time the deduction is made.

### Prohibited Deductions

* An employer may not deduct the cost of purchasing and/or cleaning uniforms required by the employer from an employee's wages or final compensation, unless the employee's express written consent is given freely at the time the deduction is made.
* In no case may an employer withhold all or part of the final compensation due an employee while the employer awaits return of property in the possession of the employee, unless the employee's express written consent is given freely at the time the deduction is made.
* If an employer permits an employee to take a vacation that has not yet been earned, and the employee resigns or is terminated, the employer may not deduct the unearned vacation pay from the employee's wages or final compensation without a written agreement as set forth under state law.
* No cash advance repayment agreement may provide for a repayment schedule of more than 15% of an employee's gross wages or final compensation per paycheck.
  + However, if, upon termination, an employee owes an amount greater than 15% of gross wages or final compensation, that amount may be withheld from the employee's wages or final compensation, but only if such an arrangement was included in the agreement signed when the advance was made.
* The total amount deducted for meals, equipment, and transportation may not cause a day or temporary laborer's hourly wage to fall below the state or federal minimum wage.
* No employer may require any employee or applicant to pay the cost of medical examinations or the cost of furnishing any records of such examinations which are required by the employer as a condition of employment.
* Note: [Day and temporary labor service agencies](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68) (or third-party clients) are **prohibited from charging** any day or temporary laborer for the expense of conducting any **consumer report** (as defined in the federal [Fair Credit Reporting Act](https://www.law.cornell.edu/uscode/text/15/1681a#d)), any **criminal background check**, or any **drug test**.

### For More Information

* [Deductions from Wages](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2402) (§ 9)
* [Deductions from Wages](http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=082001750K30) (Day and Temporary Laborers)
* [Illinois Department of Labor](https://www.illinois.gov/idol/FAQs/Pages/Deductions-From-Pay-FAQ.aspx)
* [State Regulations](ftp://www.ilga.gov/JCAR/AdminCode/056/05600300sections.html) (§§ 300.700 et seq.)
* [Illinois Wage Assignment Act](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2057&ChapterID=57)

## Discrimination

We are reviewing this state law requirement. Stay tuned for updates.

## Drug Testing

# Drug and Alcohol Testing in Illinois (IL)

Illinois has no comprehensive law regulating the use of drug or alcohol testing by private employers.

Note: [Day and temporary labor service agencies](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68) (or third-party clients) are **prohibited from charging** any day or temporary laborer for the expense of conducting (among other things) any **drug test**. [Click here](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=100-0517) for more information.

## Illinois Drug Free Workplace Act

* The Illinois Drug Free Workplace Act requires employers that are awarded government contracts to certify that they will provide drug-free workplaces. [Click here](http://www.ilga.gov/LEGISLATION/ILCS/ilcs3.asp?ActID=551&ChapAct=30%20ILCS%20580/&ChapterID=7&ChapterName=FINANCE&ActName=Drug+Free+Workplace+Act.%29) for more information.

## Compassionate Use of Medical Marijuana

A [law](http://www.ilga.gov/legislation/98/HB/PDF/09800HB0001enr.pdf) in Illinois provides that a qualifying medical marijuana patient is not subject to arrest, prosecution, or denial of any right or privilege, for the medical use of cannabis in accordance with the law. Key provisions of the law affecting employers include the following:

* An employer generally may not penalize an employee solely for his or her status as a registered qualifying patient.
* A private business may restrict or prohibit the medical use of cannabis on its property.
* Employers are generally not prohibited from, among other things:
  + Adopting reasonable regulations concerning the consumption, storage, or timekeeping requirements for qualifying patients related to the use of medical cannabis;
  + Enforcing a policy concerning drug testing, zero-tolerance, or a drug free workplace, provided the policy is applied in a nondiscriminatory manner;
  + Disciplining an employee for violating a workplace drug policy; or
  + Disciplining an employee for failing a drug test if failing to discipline such employee would put the employer in violation of federal law or cause it to lose a federal contract or funding.
* An employer may consider a registered qualifying patient to be impaired when he or she manifests specific, articulable symptoms while working that decrease or lessen his or her performance of the duties or tasks of the employee's job position.
  + If an employer elects to disciple an employee for impairment, it must afford the employee a reasonable opportunity to contest the basis of the determination.

Nothing in the law creates or implies a cause of action for any person against an employer for:

* Actions based on the employer's good faith belief that a registered qualifying patient used or possessed cannabis while on the employer's premises or during the hours of employment;
* Actions based on the employer's good faith belief that a registered qualifying patient was impaired while working on the employer's premises during the hours of employment; or
* Injury or loss to a third party if the employer neither knew nor had reason to know that the employee was impaired.

**Employers** and **property and casualty insurers** are generally **not required to reimburse** a person for costs associated with the medical use of cannabis (this rule previously applied only to government medical assistance programs and private health insurers). This provision is scheduled to be repealed on January 1, 2018.

## Employee Leave

# Jury Duty in Illinois (IL)

Illinois law requires employers to grant employees summoned for jury duty time off from work to perform jury service, regardless of the employment shift the employee is assigned to at the time of the summons.  Thus, an employer cannot require a night shift employee to work at night while he or she is performing jury duty during the daytime. Employers are also prohibited from discharging, threatening, intimidating, or coercing any employee in connection with the performance of jury service.

An employee must give reasonable notice of required jury service to the employer by providing a copy of the summons within 10 days of the date the summons is issued.

Illinois does not require employers to pay employees for time off for jury duty.

For more information, please see [705 Illinois Compiled Statutes 305/4.1](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1860&ChapterID=50).

# Voting Leave in Illinois (IL)

Illinois requires private employers to grant employees time off to vote as follows:

* Employers are required to provide employees 2 hours of time off to vote if an employee's work shift begins less than 2 hours after polls open and ends less than 2 hours before polls close.
* Employers have discretion to decide the hours employees may take to vote.
* Employers may not penalize employees for taking voting leave or deduct voting time from their wages.

Employees must apply for voting leave prior to the day of election.  
   
See 10 Illinois Compiled Statutes [5/7-42](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=001000050HArt%2E+7&ActID=170&ChapterID=3&SeqStart=30500000&SeqEnd=38800000) and [5/17-15](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=001000050HArt%2E+17&ActID=170&ChapterID=3&SeqStart=57000000&SeqEnd=60900000) for more information.

# Victim Leave in Illinois (IL)

## Illinois Victims' Economic Security and Safety Act

The Victims' Economic Security and Safety Act (VESSA) provides an eligible employee who is a victim of domestic or sexual violence, or who has a family or household member who is a victim of domestic or sexual violence, with up to 12 weeks of unpaid leave per any 12-month period if the employee or employee's family or household member is experiencing an incident of domestic or sexual violence or\* to address issues arising from domestic or sexual violence.

* An eligible employee working for an employer with at least 15, but not more than 49 employees, is entitled to a total of 8 workweeks of leave during any 12-month period.
* An eligible employee working for an employer with at least 50 employees is entitled to a total of 12 workweeks of leave during any 12-month period.
* Under a [law](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0765&GA=99) in Illinois effective as of January 1, 2017, an eligible employee working for an employer with **at least 1, but not more than 14 employees**, is entitled to a total of **4 workweeks** of leave during any 12-month period.

The employee must provide the employer with notice of the intention to take leave at least 48 hours in advance when possible.

For more information, please [click here](http://www.illinois.gov/idol/Laws-Rules/EOW/Documents/VESSA_FS.pdf).

\*The clause "if the employee or employee's family or household member is experiencing an incident of domestic or sexual violence or" was added by the new law noted in the third bullet point and is effective January 1, 2017.

## Family and Medical Leave

# Family and Medical Leave in Illinois (IL)

## Illinois Family and Medical Leave

Illinois currently has no comprehensive family and medical leave law requiring private employers to provide leave rights greater than those required by the federal Family and Medical Leave Act (FMLA).

## Illinois Family Military Leave Act

Illinois law provides for family military leave for eligible employees who are the spouses, parents, children, or grandparents of a person called to military service lasting longer than 30 days. Under the [Illinois Family Military Leave Act](http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2734&ChapAct=820 ILCS 151/&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Family+Military+Leave+Act.):

* An employer that employs between 15 and 50 employees is required to provide up to 15 days of unpaid family military leave to an employee during the time federal or state deployment orders are in effect; and
* An employer that employs more than 50 employees is required to provide up to 30 days of unpaid family military leave to an employee during the time federal or state deployment orders are in effect.

An eligible employee, including an independent contractor, is an employee who has been employed by the same employer for at least 12 months, and has been employed for at least 1,250 hours of service during the 12 month period immediately preceding the commencement of the leave.

An employee is not permitted to take family military leave unless he or she has exhausted all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the employee, except sick leave and disability leave. The employer may require certification from the proper military authority to verify the employee's eligibility for the family military leave requested.

The number of days of family military leave provided to an employee under the law is reduced by the number of days of leave provided to the employee under the federal Family and Medical Leave Act because of any qualifying exigency arising out of the fact that the employee's spouse or child is on covered active duty as defined in that Act (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

For more information, please [click here](http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2734&ChapAct=820 ILCS 151/&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Family+Military+Leave+Act.).

## Final Pay Requirements

# Final Paycheck Requirements in Illinois (IL)

## If the Employee is Involuntarily Terminated

The final paycheck is due at the time of separation, if possible, but in no case later than the next regularly scheduled payday. When an employee requests in writing that his or her final compensation be paid by check and mailed, the employer must comply with this request.  
  
Note: Commissions due at the time of termination of a contract between a [sales representative](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2403&ChapterID=68) and principal must be paid within 13 days of termination. Commissions that become due after termination must be paid within 13 days of the date they become due.

## If the Employee Quits

The final paycheck is due at the time of separation, if possible, but in no case later than the next regularly scheduled payday. When an employee requests in writing that his or her final compensation be paid by check and mailed, the employer must comply with this request.

## Payment of Unused Benefits on Termination

Unless otherwise provided in a collective bargaining agreement, whenever an employment contract or policy provides for paid vacations, an employer is required to pay the monetary equivalent of all earned vacation as part of the employee’s final compensation at his or her final rate of pay, and no employment contract or policy may provide for forfeiture of earned vacation time upon termination. A former employee is not entitled to severance, sick or holiday pay unless the employer has promised otherwise.  
  
More information regarding final paycheck requirements and payment of unused benefits on termination is available from the [State of Illinois](https://www2.illinois.gov/idol/FAQs/Pages/wage-payment-faq.aspx).

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in Illinois (IL)

Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or foreign citizens who have the necessary authorization. To comply with the law, employers must verify the identity and employment authorization of each person they hire by completing and retaining [Form I-9](http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=31b3ab0a43b5d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=7d316c0b4c3bf110VgnVCM1000004718190aRCRD) (Employment Eligibility Verification).

## State Law

Employers may choose to **voluntarily** enroll in an electronic employment verification system, including the [federal E-Verify system](http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD). Those who do are urged to consult the [Illinois Department of Labor’s (IDOL) website](http://www.illinois.gov/idol/Pages/default.aspx) for current information on the accuracy of E-Verify and to review and understand their legal responsibilities relating to the use of the voluntary E-Verify program.

### Requirements for Employers

Under the state Right to Privacy in the Workplace Act, an employer using the E-Verify Program must attest on a [form prescribed by IDOL](https://www.illinois.gov/idol/Laws-Rules/legal/Documents/attest.pdf) that:

* The employer has received the Basic Pilot or E-Verify Program training materials and that all employees who will administer the program have completed the Basic Pilot or E-Verify Computer Based Tutorial (CBT).
* The employer has posted in a place that is clearly visible the [required notice](https://www.illinois.gov/idol/laws-rules/legal/pages/privacy-workplace.aspx) from the U.S. Department of Homeland Security (DHS) indicating that the company is enrolled in the Basic Pilot or E-Verify Program.
* The employer has posted in a place that is clearly visible the required [anti-discrimination notice](https://www.uscis.gov/e-verify/publications/participation-posters/e-verify-participation-posters) issued by the federal Office of Special Counsel for Immigration-Related Unfair Employment Practices.

The employer must maintain the signed original of the attestation form prescribed by the IDOL, as well as all CBT certificates of completion and make them available for inspection or copying by the IDOL at any reasonable time.

For more information, please [click here](https://www.illinois.gov/idol/laws-rules/legal/pages/privacy-workplace.aspx).

## Meal and Rest Breaks

# Meal & Rest Breaks in Illinois (IL)

Illinois requires private employers to provide employees meal and rest breaks as follows:

### Meal Breaks

* An employee who is to work 7.5 continuous hours or more must be provided an unpaid meal period of at least 20 minutes, which must be given no later than 5 hours after beginning work.

### Day of Rest Requirement

* Employers are required to allow employees at least 24 consecutive hours of rest in every calendar week, except for certain categories of employees including:
  + Part-time employees whose total work hours for one employer during a calendar week do not exceed 20;
  + Employees needed in case of breakdown of machinery or equipment or other emergency requiring the immediate services of experienced and competent labor to prevent injury to person, damage to property, or suspension of necessary operations;
  + Employees employed in agriculture or coal mining;
  + Employees employed as watchmen or security guards; and
  + Bona fide executive, administrative, professional, or outside sales employees.
* Employers may obtain permits from the Illinois Department of Labor allowing employees to voluntarily work 7 consecutive days.
* Before operating on Sunday, an employer must post in a conspicuous place a schedule listing the employees required or allowed to work on Sunday and designating the day of rest for each.

**Day of Rest for Domestic Workers**

A new law in Illinois, effective January 1, 2017, amends the state One Day Rest In Seven Act to provide that certain persons employed as **domestic workers** must be allowed at least **24 consecutive hours of rest** in every calendar week. However, the new law does not prohibit a domestic worker from **voluntarily agreeing** to work on such required day of rest if the worker is compensated at the **overtime rate** for all hours worked on such day of rest. The authorized day of rest should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship. [Click here](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0758&GA=99) for more information, including details on which workers are covered.

[Illinois Department of Labor](http://www.illinois.gov/idol/Pages/default.aspx)

## Minimum Wage

# Minimum Wage Rate in Illinois (IL)

|  |  |  |
| --- | --- | --- |
| **Government** | **Current Minimum Wage(s)** | **Future Minimum Wage(s)** |
| [State of Illinois](https://www.illinois.gov/idol/Employers/Documents/flsposter.pdf) | * Generally **$8.25 per hour** * Tipped employees must be paid at least 60% of the applicable minimum wage (currently, at least $4.95 per hour). However, for the first 90 days of employment, tipped employees may be paid $4.65 per hour. * Employees who do not receive tips may be paid $7.75 per hour for the first 90 days of employment. * Employees under 18 years of age may be paid $7.75 per hour. | N/A |
| [Chicago](https://www.cityofchicago.org/city/en/depts/bacp/supp_info/minimumwage.html) | **$11.00 per hour** ($6.10 for tipped employees) | * Effective July 1, 2018, **$12.00 per hour** ($6.25 for tipped employees) * Effective July 1, 2019, **$13.00 per hour** (tipped employee wage not yet determined) |
| [Cook County](https://www.cookcountyil.gov/file/5285/download?token=LDzQdzhz) | * Generally **$10.00 per hour** * Tipped employees must make at least $8.25 per hour worked while physically present within the geographic boundaries of Cook County. Employers of such employees must provide a base wage of $4.95 per hour and make up any shortfalls in customer gratuities that would result in an employee earning less than $8.25 per hour. | * Effective July 1, 2018, **$11.00 per hour** ($5.10 for tipped employees) * Effective July 1, 2019, **$12.00 per hour** (tipped employee wage not yet determined) * Effective July 1, 2020, **$14.00 per hour** (tipped employee wage not yet determined) |

### For More Information

* [Illinois Minimum Wage Information](http://www.illinois.gov/idol/Laws-Rules/FLS/Pages/minimum-wage-law.aspx)
* [Chicago Minimum Wage Information](http://www.cityofchicago.org/city/en/depts/mayor/supp_info/minimum-wage.html)
* [Cook County Minimum Wage Information](https://www.cookcountyil.gov/service/minimum-wage-ordinance)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840)
* [Minimum Wage FAQs from the U.S. Wage and Hour Division](http://www.dol.gov/dol/topic/wages/minimumwage.htm)

[**Illinois Department of Labor**](http://www.illinois.gov/idol/Pages/default.aspx)160 N. LaSalle St.  
Suite C-1300  
Chicago, IL 60601  
(312) 793-2800

## New Hire Reporting

# New Hire Reporting in Illinois (IL)

Illinois requires private employers to submit information regarding newly hired employees, as well as certain employees who are returning to work, to the Department of Employment Security as follows:

### Reporting Requirements

* Employers must report the following information for each newly hired or recalled employee within 20 days from the date of hire or reemployment (employers reporting magnetically or electronically must transmit twice monthly every 12-16 days in two monthly transactions):
  + Employee's name, address, social security number, and first day of work for pay.
  + Employer's name, address, and federal identification number.

### How to Submit Reports

* Employers may report via the Internet through the [New Hire Online System](http://www.ilchildsupport-employer.com/) or they may file [magnetically](https://newhire.hfs.illinois.gov/NewHireWeb/NewHireReporting.jsp#c).
* Employers may also submit one of the following paper reports, which may be faxed or mailed by first-class mail to the Department of Employment Security:
  + [New Hire Reporting Form](http://www.ides.illinois.gov/IDES%20Forms%20and%20Publications/NewHire.pdf);
  + Form W-4; or
  + A printed list containing all of the required information.
* Employers with employees in two or more states who transmit reports magnetically or electronically may designate a single state to which all new hires can be reported after notifying, in writing, the federal Department of Health and Human Services, of this designation.

### Penalty for Failure to Report

* An employer who knowingly fails to comply with the reporting requirements is subject to a penalty of $15 for each individual it fails to report, and may be fined up to $500 for each violation if the failure to report is the result of a conspiracy between the employee and the employer not to supply the required report or to supply a false or incomplete report.

[**Illinois New Hire Reporting Program**](https://newhire.hfs.illinois.gov/NewHireWeb/newhire.htm?_flowExecutionKey=_cFF7F6D60-0DB1-EC38-8BEE-0322648EF7DB_kD4ADC658-BE7A-A3E2-3DCE-976A4873446A)P.O. Box 19473   
Springfield, IL 62794   
(800) 327-HIRE (4473)  
Fax: (217) 557-1947  
   
[**Illinois Department of Employment Security**](http://www.ides.illinois.gov/) 1300 S 9th St  
PO Box 19493  
Springfield, IL 62703

(800) 244-5631   
or   
33 South State Street   
Chicago, IL 60603   
(312) 793-5700  
   
**Federal Multistate Employer New Hire Notification:**U.S. Department of Health and Human Services  
Office of Child Support Enforcement  
Multi-State Employer Registration  
Box 509, Randallstown, MD 21133  
(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

This state/jurisdiction does not have a state plan applicable to private sector employees. Please visit the federal Occupational Safety and Health Administration's [website](https://www.osha.gov/) for applicable federal requirements.

## Overtime

# Overtime Rates in Illinois (IL)

The following overtime requirements apply to private employers in Illinois:

* Employees are entitled to overtime pay equal to 1 ½ times their regular rates of pay for work in excess of 40 hours per week, except for those employees who are specifically exempt by law including:
  + Those working in an executive, administrative, or professional capacity;
  + Salesmen or mechanics that sell or service cars, trucks, farm equipment, boats, or aircraft;
  + Agricultural employees;
  + Employees of some non-profit, educational, or residential child care institutions; and
  + Effective January 1, 2016, any employee who is a member of a bargaining unit recognized by the [Illinois Labor Relations Board](http://www.state.il.us/ilrb/) and whose union has contractually agreed to an alternate shift schedule as allowed by the federal [Fair Labor Standards Act](https://www.law.cornell.edu/uscode/text/29/207#b) (§ b).
  + Nurses may not be required to work overtime.

**Note:** When determining whether an employee is exempt from receiving overtime as an executive, administrative or professional employee, an employer in Illinois needs to review the employee's classification against both the federal [Fair Labor Standards Act](http://www.dol.gov/whd/overtime/fs17a_overview.pdf) (FLSA) and the [Illinois Minimum Wage Law](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2400&ChapAct=820%26nbsp%3BILCS%26nbsp%3B105%2F&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Minimum+Wage+Law%2E). Under the Illinois Minimum Wage Law, an exemption applies to an executive, administrative or professional employee as defined in the [FLSA regulations in effect on March 30, 2003](http://www.gpo.gov/fdsys/pkg/CFR-2002-title29-vol3/pdf/CFR-2002-title29-vol3-part541.pdf), but compensated at the amount of salary as provided by the FLSA regulations [currently in effect](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0fdcb58ef2943733a9f323888772fffd&rgn=div6&view=text&node=29:3.1.1.1.23.7&idno=29). For an overview of the criteria for determining who is exempt, please [click here](https://www2.illinois.gov/idol/FAQs/Pages/minimum-wage-overtime-faq.aspx). 

**Domestic Workers**

A law in Illinois, effective as of January 1, 2017, amends the state Minimum Wage Law by **adding certain domestic workers** to the list of employees **covered under the law**. Under the law, overtime must be paid after **40 hours** of work per week at time and one-half the regular rate. [Click here](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0758&GA=99) for more information, including details on which workers are covered.

**Illinois Department of Labor**

[Overtime Law](http://www.illinois.gov/idol/FAQs/Pages/minimum-wage-overtime-faq.aspx)

160 N. LaSalle Street  
Suite C-1300  
Chicago, IL 60601  
Phone: 312-793-2800

## Personal Information Protection

# Personal Information Protection in Illinois (IL)

Illinois regulates the protection of personal information as follows:

### What is Considered Personal Information

Under a [law](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99) effective January 1, 2017, "personal information" means **either** of the following:

* An individual's **first name or first initial and last name in combination with any one or more of the following data elements**, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired without authorization through the breach of security:
  + Social Security number.
  + Driver's license number or state identification card number.
  + Account number or credit/debit card number, or an account number or credit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account.
  + [Medical information](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99).
  + [Health insurance information](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99).
  + Unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee to authenticate an individual, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data.
* **User name or email address, in combination with a password or security question and answer** that would permit access to an online account, when either the user name or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

Note: Personal information generally does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

### Requirements for Employers

* Any [data collector](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2702&ChapterID=67) (including an employer) that owns or licenses personal information concerning an Illinois resident generally must notify the resident at no charge that there has been a breach of the security of the system data following discovery or notification of a breach.
  + Note: The disclosure notification to an Illinois resident must include, but need not be limited to, [specified information](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99) (including the following sentence). Under the new law discussed above (effective January 1, 2017), with respect to the type of personal information in the bullet point above regarding a "[user name or email address](#User_name_or_email_address)…", notice may be provided in electronic or other form directing the Illinois resident whose personal information has been breached to **promptly change his or her user name or password and security question or answer**, as applicable, or to take other steps appropriate to protect all online accounts for which the resident uses the same user name or email address and password or security question and answer.
* Any data collector (including an employer) that maintains or stores—but does not own or license—computerized data that includes personal information that the data collector does not own or license generally must notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was—or is reasonably believed to have been—acquired by an unauthorized person. Additionally, such data collector generally must cooperate with the owner or licensee in matters relating to the breach.
* A data collector that owns or licenses, or maintains or stores but does not own or license, records that contain personal information concerning an Illinois resident must implement and maintain **reasonable security measures** to protect those records from unauthorized access, acquisition, destruction, use, modification, or disclosure. [Click here](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99) for more information.
  + Note: A **contract for the disclosure of personal information** concerning an Illinois resident that is maintained by a data collector **must include a provision requiring the person to whom the information is disclosed to implement and maintain reasonable security measures** to protect those records from unauthorized access, acquisition, destruction, use, modification, or disclosure.

**Disposal of Materials Containing Personal Information**

A [person](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2702&ChapterID=67) (including an employer) generally must dispose of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable. Proper disposal methods include, but are not limited to, the following:

* Paper documents containing personal information may be either redacted, burned, pulverized, or shredded so that personal information cannot practicably be read or reconstructed.
* Electronic media and other non-paper media containing personal information may be destroyed or erased so that personal information cannot practicably be read or reconstructed.

### For More Information

* [Illinois Personal Information Protection Act](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2702&ChapterID=67)
* [Amendments to Personal Information Protection Act](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0503&GA=99)
* [Illinois Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=297)
* [Illinois Use of Social Security Numbers](http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=081505050K2RR)
* [Federal Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810)

## Posters

# Notices and Posters in Illinois (IL)

The following posters are mandatory for Illinois employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## Illinois (IL) State Poster Requirements

**Rate of Pay Notice**Under [state law](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html), an employer is required to notify an employee in writing—at the time of hiring—of the **rate of pay**. Employers are generally prohibited from changing an agreement regarding the payment of wages and compensation without first notifying the employee prior to the effective date of the change. Copies of all such notices provided to employees (regardless of their status as either exempt administrative, executive, or professional) must be maintained for at least 3 years. [Click here](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html) for more information.

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Illinois (IL) Wage Payment | Includes Minimum Wage Requirements | [English](https://www.illinois.gov/idol/Employers/Documents/flsposter.pdf) (PDF) [Spanish](https://www.illinois.gov/idol/Employers/Documents/flspostersp.pdf) (PDF) |
| Illinois (IL) No Smoking |  | [English](http://www.idph.state.il.us/smokefree/Smoke-FreeSign.pdf) (PDF) [Spanish](http://www.idph.state.il.us/smokefree/Smoke-FreeSign_sp.pdf) (PDF) |
| Illinois (IL) Pregnancy Rights Notice |  | [English](http://www2.illinois.gov/dhr/Publications/Documents/Pregnancy_Posting-lgl-ENG14.pdf) (PDF) [Spanish](https://www.illinois.gov/dhr/publications/documents/pregnancy_posting-lgl-spn14.pdf) (PDF) |
| Illinois (IL) Unemployment Insurance Notice |  | [English](http://www.ides.illinois.gov/IDES%20Forms%20and%20Publications/Notice.pdf) (PDF) |
| Illinois (IL) Workers' Compensation Notice |  | [English](http://www.iwcc.il.gov/icpnFORM.pdf) (PDF) |
| Illinois (IL) Prevailing Wage Rate (Public contractors) | Public contractors generally must post the prevailing wage rates for each craft or type of worker at a location on the project site that is easily accessible.  Instead of posting on the project site, a contractor which has a business location where laborers, workers, and mechanics regularly visit may: (1) post in a conspicuous location at that business the current prevailing wage rates for each county in which the contractor is performing work; or (2) provide such laborer, worker, or mechanic a written notice indicating the appropriate prevailing wage rates. |  |

## Illinois (IL) Industry-Specific Poster Requirements

| **Industry-Specific** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Illinois (IL) Day & Temporary Labor Services Act | Day and Temporary Labor Service Agencies  **Additional Notice Requirement**: Whenever a [day and temporary labor service agency](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68) agrees to send one or more persons to work as [day or temporary laborers](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68), the agency must provide to each day or temporary laborer (at the time of dispatch) a **notice** containing certain items listed in [the law](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=100-0517) (§ 10(a)).  Effective June 1, 2018, the notice must also include the **types of equipment**, **protective clothing**, and **training** that are required for the task. A [sample notice](https://www.illinois.gov/idol/Employees/Documents/sampleNotice.pdf) (which does not yet incorporate the provisions effective in June 2018) is available from the state. [Click here](https://www.illinois.gov/idol/Laws-Rules/FLS/Pages/day-temporary-labor.aspx) (see "Forms/Links") to check for updates. | [English](https://www.illinois.gov/idol/Employers/Documents/DLposterE.pdf) (PDF) [Spanish](https://www.illinois.gov/idol/Employers/Documents/DLposterS.pdf) (PDF) [Polish](https://www.illinois.gov/idol/Employers/Documents/DLposterP.pdf) (PDF) |
| Illinois (IL) Employee Classification Act of 2008 | Construction Contractors Utilizing Independent Contractors | [English](https://www.illinois.gov/idol/Employers/Documents/ECA3in1.pdf) (PDF)  [Spanish](https://www.illinois.gov/idol/Employers/Documents/ECA3in1.pdf) (PDF)  [Polish](https://www.illinois.gov/idol/Employers/Documents/ECA3in1.pdf) (PDF) |
| Illinois (IL) Emergency Care for Choking | Food Service Establishments | [English](http://www.idph.state.il.us/pdf/ChokingPoster.pdf) (PDF)  [Spanish](http://www.idph.state.il.us/pdf/ChokingPoster_sp.pdf) (PDF) |
| Illinois (IL) Defense Contract Employment Discrimination Act | Defense contractors must prominently display a copy of the [Defense Contract Employment Discrimination Act](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2269&ChapterID=64) inside employment offices and rooms where applicants for employment or training are interviewed. |  |
| Illinois (IL) Human Trafficking Notice | Liquor stores, adult entertainment facilities, airports, bus stations, rail stations, truck stops, emergency rooms, urgent care centers, farm labor contractors, and privately-operated job recruitment centers must post a notice with the National Human Trafficking Resource Center hotline number in a conspicuous place.  The notice must be at least 8 1/2 inches by 11 inches in size, written in a 16-point font.  The notice must be printed in English, Spanish, and in one other language that is the most widely spoken language in the county where the establishment is located and for which translation is mandated by the federal Voting Rights Act. [Click here](http://www.dhs.state.il.us/page.aspx?item=82023) for the poster in additional languages.  The owner of a **hotel** or **motel** must also post this notice. | [English](http://www.dhs.state.il.us/OneNetLibrary/27894/documents/121915HumanTraffickingPosterAVOFinalinEnglishandSpanish120715.pdf) (PDF)  [Spanish](http://www.dhs.state.il.us/OneNetLibrary/27894/documents/121915HumanTraffickingPosterAVOFinalinEnglishandSpanish120715.pdf) (PDF) |

## Chicago Poster Requirements

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Chicago Minimum Wage and Paid Sick Leave Ordinance | Employers generally must **post** in a conspicuous place at each facility where any covered employee works (that is located within the geographic boundaries of Chicago) a notice advising the covered employee of the current Chicago minimum wage and of his or her rights under the law, including the right to paid sick leave.  Employers must also **give** covered employees a notice with the first paycheck subject to [Chapter 1-24](http://library.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title1generalprovisions/chapter1-24thechicagominimumwageordinanc?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=JD_Ch.1-24) (the Chicago Minimum Wage and Paid Sick Leave Ordinance). Such notice must advise the covered employee of the current Chicago minimum wage and of his or her rights under the law, including the right to paid sick leave.  Minimum wage notices (in English, Spanish, and Polish) are available by [clicking here](https://www.cityofchicago.org/city/en/depts/bacp/supp_info/minimumwage.html), and the paid sick leave notice is available by [clicking here](https://www.cityofchicago.org/city/en/depts/bacp/provdrs/consumer/alerts/2017/june/paidsickleavenotice.html). |  |

## Cook County Poster Requirements

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Cook County Earned Sick Leave Ordinance | Employers generally must post in a conspicuous place at each facility where any covered employee works (that is located within the geographic boundaries of Cook County) a [notice](https://www.cookcountyil.gov/service/earned-sick-leave-ordinance-0) advising the covered employee of his or her rights to earned sick time under the Cook County Earned Sick Leave Ordinance.   Employers must also **give** covered employees a written [notice](https://www.cookcountyil.gov/service/earned-sick-leave-ordinance-0) at the commencement of employment, advising the covered employee of his or her rights to earned sick time under the Ordinance.   This notice can be used for both **posting** and for providing **written notice** to individual employees. | [English](https://www.cookcountyil.gov/service/earned-sick-leave-ordinance-0) (PDF) |

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in Illinois (IL)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.   
  
Illinois requires employers to maintain the following types of records:

### Wages/Hours/Payroll

* The following information must be retained for[3 years](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html) for each employee:
  + Name and address;
  + Hours worked each day in each work week;
  + Rate of pay (and copies of [written notices](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html) setting forth the employee’s rate of pay, effective as of August 22, 2014);
  + Amount paid each pay period; and
  + All deductions made from wages or final compensation.
* For employers providing paid vacation, a record of the number of vacation days earned each year and the dates on which they were taken and paid must also be retained for 3 years.
* Effective as of August 22, 2014, when an employer elects to pay employees in cash, the employer must obtain signed receipts from the employee indicating date of payment and amount received.

Note: Employers must keep payroll records regardless of an employee's status as either an exempt administrative employee, executive, or professional. [Click here](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html) for more information.

### Safety and Health/Workers' Compensation

* Employers are required to keep Material Safety Data Sheets (MSDS) and a record of all employee exposure to toxic materials and harmful physical agents for 10 years.
* Employers must also report all injuries and illnesses requiring more than first aid, as well as disability, deaths or loss of more than 3 work days, to the Illinois Workers' Compensation Commission.

### Child Labor

* Employers of minors under 16 years of age are required to maintain at the place of employment where the minor is employed:
  + A register listing the name, age and place of residence of each minor;
  + Each minor’s employment certificate; and
  + Each minor’s time records (for at least 3 years irrespective of whether the employee has been terminated and for at least 6 months after the date of termination).

## Same Sex Relationships

# Same-Sex Relationships in Illinois (IL)

## Illinois State Law

Illinois recognizes same-sex relationships under state law as follows:

### Same-Sex Marriage

* Illinois allows same-sex marriage.
* A marriage legally entered into in another jurisdiction, whether of the same sex or different sexes and providing that it is not a common law marriage, will be recognized in Illinois.

[Click here](http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=85&GA=98&DocTypeId=SB&DocNum=10&GAID=12&LegID=68375&SpecSess=&Session=) for more information.

### Civil Unions

* Unmarried persons of the same sex may establish a civil union in Illinois.
* A civil union or a substantially similar legal relationship (other than common law marriage), legally entered into in another jurisdiction, is generally recognized in Illinois as a civil union.
  + Parties to a civil union may apply for and receive a marriage license and have the marriage solemnized and registered under state law, provided the parties are otherwise eligible to marry.
  + When parties to a civil union have married, or when their civil union has been converted to a marriage, the parties will be in a legal marriage as of the date stated on the marriage certificate.

[Click here](http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=85&GA=98&DocTypeId=SB&DocNum=10&GAID=12&LegID=68375&SpecSess=&Session=) for more information.

## Smoking

# Smoking and Tobacco Use in the Workplace in Illinois (IL)

Illinois regulates smoking and the use of tobacco in the workplace as follows:

### No-Smoking Requirements

* Employers are required to prohibit smoking in places of employment such as offices and work areas, restrooms, conference rooms, classrooms, breakrooms, cafeterias and other common areas.
* Employers must also prohibit smoking 15 feet from exits, entrances, windows that may be opened and any ventilation intakes that service an enclosed area where smoking is prohibited.
* Employers are also required to prohibit smoking in work areas that are open to the public.

### Posting Requirements

* Employers are required to conspicuously post "no-smoking" signs in places of employment and at entrances to buildings in which smoking is prohibited.
  + [Poster in English](http://www.idph.state.il.us/smokefree/Smoke-FreeSign.pdf) - PDF format
  + [Poster in Spanish](http://www.idph.state.il.us/smokefree/Smoke-FreeSign_sp.pdf) - PDF format

[Click here for more information.](http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0017)

## Unemployment

# Unemployment Insurance in Illinois (IL)

* [Illinois Unemployment Insurance Program](http://www.ides.illinois.gov/Pages/Unemployment%20Insurance.aspx)
* [File a UI Claim Over the Internet](http://www.ides.illinois.gov/Pages/10%20Things%20You%20Should%20Know.aspx)
* [File a UI Claim in Person](http://www.ides.illinois.gov/Pages/Office_Locator.aspx)
* [Employer Resources](http://www.ides.illinois.gov/Pages/Unemployment_Taxes_and_Reporting.aspx)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

[**Department of Employment Security**](http://www.ides.illinois.gov/Pages/default.aspx)

33 South State St  
Chicago, IL 60603

(800) 247-4984

## Wage Payment Timing

# Wage Payment Timing in Illinois (IL)

Employers are required to pay wages in Illinois as follows:

* Employers are generally required to pay wages at least twice in a month.
  + If an employer pays employees on a semi monthly or bi weekly basis, payments must be made within 13 days after the end of a pay period.
  + If an employer pays employees weekly, the wages must be paid within 7 days after the pay period.
* If an employee is absent on a regular payday, the employer must pay the employee upon demand at any time within a period of 5 days following the payday.
  + After this 5-day period, payment must be made upon 5 days demand.
* Employers may pay executive, administrative, professional and commissioned employees who are covered under the [Fair Labor Standards Act](http://www.dol.gov/whd/flsa/) on or before 21 calendar days after the period during which the wages are earned.
* Employers must pay daily wages on the day wages are earned if possible, or within 24 hours after the day on which the wages are earned.

### Notice Requirement

Employers must post a [notice](https://www.illinois.gov/idol/Employers/Documents/flsposter.pdf) as required by the Illinois wage payment law at each regular place of business.

### Wage Payment Regulations

* All wages owed to an employee must be paid at the employer’s discretion, in lawful money, by one of the following:
  + A **check** redeemable only upon demand and without discount at a bank or other financial institution readily available to the employee;
  + At the employee’s discretion, **direct deposit** of funds in any bank or other financial institution designated by the employee; or
  + An employee's voluntary acceptance of a **payroll card** authorized by [state law](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2402&ChapAct=820%26nbsp%3bILCS%26nbsp%3b115/&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Illinois+Wage+Payment+and+Collection+Act.) (§ 14.5) (effective January 1, 2015).
    - Note: An employer is not permitted to offer employees only the choice between two voluntary methods of payment. Because payment by either payroll card or direct deposit must be voluntary, an employer offering either or both of these payment methods must also provide an **additional choice** of payment by cash or check, in accordance with the [law](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2402&ChapAct=820%26nbsp%3bILCS%26nbsp%3b115/&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Illinois+Wage+Payment+and+Collection+Act.) (§ 4).
* Employers must **provide employees with a written receipt** that shows hours worked, rate of pay, overtime pay and overtime hours, gross wages, an itemization of all deductions, wages and deductions year to date.
* When an employer offers to any of its employees alternative options for receipt of payment of wages, **all employees must be afforded the same options**.
* When an employer elects to pay employees in **cash**, the employer must obtain signed receipts from the employee indicating date of payment and amount received.

The regulations also contain new notice and recordkeeping provisions. [Click here](http://www.ilga.gov/commission/jcar/admincode/056/05600300sections.html) to read the regulations in their entirety.

For more information on wage payment timing generally in Illinois, please [click here](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2402&ChapterID=68).   
  
[Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3269) to view a chart outlining the final paycheck timing requirements for each state.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in Illinois (IL)

This page features the following topics regarding workers' compensation:

* [Overview](#IL_WC_Overview)
* [Workers' Compensation Forms & Notices](#IL_WC_Forms_)
* [Workers' Compensation Publications](#IL_WC_P)
* [Workers' Compensation Poster](#IL_WC_Posters)
* [State Workers' Compensation Contact Information](#IL_WC_SWC)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in Illinois below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [Employer's First Report of Injury](http://www.iwcc.illinois.gov/ic45FORM.pdf)
* [Employer's Supplementary Report of Injury](http://www.iwcc.illinois.gov/ic85FORM.pdf)
* [Application for Self-Insurance](http://www.iwcc.illinois.gov/ic50FORM.pdf)
* [Click here](http://www.iwcc.illinois.gov/forms.htm) for additional forms.

### Forms for Employees

* [Request for Information on Employer's Insurance Coverage](http://www.iwcc.illinois.gov/ic46FORM.pdf)
* [Injured Workers' Benefit Fund: Request for Benefits and Affidavit](http://www.iwcc.illinois.gov/ic44FORM.pdf)
* [Application for Adjustment of Claim (Application for Benefits)](http://www.iwcc.illinois.gov/ic01FORM.pdf)
  + [Click here](http://www.iwcc.illinois.gov/pro%20se%20letter.pdf) to read the guidelines provided for individuals filing without an attorney.
* [Click here](http://www.iwcc.illinois.gov/forms.htm) for additional forms.

### Forms to Submit to Government Agencies

* [Request for Hearing](http://www.iwcc.illinois.gov/ic09FORM.pdf)
* [Motion to Voluntarily Dismiss Case](http://www.iwcc.illinois.gov/ic17FORM.pdf)
* [Notice of Intent to File for Review in Circuit Court](http://www.iwcc.il.gov/ic25FORM.pdf)
* [Click here](http://www.iwcc.illinois.gov/forms.htm) for additional forms.

### Forms for Insurance Carriers

* [First Report of Injury](http://www.iwcc.il.gov/ia1form.pdf)
* [Subsequent Report](http://www.iwcc.il.gov/ia2form.pdf)
* [Click here](http://www.iwcc.illinois.gov/forms.htm) for additional forms.

### Form for Doctors & Medical Facilities

* [Instructions and Guidelines for Treatment](http://www.iwcc.il.gov/IG090111.pdf)
* [HIPAA Disclosures for Workers' Compensation Purposes](https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/coveredentities/workerscompensation.pdf)
* [Rules for Treatment](http://www.iwcc.il.gov/Section7110.90--112012.pdf)
* [Click here](http://www.iwcc.il.gov/faqmed.htm) for additional forms.

## Workers' Compensation Publications

* [Handbook on Workers' Compensation and Occupational Diseases](http://www.iwcc.il.gov/handbook.pdf)
  + [Click here](http://www.iwcc.il.gov/handbook.htm) for additional languages.
* [Frequently Asked Questions](http://www.iwcc.il.gov/faq.htm)
* [Medical Fee Schedule Frequently Asked Questions](http://www.iwcc.il.gov/faqmed.htm)
* [Click here](http://www.iwcc.illinois.gov/forms.htm) for additional publications.

## Workers' Compensation Poster

* [Workplace Notice](http://www.iwcc.il.gov/icpnFORM.pdf) - PDF format

## State Workers' Compensation Contact Information

[**Illinois Workers' Compensation Commission**](http://www.iwcc.il.gov/)100 West Randolph Street, Suite 8-200   
Chicago, IL 60601  
Phone: (866) 352-3033 (toll free within Illinois) or (312) 814-6611   
TDD: (312) 814-2959   
   
[**Illinois Workers' Compensation Commission Office of Self-Insurance Administration**](http://www.iwcc.il.gov/selfinsurance.htm)*Springfield Office:*4500 S. Sixth St. Frontage Road   
Springfield, IL 62703-5118  
Phone: (217) 785-7084  
   
*Chicago Office:*100 West Randolph Street, Eighth floor   
Chicago, IL 60601   
Phone: (312) 814-6065  
Email: [jean.cannon@illinois.gov](mailto:jean.cannon@illinois.gov)

# New York

## Arrests and Convictions

# Arrests and Convictions in New York (NY)

In addition to complying with all applicable [federal](https://www.hr360.com/Human-Resources/Discrimination/Introduction-to-Discrimination.aspx) and [state](https://www.hr360.com/State-Laws/New-York/Discrimination.aspx) nondiscrimination laws, during the job application and interview process, New York employers with **4 or more employees** are generally prohibited from:

1. Inquiring about any arrest or criminal accusation that is **not yet or no longer pending** against an applicant. However, New York employers are not prohibited from asking an applicant if he or she has any **current pending arrests or** **accusations**.
2. Inquiring about an individual’s arrest or criminal accusation where the arrest or accusation has been resolved in favor of the applicant, by a youthful offender adjudication, or resulted in a sealed conviction.
3. Requiring the applicant to divulge information about any arrest or criminal accusation where the arrest or accusation has been resolved in favor of the applicant, by a youthful offender adjudication, or resulted in a sealed conviction.
4. Taking any adverse action based on any arrest or criminal accusation where the arrest or accusation has been resolved in favor of the applicant, by a youthful offender adjudication, or resulted in a sealed conviction.

Also, New York employers with **10 or more employees** are generally prohibited from discriminating in employment based on prior convictions.

Finally, at the request of an applicant previously convicted of one or more criminal offenses whose job application has been denied, the employer must provide a written statement setting forth the reasons for the denial **within 30 days** of the request.

## Key Exceptions

**New York City** employers with **4 or more employees** are also generally prohibited from:

1. Inquiring about an applicant’s **salary history** or relying on an applicant’s salary history in determining the salary, benefits or other compensation for the applicant during the hiring process. However, an employer may—without inquiring about salary history—engage in discussion with the applicant about his or her expectations with respect to salary, benefits, and other compensation. In addition, employers may verify and consider current or prior earnings or benefits if the applicant offers this information voluntarily. [Click here](http://www1.nyc.gov/assets/cchr/downloads/pdf/materials/SalaryHistory_KYO.pdf) for additional information.
2. Inquiring about an applicant’s criminal history or requesting permission to run a criminal background check until **after a conditional offer of employment has been made**. After a conditional offer of employment has been made, the employer may then ask whether the applicant has a criminal conviction history and run a background check, but only after giving notice and receiving the applicant’s permission. Once the employer knows about the applicant’s conviction history, the employer may then ask the applicant about the circumstances that led to the conviction.
3. Seeking or considering information pertaining to an applicant’s non-conviction.

**Finally,** if a **New York City** employer with **4 or more employees** wants to revoke a job offer based on an applicant’s criminal record, the employer must:

1. Explain to him or her why using the [Fair Chance Notice](http://www1.nyc.gov/assets/cchr/downloads/pdf/FairChance_Form23-A_distributed.pdf);
2. Provide him or her with a copy of any background check conducted by the employer or third-party vendor; and
3. Give him or her **3 business days** to respond.

**Additional requirements and exceptions to the information above may apply to your business**. For more information, please contact the [New York State Department of Human Rights](https://dhr.ny.gov/) at 1-888-392-3644 or the [New York City Commission on Human Rights](http://www1.nyc.gov/site/cchr/index.page) at 212-306-7450.

## Child Labor

# Child Labor in New York (NY)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### Special Wage Rate

The state of New York does not have a generally applicable state minimum wage rate for minor employees.

### Restrictions on Time & Hours Worked

The hours that minors can work depend on age, the type of work, and whether the minor is attending school.

* Minors of any age may not work during school hours, unless they have graduated or withdrawn from school.
  + Note: Home-schooled children may not work during the hours of the local public school.

* **16- and 17-year olds** need written permission from a parent or guardian and a certificate of satisfactory academic standing from their school to work between 10 p.m. and midnight on a day **before a school day**.
* During weeks **when school is in session**, minors **14- and 15-years-old** are limited to the following hours in most occupations (except babysitters; bridge caddies at bridge tournaments; farm laborers; newspaper carriers; performers; and models):
  + More than 3 hours on any school day;
  + More than 8 hours on a Saturday or a non-school day;
  + More than 18 hours in any week; and
  + More than 6 days in any week.

* When **school is** **not in session**, and during vacations (school must close for the entire calendar week):
  + Minors under 18 may not work more than 8 hours a day, 6 days a week;
  + Minors 14 and 15 may not work more than 40 hours a week; and
  + 16 and 17 year-olds may not work more than 48 hours a week.

Note: Federal legislation limits the work of 14 and 15 year-olds in firms engaged in interstate commerce to a maximum 3-hour day and 18-hour work week when school is in session; and an 8-hour day and 40-hour week when school is not in session (must close for the entire calendar week).

**Night Work Restrictions**

* The law prohibits minors from working before or after certain hours, depending on their age and job.
* Minors **under 16** may not work:
  + Between 7 p.m. and 7 a.m. in most jobs after Labor Day to June 20; or
  + Between 9 p.m. and 7 a.m. from June 21 to Labor Day.

* Minors **16 and 17 years old** may not work between midnight and 6 a.m. when school is not in session.
  + To work between **10 p.m. and midnight** on a day before a school day, 16- and 17-year olds need **written permission** from a parent or guardian and a **certificate of satisfactory academic standing** from their school.

* Newspaper carriers may not work between 7 p.m. (or 30 minutes prior to sunset, whichever is later) and 5 a.m.
* Minors engaged in street trades may not work between 7 p.m. and 6 a.m.

Employers can get Parental Consent Forms from the [Division of Labor Standards](http://labor.ny.gov/workerprotection/laborstandards/workprot/lsdists.shtm) office in their area. The school issues the Certificate of Satisfactory Academic Standing.

### For More Information

* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Hours of Work](http://labor.ny.gov/workerprotection/laborstandards/workprot/hrswork.shtm)
* [Minors and the Duties of Employment Agencies](http://labor.ny.gov/workerprotection/laborstandards/workprot/empagncy.shtm)
* [Occupations Prohibited Under Federal Law](http://labor.ny.gov/workerprotection/laborstandards/workprot/fedproc.shtm)
* [Occupations Prohibited Under State Law](http://labor.ny.gov/workerprotection/laborstandards/workprot/stprhboc.shtm)
* [State and Federal Child Labor Law Comparison](http://labor.ny.gov/workerprotection/laborstandards/workprot/nyvsfed.shtm)

# Child Labor in New York (NY)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### State Restrictions on Duties Performed

**Under 18 Years of Age**

* No one under the age of 18 may work or assist in any occupation:
  + At construction work, including wrecking, demolition, roofing, or excavating operations and the painting or exterior cleaning of a building structure from an elevated surface;
  + Involving the operation of circular saws, band saws, and guillotine shears;
  + In or about a slaughtering and meat-packing establishment, or rendering plant;
  + Involving the operation of power-driven woodworking, metal-forming, metal-punching, metal-shearing, bakery and paper products machines;
  + Involving the operation of power-driven hoisting apparatus;
  + Involving the manufacture of brick, tile, and like products;
  + Involving exposure to radioactive substances or ionizing radiation, or exposure to silica or other harmful dust;
  + Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill;
  + In mining or in connection with a mine or quarry;
  + As a helper on a motor vehicle;
  + In the care or operation of a freight or passenger elevator, except that minors over 16 may operate automatic, push-button control elevators;
  + In manufacturing, packing, or storing of explosives, or in the use or delivery of explosives;
  + Operating or using any emery, tripoli, rouge, corundum, stone, silicon carbide, or any abrasive, or emery polishing or buffing wheel, where articles of the baser metals or iridium are manufactured;
  + Adjusting belts to machinery or cleaning, oiling, or wiping machinery;
  + Packing paints, dry colors, or red or white leads;
  + Preparing any composition in which dangerous or poisonous acids are used;
  + Operating steam boilers subject to [state law](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$LAB204$$@TXLAB0204+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=08808132+&TARGET=VIEW) (Section 204 of the New York State Labor Law); or
  + In penal or correctional institutions, if the job relates to the custody or care of prisoners or inmates.

Note: These rules do not apply to:

* Workers younger than 18 who are apprentices individually registered in DOL registered apprenticeship programs;
* Student-learners enrolled in recognized cooperative vocational training programs;
* Trainees in approved on-the-job training programs;
* Workers 16 or 17 years old who have completed training as a student learner or trainee in an approved on-the-job training program; or
* Workers 16 or 17 years old who have completed a training program given by a public school or a non-profit institution that includes DOL approved safety instruction.

**Under 16 Years of Age**

* State regulations also forbid minors under 16 from working at or assisting in:
  + Any factory work, except in delivery and clerical employment in an enclosed office of a factory or in dry cleaning stores, shoe repair shops, and similar service stores;
    - Note: Federal law requires any delivery work for retail stores performed by 14 and 15 year olds to be made on foot, by bicycle, or via bus. It also forbids such minors from working in a place where processing (such as laundering or dry cleaning) takes place.

* + Operating (or assisting in operating) any machinery unless all moving parts other than keys, levers, or handles are so guarded as to prevent any part of the person or clothing for the operator from touching them;
  + Painting or exterior cleaning in connection with the maintenance of a building or structure;
  + Operating washing, grinding, cutting, slicing, pressing, or mixing machinery;
  + Work at institutions in the Department of Mental Health;
    - However, volunteers as young as 14 may participate in recreation and leisure activities, social skills development, companionship and/or entertainment as part of an organized volunteer program approved by the Commissioner of Mental Health.

* + Industrial homework;
  + Places of entertainment as a rope or wirewalker or gymnast, unless protected by the use of safety devices or protective equipment that comply with the federal [Occupational Safety and Health Act](https://www.osha.gov/);
  + Peddling; drug traffic; or any practice, exhibition, or place dangerous or injurious to life, limb, or morals; or
  + Dangerous farm jobs.

Note: This is not an exhaustive list of job restrictions. For a complete list of prohibited occupations for minors, employers may review the [state](https://labor.ny.gov/workerprotection/laborstandards/workprot/stprhboc.shtm) and [federal](https://labor.ny.gov/workerprotection/laborstandards/workprot/fedproc.shtm) child labor laws.

### For More Information

* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Laws Governing the Employment of Minors](https://labor.ny.gov/formsdocs/wp/P882.pdf)
* [Hours of Work](https://labor.ny.gov/workerprotection/laborstandards/workprot/hrswork.shtm)
* [Minors and the Duties of Employment Agencies](http://labor.ny.gov/workerprotection/laborstandards/workprot/empagncy.shtm)
* [Occupations Prohibited Under Federal Law](http://labor.ny.gov/workerprotection/laborstandards/workprot/fedproc.shtm)
* [Occupations Prohibited Under State Law](http://labor.ny.gov/workerprotection/laborstandards/workprot/stprhboc.shtm)
* [State and Federal Child Labor Law Comparison](http://labor.ny.gov/workerprotection/laborstandards/workprot/nyvsfed.shtm)

# Child Labor in New York (NY)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

### Work Permits and Recordkeeping

* Individuals under 18 generally must show an employment certificate (“working papers”) before they may begin work. School officials issue all working papers, except for child performer permits. The [type of certificate](https://labor.ny.gov/workerprotection/laborstandards/workprot/wphmpg.shtm) issued will depend on the minor’s age and the type of work performed.
* An employer of any minor required to have an employment certificate must file the certificate at the place of the minor's employment (before employment begins) and then return the employment certificate to the minor upon termination of employment.
  + Note: Different requirements apply to businesses engaged in assigning employees to temporary services at another establishment. [Click here](https://www.labor.ny.gov/workerprotection/laborstandards/workprot/certperm.shtm#cert_exceptions) for more information.

### Poster

* Employers must make a schedule for all minors and post it where workers can see it. The schedule shows the hours minors start and end work and time allotted for meals.
  + Note: The employer can change the hours of work, as long as they post the changes on the schedule. Minors [may work only on the days and at the times posted on the schedule](https://labor.ny.gov/workerprotection/laborstandards/workprot/hrswork.shtm). If minors are present at other times or if there is no posted schedule, it is a violation of the child labor law.

### For More Information

* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Hours of Work](https://labor.ny.gov/workerprotection/laborstandards/workprot/hrswork.shtm)
* [Minors and the Duties of Employment Agencies](https://labor.ny.gov/workerprotection/laborstandards/workprot/empagncy.shtm)
* [Occupations Prohibited Under Federal Law](https://labor.ny.gov/workerprotection/laborstandards/workprot/fedproc.shtm)
* [Occupations Prohibited Under State Law](https://labor.ny.gov/workerprotection/laborstandards/workprot/stprhboc.shtm)
* [State and Federal Child Labor Law Comparison](https://labor.ny.gov/workerprotection/laborstandards/workprot/nyvsfed.shtm)

## Continuation of Benefits

# Continuation of Benefits in New York (NY)

## New York Continuation of Coverage ("mini-COBRA")

New York requires employers (including those with fewer than 20 employees) to provide continuation of benefits in certain circumstances. Under the law, all persons eligible for federal COBRA or state continuation may receive up to a total of 36 months of coverage.

### Qualifying Events

Continuation coverage must be provided for covered employees and their eligible spouses and dependents when coverage is lost due to:

* Termination of employment of the covered employee (for any reason);
* Reduction in the employee's work hours;
* Death of the covered employee;
* Divorce or legal separation of the covered employee from his or her spouse;
* The employee becoming entitled to Medicare benefits; or
* A dependent child ceasing to be a dependent child under the generally applicable requirements of the policy.

In addition, covered employees and their spouses and dependents eligible to continue coverage under federal COBRA for 18 months must be permitted to continue coverage under state continuation coverage for an additional 18 months. Thus, individuals have up to a total of 36 months of coverage when combining the COBRA and state continuation benefits.

### Employer/Employee Notice Requirements

* Notification of the continuation privilege and the time period in which to request continuation must be included in each certificate of coverage.
* An employee or eligible spouse or dependent must request continuation of coverage in writing within 60 days following the later of the date of termination of coverage or the date notice is given of the right of continuation.
* The written election of continuation, together with the first premium payment, must be given to the employer within 60 days of the date benefits would otherwise terminate.

### Premium Payments

Employers may generally require covered employees and their eligible spouses and dependents to pay up to 102% of the premium at the group rate for the benefits being continued under the group contract, but not more frequently than on a monthly basis in advance. (However, a qualified beneficiary may be charged up to 150% of the premium in [certain instances](http://www.dfs.ny.gov/consumer/cobra_ext_36.htm) when the federal COBRA disability extension is used.)

### How Coverage May Be Terminated

Employers may terminate the continuation of benefits for any person before the end of 36 months for the following reasons:

* Failure to make timely payment of the required premium;
* The covered employee, spouse, or dependent becomes entitled to Medicare;
* The employer ceases to maintain any group health plan; or
* The covered employee, spouse, or dependent becomes covered under any other group health plan (insured or uninsured) not maintained by the employer that provides hospital, surgical or medical coverage which does not contain any exclusion or limitation with respect to any pre-existing condition of the individual.

### For More Information

* [New York Department of Financial Services: COBRA and State Continuation Coverage](http://www.dfs.ny.gov/consumer/cobra_prem.htm)
* [New York State Insurance Law §3221(m)](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:)

## Dependent Status and Health Insurance

Under the federal [Patient Protection and Affordable Care Act](http://cciio.cms.gov/programs/marketreforms/youngadults/index.html) (Health Care Reform), beginning with plan years starting on or after September 23, 2010, group health plans that offer dependent coverage must make the coverage available until a child reaches the age of 26.

New York requires insurers to allow unmarried children through age 29–regardless of financial dependence–to be covered under a parent's group health insurance policy. The young adult (or his or her parent) is responsible for a separate premium to pay for this young adult option (over and above what the parent pays for the group coverage). The law also requires insurers to offer employers an option to purchase coverage that includes young adults as dependents in family policies through age 29. Individuals covered under the "Age 29" option are not entitled to federal COBRA or state continuation coverage when the Age 29 coverage terminates. For more information, please [click here](http://www.dfs.ny.gov/consumer/S6030_Age29.htm).

## Deductions From Wages

# Deductions from Wages in New York (NY)

Note: Certain portions of New York's [wage deduction law](https://www.labor.ny.gov/formsdocs/wp/LS605.pdf) are set to expire on [November 6, 2018](http://legislation.nysenate.gov/pdf/bills/2015/A7594).

## Permissible Deductions

Until November 6, 2018, employers are generally prohibited from deducting employees' wages, except deductions which:

* Are related to recovery of an overpayment of wages where such overpayment is due to a mathematical or other clerical error by the employer; or for repayment of advances of salary or wages made by the employer to the employee;
  + Note: The employer must comply with guidelines in the [regulations](http://labor.ny.gov/legal/laws/pdf/wage-deduction/12-NYCRR195-Wage-Deductions-Text.pdf) (§ 195-5) for making such recoveries and repayments.
* Are made in accordance with the provisions of any law or any rule or regulation issued by any governmental agency; or
* Are expressly **authorized in writing** by the employee and are for the benefit of the employee, provided that such authorization is **voluntary** and only given following **receipt by the employee of written notice** of all terms and conditions of the payment and/or its benefits and the details of the manner in which deductions will be made.
  + Whenever there is a substantial change in the terms or conditions of the payment (e.g., the amount of the deduction, benefits, or the manner in which deductions are made), the employer must (as soon as practicable) **notify the employee** before the increased deduction.
  + An employee's authorization for any and all wage deductions generally may be revoked in writing at any time. The employer must cease the wage deduction for which the employee has revoked authorization as soon as practicable, and, in no event more than 4 pay periods or 8 weeks after the authorization has been withdrawn, whichever is sooner.
  + Such authorizations must be kept on file on the employer's premises for the period of employment and for **6 years** after termination.
* Such authorized deductions are **limited to payments** for:
  + Insurance premiums and prepaid legal plans;
  + Pension or health and welfare benefits;
  + Contributions to a bona fide charitable organization;
  + Purchases made at events sponsored by a bona fide charitable organization affiliated with the employer where at least 20% of the profits from such event are being contributed to a bona fide charitable organization;
  + United States bonds;
  + Dues or assessments to a labor organization;
  + Discounted parking or discounted passes, tokens, fare cards, vouchers, or other items that entitle the employee to use mass transit;
  + Fitness center, health club, and/or gym membership dues;
  + Cafeteria and vending machine purchases made at the employer's place of business and purchases made at gift shops operated by the employer (where the employer is a hospital, college, or university);
  + Pharmacy purchases made at the employer's place of business;
  + Tuition, room, board, and fees for pre-school, nursery, primary, secondary, and/or post-secondary educational institutions;
  + Day care, before-school and after-school care expenses;
  + Payments for housing provided at no more than market rates by non-profit hospitals or affiliates thereof; and
  + Similar payments for the benefit of the employee.

## Prohibited Deductions

Prohibited deductions include the following:

* Repayments of loans, advances, and overpayments (that are not in accordance with the [regulations](http://labor.ny.gov/legal/laws/pdf/wage-deduction/12-NYCRR195-Wage-Deductions-Text.pdf) (§ 195-5));
* Employee purchases of tools, equipment, and attire required for work;
* Recoupment of unauthorized expenses;
* Repayment of employer losses, including for spoilage and breakage, cash shortages, and fines or penalties incurred by the employer through the conduct of the employee;
* Fines or penalties for tardiness, excessive leave, misconduct, or quitting without notice;
* Contributions to political action committees, campaigns, and similar payments; and
* Fees, interest, or the employer’s administrative costs.

### For More Information

* [Deductions from Wages](http://labor.ny.gov/legal/laws/pdf/wage-deduction/12-NYCRR195-Wage-Deductions-Text.pdf)
* [New York Labor Law](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:$$LAB193$$@TXLAB0193) (§ 193)

## Discrimination

# Discrimination in New York (NY)

This page features information on the following topics regarding discrimination in New York:

* [Overview](#OverviewNYDISC)
* [Coverage](#CoverageNYDISC)
* [Prohibited Employer Actions](#Prohibited_Employer_ActionsNYDISC)
* [Additional Information](#Additional_InformationNYDISC)

## Overview

The [New York State Human Rights Law](https://ag.ny.gov/civil-rights/new-york-state-human-rights-law) prohibits certain employment discrimination based on protected categories.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the New York Human Rights Law, the term "[employer](https://dhr.ny.gov/law#employer)" generally does not include any employer with **fewer than 4 persons**. However, in the case of an action for discrimination based on **sex** under [§ 296(1)](https://dhr.ny.gov/law#HRL296), with respect to **sexual harassment only**, the term "employer" includes **all employers** within the state. [Click here](https://dhr.ny.gov/law#292) for more details and definitions, including definitions of terms such as "person" and "disability."

## Prohibited Employer Actions

It is generally unlawful to do the following (among other things):

**Discrimination.** It is unlawful for an employer—because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status—**to refuse to hire or employ** or **to bar or discharge** such individual from employment or **to discriminate against** such individual in compensation or in terms, conditions, or privileges of employment.

Note: [Click here](https://dhr.ny.gov/law#HRL296) (§ 296(1)(d)) for details on the use of job application forms and inquiries.

**Retaliation.** It is unlawful for any employer to discharge, expel, or otherwise discriminate against any person because he or she has **opposed any practices** forbidden under the law or because he or she has filed a complaint, testified, or assisted in any proceeding under the law.

**Pregnant employees.** It is unlawful for an employer to compel an employee who is pregnant to **take a leave of absence**, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

**Reasonable accommodations.** It is generally unlawful for an employer to refuse to provide **reasonable accommodations** to the known disabilities, or pregnancy-related conditions, of an employee or prospective employee. However, the law contains an **undue hardship** exemption. [Click here](https://dhr.ny.gov/law#HRL296_3_a) for more details.

**Sincerely held religious practices.** It is unlawful for any employer to impose any terms or conditions that would require a person to violate or forego a **sincerely held practice of his or her religion** (e.g., the observance of any particular day(s) or any portion thereof as a sabbath or other holy day in accordance with his or her religion).

However, the law contains an **undue hardship** exemption. [Click here](https://dhr.ny.gov/law#HRL296_10_a) for more details.

**Certain criminal information.** Under the New York State [Human Rights Law](https://dhr.ny.gov/law#HRL296_15) (§ 296(15)), it is an unlawful discriminatory practice for any person, agency, bureau, corporation, or association (including the state and local governments) to deny any license or **employment** to any individual by reason of his or her having been **convicted of one or more criminal offenses** when such denial is **in violation of the provisions of** [**Article 23-A of the state Correction Law**](https://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf). [Click here](https://dhr.ny.gov/law#HRL296_15) for more details.

For additional details on **employer coverage**, please view the definitions sections of the New York [Human Rights Law](https://dhr.ny.gov/law#292) and Article 23-A of the state [Correction Law](https://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf).

The New York Court of Appeals has issued an opinion addressing the scope of employer liability for **discrimination based on criminal convictions**. In answering the question of whether § 296(15) of the state Human Rights Law (which prohibits discrimination in employment on the basis of a criminal conviction) limits liability to an aggrieved party's "employer," the court said that the law limits liability to **the employer**. A non-employer may not be held liable for employment discrimination under § 296(15) of the state Human Rights Law.

[Click here](https://www.nycourts.gov/ctapps/Decisions/2017/May17/35opn17-Decision.pdf) for more information. Employers with questions as to the decision's impact on workplace policies and practices are advised to contact a knowledgeable employment law attorney.

Note: The law also prohibits certain employment conduct regarding arrests and criminal accusations. [Click here](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:) (Executive Law, Article 15, § 296(16)) for more details.

For more information on the New York discrimination law, including additional prohibited actions and exceptions, please [click here](https://dhr.ny.gov/law).

## Additional Information

* [Office of the Attorney General](https://ag.ny.gov/civil-rights/new-york-state-human-rights-law)
* [New York State Human Rights Law](https://dhr.ny.gov/law)

## Drug Testing

# Drug and Alcohol Testing in New York (NY)

New York currently has no comprehensive law regulating the use of drug or alcohol testing by private employers.

### New York Medical Marihuana Law

The [New York Medical Use of Marihuana law](http://assembly.state.ny.us/leg/?default_fld=&bn=A06357&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y), effective as of July 5, 2014, legalizes the possession, manufacture, use, delivery, transportation and administration of medical marihuana by a designated caregiver for a certified medical use.   
  
Being a certified medical marihuana patient is deemed to be having a "disability" under [state law](http://www.dhr.ny.gov/law) (New York State Public Health Law Section 3369(2)). However, the state medical marihuana law does not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled substance and does not require any person or entity to do any act that would put the person or entity in violation of federal law or cause it to lose a federal contract or funding.   
  
[Click here](http://assembly.state.ny.us/leg/?default_fld=&bn=A06357&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y) to read the text of the law.

## Employee Leave

# Donor Leave in New York (NY)

## Leave to Donate Blood

Employers with 20 or more employees are required to provide eligible employees leave to donate blood (New York State Labor Law Section 202-j).  Employers must either:

* Grant three hours, during the employee's regular work schedule, of leave of absence in any twelve month period to an employee who seeks to donate blood off-premises (leave granted for such donation is not required to be paid, and employers may require employees to show proof of their blood donations); or
* Allow employees, during work hours, to donate blood during work hours at least 2 times per calendar year (at least 60 days apart) at a convenient time and place set by the employer (such as a blood drive at the place of employment). This leave must be paid and must be given without the use of already existing leave. Employers must prominently post a notice of the blood donation leave in the workplace at least 2 weeks before the donation date.

Employers may require employees to give reasonable notice of their intended use of blood donation leave. If an employee experiences an emergency requiring donation of blood for the employee’s own surgery or of that of a family member, employers must provide reasonable accommodations for a shorter notice period.

### Notice Requirements

Employers must notify employees in writing of their right to take blood donation leave. Such notice may be in the form of a poster located in a prominent spot where employees congregate, or may be included in employees’ paychecks, mailings, employee handbooks or another comparable method. If the employer provides the written notice directly to the employee, it must do so at the time of hire and thereafter to all employees on an annual basis no later than January 15th.

For more information, please [click here](http://www.labor.ny.gov/formsdocs/wp/LS703.pdf).

## Leave to Donate Bone Marrow

Employers with 20 or more employees must allow an eligible employee up to 24 hours of leave in order to donate bone marrow (New York State Labor Law, Section 202-a). The employer may require verification by a physician for the purpose and length of each leave requested by the employee to donate bone marrow.

For more information, please [click here](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$LAB202-A$$@TXLAB0202-A+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=09313903+&TARGET=VIEW).

# Jury Duty in New York (NY)

New York law requires employers to allow employees time off from work to serve as jurors. Employers are prohibited from discharging or penalizing employees who provide prior notice of jury summons for absence from employment due to such jury service. It is an illegal penalty to force an employee to charge jury duty absence against vacation, personal or sick time. However, an employee may choose paid leave over losing wages.

Employers are encouraged but not required to pay an employee’s full daily wage while the employee is reporting to serve as a juror. Employers of more than 10 employees must pay jurors the jury fee of $40 or the employee’s wage (whichever is lower) each day for the first three days of jury service. If the juror’s daily wage is less than the jury fee, then the State makes up the difference. The State will pay the jury fee of jurors who work for employers of 10 or fewer employees if the jurors are not paid at least the jury fee by their employers. After three days, the State pays the jury fee to jurors who are not paid at least the jury fee. For jurors who are paid a daily wage that is less than the jury fee the State makes up the difference.

For more information, please [click here](http://www.nyjuror.gov/pdfs/hb_EE.pdf).

# Military Leave in New York (NY)

Employers may not discriminate against or refuse to hire an individual because such person is subject to state or U.S. military duty. Employers also may not request in any way that an employee waive his or her rights to reemployment, benefits or any other rights protected by law.

New York law also prohibits employers from discriminating against, intentionally depriving from employment, or preventing or interfering with the employment of, any individual because the person is a member of the state’s organized militia. Employers also may not discourage an employee from enlisting in the organized militia by threatening the person’s employment.

For more information, please see New York Military Law [§251](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MIL251$$@TXMIL0251+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=37584691+&TARGET=VIEW), [§252](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MIL252$$@TXMIL0252+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=37584691+&TARGET=VIEW), and [§318](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MIL318$$@TXMIL0318+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=58998415+&TARGET=VIEW).

### Reinstatement of Employment

An employee who takes leave from employment for active military service or training is generally entitled to be restored to the employee’s former position or a position of similar seniority, status, and pay. To be eligible, an employee must:

* Have held a position with the employer that was not temporary;
* Receive a certificate of completion of military service;
* Still be qualified to perform the duties of the position; and
* Apply for reemployment within
  + 90 days after release from active military service
  + 10 days after release from temporary service to participate in drills and certain other training (such as reserve duty training, instruction or duties, annual  full-time  training  duty, active duty for training or other annual training)
  + 60 days after release from initial full-time training duty or initial active duty for training with or in the state or U.S. armed forces.

Employers must extend the same reemployment rights to employees who are discharged or suspended by the employer because of membership in the state organized militia or the U.S. reserves. To be eligible, the employee must be qualified to perform the duties of the position and apply for reemployment within 10 days after the discharge or suspension. However, employees who participate in routine reserve officer corps training are not entitled to reemployment, except when performing advanced training duty as a member of a reserve component of the armed forces.

Employers may not discharge an employee who has been reinstated to employment without cause within one year after being restored to the position.

For more information, please see New York Military Law [§317](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MIL317$$@TXMIL0317+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=58998415+&TARGET=VIEW).

### Maintenance of Benefits

Employers must consider employees who are reinstated as having been on furlough or leave of absence during the period of military service, temporary service, or discharge or suspension, and must allow such employees to participate in insurance or other benefits offered by the employer in accordance with the employer’s established rules and practices relating to employees on furlough or leave. New York Military Law [§317-4](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MIL317$$@TXMIL0317+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=58998415+&TARGET=VIEW).

Members of a reserve component of the U.S. armed forces, including the National Guard, who are called to active duty are generally entitled to continue health insurance coverage under the employer’s group policy. The employee must make the request for continuation in writing and must pay the required premiums on a timely basis. This continuation coverage is not available for employees who are or could be covered as an employee or dependent by another arrangement that provides coverage or by Medicare. For more information, please see New York Insurance Law [§3221(n)](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$ISC3221$$@TXISC03221+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=04208885+&TARGET=VIEW) and [§4305(g)](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$ISC4305$$@TXISC04305+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=04208885+&TARGET=VIEW).

## Spousal Military Leave

Employers with 20 or more employees must allow an employee who works an average of 20 or more hours per week and who is the spouse of a member of the U.S. armed forces, the national guard, or the reserves, to take up to 10 days of unpaid leave from work while the employee’s spouse is on leave from deployment during a period of military conflict to a combat theater or combat zone of operations.

The right to take spousal military leave does not affect an employee’s rights with respect to any other employee benefits provided for in other laws. Independent contractors are not entitled to spousal military leave.

For more information, please see New York Labor Law [§202-i](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$LAB202-I$$@TXLAB0202-I+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=43074469+&TARGET=VIEW).

# Victim Leave in New York (NY)

New York law requires that employers provide crime victim leave to victims of a crime, as well as to individuals who are subpoenaed as a witness in a criminal proceeding.  
  
Under the law, a "crime victim" includes:

* The aggrieved party.
* The aggrieved party's next of kin, if the aggrieved party died as a result of the crime.
* The victim's representative (i.e., attorney or guardian).
* A Good Samaritan.
* An individual who applies for or seeks to enforce an order of protection under New York law

Eligible employees may take leave to appear as a witness, to consult with a district attorney, or to exercise certain other rights under the law. Te law does not specify the minimum or maximum amount of leave that an employee may take.  
  
Employees who are crime victims or who are subpoenaed as witnesses at criminal proceedings must provide the employer with at least one day's notice before taking the leave.  
  
An employer may not discharge or penalize any employee who exercises his or her right to take such leave .   
    
Leave need not be paid. For more information, please [click here](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO) (New York Penal Law Section 215.14).

# Voting Leave in New York (NY)

New York requires private employers to grant employees time off to vote as follows:

* Employers are required to provide voting leave time to employees with insufficient time to vote outside of working hours.
  + The employer must provide only the number of hours of leave which, when added to the amount of nonworking time the employee has between the opening and closing of the polls, provide the employee with a sufficient amount of time to vote.
  + An employee with 4 consecutive hours either between the opening of the polls and the beginning of the work shift or between the end of the work shift and the closing of the polls is deemed to have sufficient time to vote.
* Unless an employer and employee otherwise agree, voting leave must be at the beginning or end of the work shift as designated by the employer.
* Employers are required to pay for 2 hours of voting leave.
* Employers must post a [notice setting forth the state's voting leave requirements](http://www.elections.ny.gov/NYSBOE/elections/AttentionEmployees.pdf) at least 10 days before every election.

Employees must notify their employers of their need for time off to vote at least 2 but not more than 10 days before the election day.

[Click here](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$ELN3-110$$@TXELN03-110+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=50862238+&TARGET=VIEW) for more information.

# New York City Mandatory Safe and Sick Leave

This page contains the following topics regarding NYC Safe and Sick Time:

* [Overview](#OverviewNYCSSL)
* [Accrual of Leave](#AccrualNYCSSL)
* [Use of Sick Leave](#UseNYCNYCSSL)
* [Use of Safe Leave](#UseSafeNYCSSL)
* [Confidentiality](#ConfidNYCSSL)
* [Employer and Employee Requirements](#EEReqNYCSSL)
* [Employer Notice Requirements](#ENRNYCSSL)
* [Recordkeeping Requirements](#RecNYCSSL)
* [Additional Information](#AANYCSSL)

## Overview

Note: The safe time provisions on this page generally become effective 180 days after November 6, 2017. [Click here](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F&FullText=1) for more information.

Under New York City's [Earned Safe and Sick Time Act](http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page), private employers are generally required to provide **up to 40 hours of paid or unpaid safe/sick time per year** to employees who are hired to work more than 80 hours a calendar year in New York City (regardless of where the employee lives), as follows:

* All employers that employ **5 or more employees**must provide **paid safe/sick time.**
* All employees not entitled to paid safe/sick time under the law are generally entitled to **unpaid safe/sick time**.

Note: The New York City (NYC) Department of Consumer Affairs has adopted [rules](http://rules.cityofnewyork.us/content/amendment-earned-sick-time-rules-0) that clarify parts of the law and establish requirements to carry out the law. Among other things, the amended rules:

* Provide additional guidance on **calculating the number of employees** in a business;
* Address situations where employees are employed by a **joint employer**;
* Define "**temporary help firm**" and define when temporary help firms are legally responsible for violations;
* Allow an employer to set the **minimum number of hours** and time frame for the use of safe/sick time;
* Address **written safe/sick time policies** and what an employer must include in them;
* Clarify what **records** employers must keep; and
* Address the **calculation of accruals and hours worked** for certain employees, and the carryover of safe/sick time.

## Accrual of Leave

* Employers generally must provide a **minimum of one hour of safe/sick time for every 30 hours worked by an employee**.
* Employees may begin using accrued safe/sick time on the 120th calendar day after the law becomes effective or the 120th calendar day following commencement of employment, whichever is later.
* Up to 40 hours of unused safe/sick time will generally be carried over to the following calendar year. However, an employer is not required to:
  + Allow the use of more than 40 hours of safe/sick time in a calendar year; or
  + Carry over unused paid safe/sick time if the employee is paid for any unused safe/sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid safe/sick time that meets or exceeds the requirements under the law for the following calendar year on the first day of the year.
* Employees are not entitled to compensation for accrued unused sick time upon termination, resignation, retirement, or other separation from employment.
* Employees who are not covered by state law overtime requirements, including the [wage orders](https://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm#Wage_Orders) promulgated by the New York Commissioner of Labor, will be assumed to work 40 hours in each work week for purposes of safe/sick time accrual unless their regular work week is less than 40 hours, in which case sick time accrues based upon that regular work week.

Note: Special rules apply to domestic workers. [Click here](http://www1.nyc.gov/site/dca/about/paid-sick-leave-FAQs.page) to review FAQs issued by the NYC Department of Consumer Affairs for additional information. Additional information regarding accrual, hours worked, and carryover of leave is available in the [regulations](http://rules.cityofnewyork.us/sites/default/files/adopted_rules_pdf/amendment_of_earned_sick_time_rules_1_27_16_-_final_approval_-_legal_6360439_4.pdf) (§ 7-15).

## Use of Sick Leave

* An eligible employee may use sick time for the following qualifying absences:
  + The employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care;
  + Care of a [family member](http://www1.nyc.gov/site/dca/about/paid-sick-leave-FAQs.page) who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care; or
  + Closure of the employee's place of business by order of a public official due to a public health emergency or the employee's need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.
* Employers may not require the disclosure of details relating to an employee's or his or her family member's medical condition or require the disclosure of details relating to an employee’s or his or her family member’s status as a victim of family offenses, sexual offenses, stalking, or human trafficking as a condition of providing safe/sick time under the law.

## Use of Safe Leave

* An eligible employee is entitled to use **safe time** for absence from work due to any of the following reasons when the employee or a [family member](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F&FullText=1) has been the victim of a [family offense matter](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F&FullText=1), sexual offense, stalking, or human trafficking to:
  + Obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
  + Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
  + Meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding (e.g., matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit);
  + File a complaint or domestic incident report with law enforcement;
  + Meet with a district attorney's office;
  + Enroll children in a new school; or
  + Take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee (or the employee's family member) or to protect those who associate or work with the employee.
* For an absence of **more than 3 consecutive work days** for **safe time**, an employer may require reasonable documentation that the use of safe time was authorized by law. An employer cannot require that such documentation specify the details of the family offense matter, sexual offense, stalking, or human trafficking. [Click here](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F&FullText=1) (§ 20-914(b)(2)) for more on documentation.

## Confidentiality

* An employer may not require (among other things) the disclosure of details relating to an employee's (or his or her family member's) medical condition, status as a victim of family offenses, sexual offenses, stalking, or human trafficking as a condition of providing safe/sick time under the law. Health information about an employee (or an employee's family member) and information concerning an employee's or his or her family member's status (or perceived status) as a victim of family offenses, sexual offenses, stalking, or human trafficking (obtained solely for the purposes of utilizing safe/sick time under the law) **must be treated as confidential**.
  + However, the law does not prohibit an employer from considering information provided in connection with a request for safe time in connection with a request for reasonable accommodation under certain provisions of the city's [nondiscrimination law](http://library.amlegal.com/nxt/gateway.dll/New%20York/admin/title8civilrights/chapter1commissiononhumanrights?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_8-107.1).

## Employer and Employee Requirements

* An employer may require reasonable notice of the need to use safe/sick time.
  + Where such need is **foreseeable**, an employer may require reasonable advance notice of the intention to use such safe/sick time, not to exceed 7 days prior to the date such safe/sick time is to begin.
  + Where such need is **not foreseeable**, an employer may require an employee to provide notice of the need for the use of safe/sick time as soon as practicable.
    - Note: Procedures for employees to give notice of the need to use safe/sick time when the need is **not foreseeable** may not include any requirement that an employee appear in person at a worksite or deliver any document to the employer prior to using safe/sick time.
* An employer cannot require an employee (as a condition of taking safe/sick time) to search for or find a replacement worker to cover the hours which an employee utilizes safe/sick time, or require an employee to work additional hours to make up his or her absence.

## Employer Notice Requirements

* Upon the commencement of employment, an employer must provide an employee with [written notice](http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf) of such employee's right to safe/sick time, including the accrual and use of safe/sick time, the calendar year of the employer, and the right to be free from retaliation and to bring a complaint to the department.
  + The notice must be in English and the primary language spoken by the employee. [Click here](http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page) to view the required Notice of Employee Rights in multiple languages.
  + The notice may also be conspicuously posted at the employer's place of business in an area accessible to employees.
  + **Note**: Notices provided on and after **May 5, 2018** must also inform employees of their right to **safe time** under the law. Employers must give employees who have already received notice of their right to **sick time** notice of their right to **safe time** within 30 days of May 5, 2018.
* Every employer must **distribute or post written policies on sick time** and follow such written sick time policies. An employer’s written sick time policies must meet or exceed all of the requirements of the law and the regulations and state at a minimum certain [required content](http://rules.cityofnewyork.us/sites/default/files/adopted_rules_pdf/amendment_of_earned_sick_time_rules_1_27_16_-_final_approval_-_legal_6360439_4.pdf) (§ 7-12(a)).
  + Note: An employer may not distribute the [Notice of Rights](http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf) (required by Section 20-919 of the Administrative Code and discussed above) instead of distributing or posting its own written sick time policies as required by the regulations.

## Recordkeeping Requirements

* Employers must retain records documenting compliance with the law for a period of **3 years**. An employer must maintain, in an accessible format, contemporaneous, true, and accurate records that show, for each employee:
  + The employee’s name, address, phone number, date(s) of start of employment, date(s) of end of employment (if any), rate of pay, and whether the employee is exempt from the overtime requirements of New York State labor laws and regulations;
  + The hours worked each week by the employee—unless the employee is exempt from the overtime requirements of New York State labor laws and regulations and has a regular work week of 40 hours or more;
  + The date and time of each instance of sick time used by the employee and the amount paid for each instance;
  + Any change in the material terms of employment specific to the employee; and
  + The date that the [Notice of Rights](http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf) was provided to the employee and proof that the Notice of Rights was received by the employee.

## Additional Information

* [NYC Department of Consumer Affairs](http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page)
* [Employer Fact Sheet](http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-EmployerOnePager-English.pdf)
* [Employer FAQs](http://www1.nyc.gov/site/dca/about/paid-sick-leave-FAQs.page)
* [Administrative Rules](http://www1.nyc.gov/assets/dca/downloads/pdf/about/Paid-Sick-Leave-Final-Rules.pdf)
* [Amended Rules (2016)](http://rules.cityofnewyork.us/sites/default/files/adopted_rules_pdf/amendment_of_earned_sick_time_rules_1_27_16_-_final_approval_-_legal_6360439_4.pdf)
* [Safe Leave Amendment (2017)](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F&FullText=1)

## Family and Medical Leave

# Family and Medical Leave in New York (NY)

This page features the following topics regarding leave in New York:

* [Overview of New York Paid Family Leave (PFL)](#Overview_of_New_York_Paid_Family_Leave_(PFL)NYPFL)
* [Employee Eligibility Requirements](#Employee_Eligibility_RequirementsNYPFL)
* [Definition of 'Family Leave'](#Definition_of_Family_LeaveNYPFL)
* [Amount of Leave](#Amount_of_LeaveNYPFL)
* [Paying for PFL](#Paying_for_PFLNYPFL)
* [Employee Notice to Employer](#Employee_Notice_to_EmployerNYPFL)
* [Employer Notice and Posting Requirements](#Employer_Notice_and_Posting_RequirementsNYPFL)
* [Maintenance of Health Insurance Benefits and Other Employer Requirements](#Maintenance_of_Health_Insurance_Benefits_and_Other_Employer_RequirementsNYPFL)
* [Tax Guidance](#Tax_GuidanceNYPFL)
* [Leave for Adoption Under New York Labor Law](#Leave_for_AdoptionNYPFL)
* [Additional Information](#Additional_InformationNYPFL)

## Overview of New York Paid Family Leave (PFL)

New York [has enacted](https://www.governor.ny.gov/news/governor-cuomo-signs-15-minimum-wage-plan-and-12-week-paid-family-leave-policy-law) a paid family leave policy (known as the New York Paid Family Leave Benefits Law), to be phased into effect beginning on or after January 1, 2018, that will apply to employers of all business sizes. When the law is fully phased-in over the next several years, employees will be eligible for **12 weeks** of paid, job-protected leave when certain life events occur.

## Employee Eligibility Requirements

Under the new law, employees are generally [eligible](https://www.nysenate.gov/legislation/laws/WKC/203) for paid family leave benefits after having worked for their employers for **26 or more consecutive weeks** (part-time employees must be employed part-time for **175 days** to be eligible for a Paid Family Leave benefit).

[State regulations](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2) (§ 380-2.5) clarify that an employee (of a covered employer) whose regular employment schedule is **20 or more hours per week** will become eligible to take PFL if he or she has been employed for at least **26 consecutive work weeks** preceding the first full day family leave begins. [Click here](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2) for additional information on periods of employee eligibility.

An employee whose regular employment schedule is **less than 20 hours per week** will become eligible to take PFL after working **175 days** (i.e., after the 175th day **worked**—not after 175 **calendar days** of employment) preceding the first full day the leave begins.

## Definition of 'Family Leave'

["Family leave"](https://www.nysenate.gov/legislation/laws/WKC/201) is defined as leave taken by an employee from work:

* To participate in providing care, including physical or psychological care, for a family member (including a child, parent, grandparent, grandchild, spouse, or domestic partner) with a serious health condition;
* To bond after the birth or adoption of a child (including foster children, the children of a domestic partner, and stepchildren); or
* Because of any qualifying exigency arising out of the fact that the employee's spouse, domestic partner, child, or parent is on active military duty.

## Amount of Leave

In general, the [weekly benefit](https://www.nysenate.gov/legislation/laws/WKC/204) for family leave will be phased in as follows:

* On or after **January 1, 2018**, eligible employees will be entitled to **up to** **8 weeks of family leave** in any 52-week period at 50% of their average weekly wage (capped at 50% of the state average weekly wage);
* On or after **January 1, 2019**, eligible employees will be entitled to **up to** **10 weeks of family leave** in any 52-week period at 55% of their average weekly wage (capped at 55% of the state average weekly wage);
* On or after **January 1, 2020**, eligible employees will be entitled to **up to 10 weeks of family leave** in any 52-week period at 60% of their average weekly wage (capped at 60% of the state average weekly wage); and
* On or after **January 1 of each succeeding year**, eligible employees will be entitled to **up to 12 weeks of family leave** in any 52-weekperiod at 67% of their average weekly wage (capped at 67% of the state average weekly wage).

[Click here](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2) (§ 380-2.5(c)) for more details, including information on computing the average daily rate for daily leave and the employee's maximum period of family leave.

Note: An employee who is eligible for **both disability benefits and family leave** during the same period of 52 consecutive calendar weeks will not receive more than **26 total weeks of disability and family leave benefits** during that period of time.

**Employer Reimbursement for Employee Use of PTO**In the event an employer offers, and the eligible employee exercises, an option to **charge all or part of his or her family leave time** to unused accruals or other paid time off (PTO) and **receive full salary**, the employer **may request reimbursement** out of any family leave benefits due or to become due by filing its claim for reimbursement with the carrier prior to the carrier's payment of such family leave benefits. [Click here](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-6) (§ 380-6.2) for more information.

## Paying for PFL

While employers will be required to purchase a PFL insurance policy or self-insure, **policy premiums will be paid by employees**. **No employer will be required to fund any portion of the family leave benefit.**

The 2018 payroll contribution is **0.126% of an employee’s weekly wage** and is capped at an **annual maximum of $85.56**. If an employee earns less than the New York State average weekly wage ($1305.92 per week), he or she will have an annual contribution amount less than the cap of $85.56, consistent with his or her actual weekly wages. [Click here](https://www.ny.gov/paid-family-leave-calculator) for a calculator that provides an estimate of weekly employee deductions.

Note: Employers **will not have to pay an employee's salary while the worker is on leave**. Instead, the employee will receive the PFL benefit through the PFL insurance policy.

## Employee Notice to Employer

An employee must provide the employer with at least **30 days' advance notice** before leave is to begin if the qualifying event is **foreseeable**. (Foreseeable qualifying events include an expected birth, placement for adoption, or foster care; planned medical treatment for a serious health condition of a family member; the planned medical treatment for a serious injury or illness of a covered service member; or other known military exigency).

If 30 days' advance notice is **not practicable** (e.g., a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency), notice must be given **as soon as practicable**. The employee must advise the employer as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

When the approximate timing of the qualifying event and need for leave is **not foreseeable**, an employee must provide notice to the employer **as soon as practicable** under the facts and circumstances of the qualifying event.

In addition, employers must provide the [Employee Statement of Rights](https://www.ny.gov/sites/ny.gov/files/atoms/files/1711-PFL-271SFormFill.pdf) (Form PFL-271s) to employees when they take Paid Family Leave or take time off from work for a Paid Family Leave qualifying event, but have not requested Paid Family Leave. Employers may also provide this form to all employees to educate them about Paid Family Leave.

[Click here](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-3) for more details.

## Employer Notice and Posting Requirements

### Notice

If a covered employer **maintains written guidance** for employees concerning employee benefits or leave rights (e.g., in an employee handbook), then information concerning PFL (and employee obligations under PFL) **must be included in the handbook or other written guidance**.

If a covered employer does not have written policies, manuals, or handbooks describing employee benefits and leave, the employer **must provide written guidance** to each of its employees concerning the employee's rights and obligations under PFL, including information on **how to file a PFL claim**.

The following resources (among others) are available:

* [Model Language for Employee Materials](https://www.ny.gov/sites/ny.gov/files/atoms/files/PFL_Employer_Lang_hb_v1.pdf): Employers are required to inform their employees about their PFL rights, either in an employee handbook or other written materials. The **Model Language for Employee Materials** document provides compliant language employers can use and customize based on their PFL policies and procedures. The document also lists topics that employee materials should include.
  + Note: These materials are not offered as legal advice. **It is strongly advised that employers have their company attorneys review the drafts before employee distribution.**

* [Statement of Rights for Paid Family Leave](https://www.ny.gov/sites/ny.gov/files/atoms/files/1711-PFL-271SFormFill.pdf): Employers must provide the **Statement of Rights for Paid Family Leave** to employees when they take PFL or take time off from work for a PFL-qualifying event, but have not requested PFL. Employers may also provide this form to all employees to educate them about PFL.

[Click here](https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-forms-employees-employers-and-insurance-carriers) for additional PFL forms for employees, employers, and insurance carriers.

### Poster

Every covered employer **must display or post a notice** concerning PFL. Upon securing Paid Family Leave insurance or Board-approved self-insurance, employers must obtain Form PFL-120 from their insurance carrier or licensed agent and display the form in a conspicuous location.

## Maintenance of Health Insurance Benefits and Other Employer Requirements

During any period of family leave, employers are required to maintain any existing health benefits of eligible employees in force for the duration of such leave. The employee must continue to make any normal contributions to the cost of the health insurance premiums.

A covered employee who has received family leave benefits **must be reinstated** to his or her employment upon conclusion of his or her leave in accordance with state law.

An employee of a covered employer must be provided the option to [**file a waiver**](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2) (§ 380-2.6) of family leave benefits when his or her regular employment schedule meets [certain conditions](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2). The covered employer **must keep a copy** of the fully executed waiver for as long as the employee remains in employment.

[Click here](https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-how-it-works) for more information.

## Tax Guidance

The New York Department of Taxation and Finance has released **tax guidance** regarding the state PFL program. The guidance concerns the appropriate tax treatment of family leave **contributions** and **benefits** for New York employees, employers, insurers (including self-insured employers), and employer plans, among other entities. According to the guidance:

* Benefits paid to employees will be **taxable non-wage income** that **must be included** in federal gross income.
* Taxes will not automatically be withheld from benefits; employees can request **voluntary tax withholding**.
* Premiums will be deducted from employees' **after-tax wages**.
* Employers should **report employee contributions** on **Form W-2** using **Box 14** – State disability insurance taxes withheld.
* **Benefits** should be reported by the State Insurance Fund on Form 1099-G and by all other payers on Form 1099-MISC.

Note: The state has emphasized that while the guidance may be helpful for PFL implementation, **it is still the responsibility of each employee and employer/insurer to consult with its tax advisor**.

[Click here](https://www.tax.ny.gov/pdf/notices/n17_12.pdf) to read the guidance.

## Leave for Adoption Under New York Labor Law

New York law (Labor Law Section 201-c) requires private employers who permit employees to take a leave of absence for the birth of a child to grant the same leave (on the same terms) to employees for the adoption of a child.

However, such employee is generally not entitled to equal child care leave at any time after the adoptive child reaches the minimum age for public school attendance. [Click here](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:) (Labor Law Section 201-c) for more information.

## Additional Information

* [New York Paid Family Leave Forms](https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-employer-and-employee-forms-0)
* [New York Paid Family Leave Website](https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-how-it-works)
* [New York Paid Family Leave Regulations](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp)
* [New York Paid Family Leave Calculator](https://www.ny.gov/paid-family-leave-calculator)

## Final Pay Requirements

# Final Paycheck Requirements in New York (NY)

## If the Employee is Involuntarily Terminated

The final paycheck is due by the next regular payday. If the employee so requests, the wages must be mailed.

## If the Employee Quits

The final paycheck is due by the next regular payday. If the employee so requests, the wages must be mailed.  
  
For more information, please [click here](https://ag.ny.gov/labor/labor-law-obligations-employees).

## Payment of Unused Benefits on Termination

Whether an employer must pay for unused time depends [upon the terms of the vacation and/or resignation policy](https://labor.ny.gov/workerprotection/laborstandards/faq.shtm#11). New York courts have held that an agreement to give benefits or wage supplements, like vacation, can specify that employees lose accrued benefits under certain conditions. To be valid, the employer must have told employees, in writing, of the conditions that nullify the benefit.  
   
More information regarding [final paycheck requirements](https://ag.ny.gov/labor/labor-law-obligations-employees#terminated) and [payment of unused benefits](https://labor.ny.gov/workerprotection/laborstandards/faq.shtm#11) on termination is available from the State of New York.

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in New York (NY)

There is no statewide requirement for private employers in New York to enroll and participate in the federal work authorization program commonly known as [E-Verify](http://www.uscis.gov/e-verify) to verify the employment eligibility of employees hired to work.

Note: Federal law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. [Click here](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Immigration-Reform-and-Control-Act.aspx) for more information.

## Meal and Rest Breaks

# Meal & Rest Breaks in New York (NY)

New York requires private employers to provide employees meal and rest breaks as follows:

### Meal Breaks

* Employees who work a shift of more than 6 hours which extends over the noon day meal period (11:00 a.m. until 2:00 p.m.) are entitled to at least 30 minutes off within that period for a meal break.
* Employees whose shift starts before 11:00 a.m. and continues until after 7:00 p.m. must be allowed an additional meal period of at least 20 minutes between 5:00 p.m. and 7:00 p.m.
* Employees who work a shift of more than 6 hours starting between 1:00 p.m. and 6:00 a.m. must be allowed at least 45 minutes for a meal break midway between the beginning and end of their shift.
* In situations where only one employee is on duty or is the only one in a specific occupation, the employee may voluntarily agree to eat on the job without being relieved of duties.
  + Employers must provide an uninterrupted meal period if requested by the employee.
* The New York Department of Labor may permit (in writing) shorter meal periods under certain circumstances.
  + The permit must be conspicuously posted in the main entrance of the workplace and may be revoked at any time.

### Rest Breaks

* Rest breaks are not required by law, but if a break (of up to 20 minutes) is permitted, it should be paid as working time.

### Breastfeeding Breaks

* Employers must provide reasonable break time each day to allow employees to express breast milk for up to 3 years following childbirth.
  + The break time may be a separate unpaid break, or employers may allow employees to use paid meal or break times.
* Employers must make reasonable efforts to provide a room or area in close proximity to the work area where employees can express breast milk in privacy.
* Discrimination against employees who choose to express breast milk in the workplace is prohibited.

### Day of Rest Requirement

* Employees working in the following establishments must be allowed a rest period of at least 24 consecutive hours each calendar week:
  + Factories;
  + Mercantile establishments;
  + Hotels;
  + Restaurants; and
  + Office and apartment buildings (certain employees only).

[New York Department of Labor](http://www.labor.ny.gov/home)

## Minimum Wage

# Minimum Wage Rate in New York (NY)

|  |  |  |
| --- | --- | --- |
| **Government** | **Current Minimum Wage(s)** | **Future Minimum Wage(s) Beginning December 31, 2018** |
| [State of New York](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) | * Generally **$10.40 per hour** * For fast food workers, **$11.75 per hour** | * **$11.10** per hour * For fast food workers, **$12.75 per hour** |
| [New York City](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) | * For employers with 11 or more employees, **$13.00 per hour** * For employers with 10 or fewer employees, **$12.00 per hour** * For fast food workers, **$13.50 per hour** | * For employers with 11 or more employees, **$15.00 per hour** * For employers with 10 or fewer employees, **$13.50 per hour** * For fast food workers, **$15.00 per hour** |
| [Westchester County](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) | * Generally **$11.00 per hour** * For fast food workers, **$11.75 per hour** | * **$12.00 per hour** * For fast food workers, **$12.75 per hour** |
| [Nassau County](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) | * Generally **$11.00 per hour** * For fast food workers, **$11.75 per hour** | * **$12.00 per hour** * For fast food workers, **$12.75 per hour** |
| [Suffolk County](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) | * Generally **$11.00 per hour** * For fast food workers, **$11.75 per hour** | * **$12.00 per hour** * For fast food workers, **$12.75 per hour** |

Special Note on Tipped Employees: Under state law, a specified allowance may be credited toward the minimum wage for tips earned. The general minimum wage for all tipped workers in the hospitality industry is $7.50 per hour. Employers must give careful attention to the applicable wage order to ensure they take the appropriate credit/allowance. [Click here](https://www.labor.ny.gov/formsdocs/wp/LS207.3.pdf) for more information, including specific rates.

### New York Wage Notification Requirements

The New York [Wage Theft Prevention Act](https://www.labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm) addresses the failure by some employers to pay statutorily-mandated minimum wages and overtime by amending the [New York Labor Law](https://labor.ny.gov/workerprotection/laborstandards/labor_standards.shtm) to require annual notifications of wages, expand employee notifications, enhance available remedies for wage law violations, and strengthen whistleblower protections. Highlights of the law are outlined below.

#### Notice and Recordkeeping Requirements

Employers are required to provide employees, **at the time of hiring**, a notice containing the following information:

* The rate(s) of pay (including the regular hourly and overtime rates of pay for employees not exempt from overtime pay) and the basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances;
* The regular pay day designated by the employer; and
* The name (including any "doing business as" names) used by the employer, along with the physical and mailing addresses and telephone number of the employer's main office or principal place of business.

This notification must be provided in writing, in English and in the language identified by each employee as his or her primary language. Additionally, the employer must obtain a signed and dated written acknowledgement of receipt of this notice from each employee (in English and in the employee's primary language) each time such notice is provided. This acknowledgement must include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer was in that language (or as otherwise required under the law). Employers are required to maintain this acknowledgement for 6 years.   
  
Under the law, the New York State Department of Labor is responsible for preparing dual-language templates that comply with these requirements. Model notices are now available by [clicking here](http://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm).

Employers are also required to notify employees in writing of any changes to the information required by the above notice at least 7 calendar days in advance, unless the change is listed on the employee's pay stub.

#### Payroll and Paystub Requirements

Employers are required to provide each employee with a statement **with every payment of wages**, listing the following:

* The dates of work covered by that payment of wages;
* Name of employee, name of employer, and address and phone number of employer;
* Rate(s) of pay and basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Gross wages;
* Deductions (Note: The New York Department of Labor has issued [rules](http://www.labor.ny.gov/legal/laws/pdf/wage-deduction/12-NYCRR195-Wage-Deductions-Text.pdf), which among other things, provide clarifications and examples of permissible and prohibited deductions under the law.);
* Allowances, if any, claimed as part of the minimum wage; and
* Net wages.

For employees who are not exempt from overtime pay, this statement must also include:

* The regular hourly rate or rates of pay;
* The overtime rate or rates of pay;
* The number of regular hours worked; and
* The number of overtime hours worked.

Payroll records showing the hours worked per week, the rate or rates of pay and the basis of the wage payment, gross wages, deductions, allowances, and net wages for each employee also must be maintained by the employer for at least 6 years.

#### Enforcement Provisions

Other key provisions of the Wage Theft Prevention Act include:

* Increasing the amount of wages that can be recovered as damages in a suit for non-payment over and above the lost wages themselves—from 25 percent to 100 percent, the amount allowable under federal law;
* Creating stronger collection tools;
* Raising criminal penalties for failure to pay minimum wage to up to a year in prison and $5,000 fine; and
* Strengthening protections for whistleblowers in cases involving wage violations.

### For More Information

* [New York Minimum Wage Information](https://www.labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840&libID=2861)
* [Minimum Wage FAQs from the U.S. Wage and Hour Division](http://www.dol.gov/dol/topic/wages/minimumwage.htm)

[**New York Department of Labor**](http://www.labor.ny.gov/home)W. Averell Harriman State Office Campus   
Building 12   
Albany, NY 12240  
(518) 457-1504

## New Hire Reporting

# New Hire Reporting in New York (NY)

New York requires private employers to submit information regarding newly hired employees, as well as certain employees who are returning to work, to the Department of Taxation and Finance as follows:

### Reporting Requirements

* Employers must report the following information for each newly hired or recalled employee within 20 days from the date of hire or reemployment (employers reporting electronically or magnetically must transmit twice monthly every 12-16 days):
  + Employee's name, address and social security number.
  + The first day compensated services are performed by the employee.
  + Whether dependent health insurance benefits are available and the date the new hire qualifies for benefits.
  + Employer's name, address and federal identification number.

### How to Submit Reports

* Employers may report via the Internet through the [New York New Hire Online Reporting Center](https://www.nynewhire.com/NYNewHireLogin.jsp).
* Employers may alternatively submit Form W-4 or an equivalent form, which may be faxed or mailed by first class mail to the New York State Department of Taxation and Finance.
  + If the new hire report is submitted on Form W-4, [Form IT-2104-E](http://www.tax.ny.gov/pdf/current_forms/it/it2104e_fill_in.pdf) must also be submitted to report the required information regarding employee dependent health insurance benefits.
* Employers with employees in two or more states who transmit reports magnetically or electronically may designate a single state to which all new hires can be reported after notifying, in writing, the federal Department of Health and Human Services, of this designation.

### Penalty for Failure to Report

* Employers who fail to report newly hired or recalled workers, or who fail to file a report showing the required information, may be fined up to $20 for each violation.

[**New York State Department of Taxation and Finance**](https://www.nynewhire.com/index.jsp)

New Hire Notification  
P.O. Box 15119  
Albany NY 12212-5119

(518) 320-1079   
Fax: (518) 320-1080

**Federal Multistate Employer New Hire Notification:**

U.S. Department of Health and Human Services

Office of Child Support Enforcement

Multi-State Employer Registration

Box 509, Randallstown, MD 21133

(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

This state/jurisdiction does not have a state plan applicable to private sector employees. Please visit the federal Occupational Safety and Health Administration's [website](https://www.osha.gov/) for applicable federal requirements.

## Overtime

# Overtime Rates in New York (NY)

New York requires private employers to pay overtime as follows:

* Employees are entitled to overtime pay equal to 1 ½ times their regular rates of pay for work in excess of 40 hours per week, except for those employees who are specifically exempt by law including:
  + Agricultural workers;
  + Those working in an executive, administrative, or professional capacity;
  + Outside salespeople;
  + Cab drivers; and
  + Government employees.

### Overtime Exemption for Administrative and Executive Employees

To be exempt from the payment of overtime, **administrative** and **executive** employees must (among other things) be paid a certain **minimum weekly salary amount**. Each time the New York State minimum wage increases, **the minimum salary required** (under state law) **for executive and administrative employees increases proportionately**. The dollar amount of the salary threshold also depends on the employer's **location** (and **size**, if located in New York City).

**Administrative Employees.** [Click here](https://labor.ny.gov/legal/counsel/pdf/administrative-employee-overtime-exemption-frequently-asked-questions.pdf) for the minimum weekly salary amounts for (and other information about) **administrative** employees.

**Executive Employees.** [Click here](https://labor.ny.gov/legal/counsel/pdf/executive-employee-overtime-exemption-frequently-asked-questions.pdf) for the minimum weekly salary amounts for (and additional information regarding) **executive** employees.

FAQs regarding the minimum wage rates (which will increase over the next several years) and salary thresholds are available by [clicking here](https://labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm) (scroll down for FAQs).

## New York Domestic Worker Law

In 2010, the State of New York enacted the [Domestic Workers' Bill of Rights](https://www.labor.ny.gov/legal/domestic-workers-bill-of-rights.shtm), which changed a variety of employment laws related to domestic workers. Among other changes, the bill provides, for domestic workers:

* The right to overtime pay at 1 ½ times the regular rate of pay after 40 hours of work in a week, or 44 hours for in-home workers;
* A day of rest every seven days, or overtime pay if it is waived;
* Three paid days of rest annually after one year of work;
* The removal of the domestic workers exemption from the Human Rights Law, and the creation of a special cause of action for domestic workers who suffer sexual or racial harassment; and
* The extension of statutory disability benefits to domestic workers, to the same degree as other workers.

## New York Wage Notification Requirements

The New York [Wage Theft Prevention Act](https://www.labor.ny.gov/PressReleases/2010/december-14-2010.shtm) addresses the failure by some employers to pay statutorily-mandated minimum wages and overtime by amending the New York Labor Law to require annual notifications of wages, expand employee notifications, enhance available remedies for wage law violations, and strengthen whistleblower protections. Highlights of the law are outlined below.

### Notice and Recordkeeping Requirements

Employers are required to provide employees, **at the time of hiring**, a notice containing the following information:

* The rate(s) of pay (including the regular hourly and overtime rates of pay for employees not exempt from overtime pay) and the basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances;
* The regular pay day designated by the employer; and
* The name (including any "doing business as" names) used by the employer, along with the physical and mailing addresses and telephone number of the employer's main office or principal place of business.

This notification must be provided in writing, in English and in the language identified by each employee as his or her primary language. Additionally, the employer must obtain a signed and dated written acknowledgement of receipt of this notice from each employee (in English and in the employee's primary language) each time such notice is provided. This acknowledgement must include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer was in that language (or as otherwise required under the law). Employers are required to maintain this acknowledgement for 6 years.   
  
Under the law, the New York State Department of Labor is responsible for preparing dual-language templates that comply with these requirements. Model notices are now available by [clicking here](https://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm).  
   
Employers are also required to notify employees in writing of any changes to the information required by the above notice at least 7 calendar days in advance, unless the change is listed on the employee's pay stub.

### Payroll and Paystub Requirements

Employers are required to provide each employee with a statement **with every payment of wages**, listing the following:

* The dates of work covered by that payment of wages;
* Name of employee, name of employer, and address and phone number of employer;
* Rate(s) of pay and basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Gross wages;
* Deductions (Note: The New York Department of Labor has issued [rules](https://www.labor.ny.gov/legal/laws/pdf/wage-deduction/12-NYCRR195-Wage-Deductions-Text.pdf), which among other things, provide clarifications and examples of permissible and prohibited deductions under the law.);
* Allowances, if any, claimed as part of the minimum wage; and
* Net wages.

For employees who are not exempt from overtime pay, this statement must also include:

* The regular hourly rate or rates of pay;
* The overtime rate or rates of pay;
* The number of regular hours worked; and
* The number of overtime hours worked.

Payroll records showing the hours worked per week, the rate or rates of pay and the basis of the wage payment, gross wages, deductions, allowances, and net wages for each employee also must be maintained by the employer for 6 years.

### Enforcement Provisions

Other key provisions of the Wage Theft Prevention Act include:

* Increasing the amount of wages that can be recovered as damages in a suit for non-payment over and above the lost wages themselves—from 25 percent to 100 percent, the amount allowable under federal law;
* Creating stronger collection tools;
* Raising criminal penalties for failure to pay minimum wage to up to a year in prison and $5,000 fine; and
* Strengthening protections for whistleblowers in cases involving wage violations.

**New York State Department of Labor**[Overtime Requirements](https://www.labor.ny.gov/workerprotection/laborstandards/faq.shtm#5)  
W. Averell Harriman State Office Campus, Building 12  
Albany, NY 12240  
(518) 457-9000

## Personal Information Protection

# Personal Information Protection in New York (NY)

New York regulates the protection of personal information as follows:

### What is Considered Personal Information

Personal identifying information includes:

* Social security number;
* Home address or telephone number;
* Personal electronic mail address;
* Internet identification name or password;
* Parent's surname prior to marriage; or
* Drivers' license number.

### Requirements for Employers

Employers are generally prohibited from:

* Publicly posting or displaying an employee's social security number;
* Visibly printing a social security number on any identification badge or card, including any time card;
* Placing a social security number in files with unrestricted access; or
* Communicating an employee's personal identifying information to the general public.

It is presumptive evidence that a violation of the law was knowing if an employer has not put in place any policies or procedures to safeguard against such violation, including procedures to notify relevant employees of these rules.

### For More Information

* [New York Labor Law § 203-d](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:)
* [New York Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=666)
* [Federal Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810)

## Posters

# Notices and Posters in New York (NY)

The following posters are mandatory for New York employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## New York (NY) State Poster Requirements:

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| New York (NY) Child Labor Law | Note: The employer must make a schedule for all minors and post it in a conspicuous place. The schedule sets forth the hours minors start and end work and time allotted for meals. The hours of work can be changed, as long as the changes are posted on the schedule. Minors may work only on the days and at the times posted on the schedule. | [English](https://www.labor.ny.gov/formsdocs/wp/LS171.pdf) (PDF) |
| New York (NY) Criminal Convictions Records |  | [Copy of Article 23-A](http://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf) (PDF) |
| New York (NY) Discrimination is Prohibited |  | [English](https://www.dhr.ny.gov/sites/default/files/doc/poster.pdf) (PDF)  [Spanish](http://www.dhr.ny.gov/sites/default/files/doc/poster.pdf) (PDF) |
| New York (NY) Minimum Wage |  | [English](https://www.labor.ny.gov/formsdocs/wp/LS207.pdf) (PDF)  [Spanish](https://www.labor.ny.gov/formsdocs/wp/LS207S.pdf) (PDF) |
| New York (NY) Notice of Fringe Benefits and Hours | Employers are generally required to notify employees of the employer’s policies regarding sick leave, vacation, personal leave, holidays, and hours in writing or by publicly posting such policies. The Division of Labor Standards has issued [guidelines](https://www.labor.ny.gov/workerprotection/laborstandards/employer/notice.shtm) to assist employers in complying with this requirement. |  |
| New York (NY) Prevailing Rate of Wages (Public contractors) | Must be posted at the start of every public works contract on each job site  Note: In addition to this notice, the current [Prevailing Rate Schedule](https://labor.ny.gov/workerprotection/publicwork/PWRateSch.shtm) must be: posted on the site of the public works project where workers can see and access it; encased in (or made of) weatherproof materials; and titled "PREVAILING RATE OF WAGES" in letters at least 2" x 2". | [English](https://www.labor.ny.gov/formsdocs/wp/PW101.pdf) (PDF) |
| New York (NY) Time Off to Vote |  | [English](http://www.elections.ny.gov/NYSBOE/elections/AttentionEmployees.pdf) (PDF) |
| New York (NY) Unemployment Insurance | Contact: New York State Department of Labor Registration Subsection State Office Building Campus Albany, NY 12240-0339 Phone: (518) 485-8589 Fax: (518) 485-8010 |  |
| New York (NY) Workers’ Compensation and Disability Benefits | Notice of Compliance for Workers' Compensation (supplied by employer's insurance carrier)  Notice of Compliance for Disability Benefits (supplied by employer's insurance carrier) |  |
| New York (NY) No Smoking | "No Smoking" signs, "No Vaping" signs, or a sign with the international "no smoking" symbol on it must be prominently posted and properly maintained where smoking and vaping are prohibited.  An outdoor dining area where smoking and vaping are permitted must be clearly designated with signage as a smoking and vaping area.  Further information (including posters) is available by [clicking here](https://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/). | [International No Smoking Symbol](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/graphic_no_smoking.pdf) (PDF)  [No Smoking Poster in English](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/text_no_smoking.pdf) (PDF)  [Smoking Permitted Poster in English](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/smoking_permitted.pdf) (PDF) |
| New York (NY) Paid Family Leave (PFL) Written Guidance | If an employer **maintains written guidance** for employees concerning employee benefits or leave rights (e.g., in an employee handbook), then information concerning PFL (and employee obligations under PFL) generally **must be included in the handbook or other written guidance**.  If an employer does not have written policies, manuals, or handbooks describing employee benefits and leave, the employer generally **must provide written guidance** to each of its employees concerning the employee's rights and obligations under PFL, including information on **how to file a PFL claim**.  The following resources (among others) are available:   * [Model Language for Employee Materials](https://www.ny.gov/sites/ny.gov/files/atoms/files/PFL_Employer_Lang_hb_v1.pdf) * [Statement of Rights for Paid Family Leave](https://www.ny.gov/sites/ny.gov/files/atoms/files/1711-PFL-271SFormFill.pdf): Employers must provide the **Statement of Rights for Paid Family Leave** to employees when they take PFL or take time off from work for a PFL-qualifying event, but have not requested PFL. Employers may also provide this form to all employees to educate them about PFL.   [Click here](https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-forms-employees-employers-and-insurance-carriers) for additional PFL forms for employees, employers, and insurance carriers. |  |
| New York (NY) Paid Family Leave (PFL) Posting | Employers generally **must display or post a notice** concerning PFL. Upon securing Paid Family Leave insurance or Board-approved self-insurance, employers must obtain Form PFL-120 from their insurance carrier or licensed agent and display the form in a conspicuous location. |  |

| **New York City (NYC)** | **Notes** | **Poster Format** |
| --- | --- | --- |
| New York City (NYC) Pregnancy and Employment Rights | Employers in New York City employing **4 or more employees**  Note: An applicable employer must provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions to new employees at the commencement of employment, and to existing employees within 120 days after the effective date of the local law. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees. | [English](http://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy_Poster_2017.pdf)  (PDF)  [Click here](http://www1.nyc.gov/site/cchr/media/cards/pregnancy-employment-rights.page) for additional languages. |
| New York City (NYC) Mandatory Sick Leave | Note: Upon either the commencement of employment or by May 1, 2014 (whichever is later), an employer must provide an employee with written notice of such employee's right to sick time. The notice must be in English and the primary language spoken by the employee. The notice may also be conspicuously posted at the employer's place of business in an area accessible to employees. [Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=7886&libID=8106) for more information. | [English](http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf)  (PDF)  [Click here](http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page) for additional languages (as they become available). |
| New York City (NYC) Fair Chance Act Notice | Employers with **4 or more employees** subject to the [Fair Chance Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=652#FCA)  Note: If, after a job offer, an employer wants to revoke the offer based on the existence of a criminal record, the employer must explain why using the Fair Chance Notice, provide a copy of any background check conducted by the employer or third-party vendor, and give the applicant 3 business days to respond. The Fair Chance Act Notice may be used by employers to comply with this requirement. The notice may also be adapted to an employer’s preferred format, as long as the material substance does not change. [Click here](http://www.nyc.gov/html/cchr/html/coverage/fair-chance.shtml) for more information and requirements. | [English](http://www1.nyc.gov/assets/cchr/downloads/pdf/FairChance_Form23-A_distributed.pdf)  (PDF) |
| New York City (NYC) Scheduling | Certain fast food and retail employers (as defined under the [local law](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2900942&GUID=F6382D3F-7D70-4324-A083-65BD4E355E55&Options=ID%7CText%7C&Search=1396)) **must conspicuously post** certain notices in **English** and any language spoken as a primary language by **at least 5%** of employees at that location if the city has made the notice available in that language. The required notices are [available here](http://www1.nyc.gov/site/dca/workers/workersrights/fastfood-retail-workers.page).  Note: The required notice(s) must be printed on and scaled to fill an **11x17 inch** sheet of paper.  [Click here](https://www.hr360.com/State-Laws/New-York/Scheduling-in-New-York-City.aspx" \o "Click here" \t "_self) for more information, including additional notice and posting requirements. |  |

## New York (NY) Industry-Specific Poster Requirements:

| **Special Industries** | **Notes** | **Poster Format** |
| --- | --- | --- |
| New York (NY) Agricultural Minimum Wage Information | Farm employers are required to post it where employees can see it. Print on legal size, 8.5 inch x 14 inch, paper. | [English](https://labor.ny.gov/formsdocs/wp/LS110.pdf) (PDF)  [Spanish](https://www.labor.ny.gov/formsdocs/wp/LS110S.pdf) (PDF) |
| New York (NY) Breastfeeding Mothers’ Bill of Rights | Under New York law, a copy of the [Breastfeeding Mothers' Bill of Rights](https://www.health.ny.gov/professionals/hospital_administrator/letters/2016/2016-10-11_dal_16-18_breastfeeding_mothers_bor.htm) must be conspicuously posted in a public place in each maternal health care facility and each child day care facility. | [English](https://www.health.ny.gov/publications/2028.pdf) (PDF)  [Spanish](https://www.health.ny.gov/publications/2029.pdf) (PDF)  [Chinese](https://www.health.ny.gov/publications/2034.pdf) (PDF)  [Italian](https://www.health.ny.gov/publications/2030.pdf) (PDF)  [Korean](https://www.health.ny.gov/publications/2037.pdf) (PDF)  [Russian](https://www.health.ny.gov/publications/2032.pdf) (PDF)  [Haitian Creole](https://www.health.ny.gov/publications/2031.pdf) (PDF)  [French](https://www.health.ny.gov/publications/2089.pdf) (PDF) |
| New York (NY) Commissary Price List | Commissary operators | [English](https://www.labor.ny.gov/formsdocs/wp/LS287.pdf) (PDF)  [Spanish](https://www.labor.ny.gov/formsdocs/wp/LS287.pdf) (PDF) |
| New York (NY) Construction Industry Fair Play Act | Construction industry employers | [English](https://www.labor.ny.gov/formsdocs/ui/IA999.pdf) (PDF)  [Spanish](https://www.labor.ny.gov/formsdocs/ui/IA999S.pdf) (PDF) |
| New York (NY) Hospitality Industry Minimum Wage Information | Employers in the hospitality industry | [English](https://www.labor.ny.gov/formsdocs/wp/Part146.pdf) (PDF) |
| New York (NY) Labor Law Information | Apparel factory employers | [Multiple Languages](https://www.labor.ny.gov/formsdocs/wp/LS203_2009.pdf) (PDF) |
| New York (NY) Labor Rights and Protections for Domestic Workers | Employers of domestic workers | [English](https://labor.ny.gov/formsdocs/factsheets/pdfs/P713.pdf) (PDF)  [Spanish](https://labor.ny.gov/formsdocs/factsheets/pdfs/P713S.pdf) (PDF) |
| New York (NY) Nail Salon Workers' Bill of Rights | [Click here](https://labor.ny.gov/workerprotection/nail-salon-industry.shtm) for the poster in additional languages. Fact sheets and information for nail salon owners and customers are also available. | [English](http://www.dos.ny.gov/licensing/appearance/posters/Final%20Poster%20English.pdf) (PDF) |
| New York (NY) Deductions from Wages | Employers engaged in the sale or service of food or beverages | [English](https://www.labor.ny.gov/formsdocs/wp/LS605.pdf) (PDF) |
| New York (NY) Tip Appropriation | Employers engaged in the sale or service of food or beverages | [English](https://www.labor.ny.gov/formsdocs/wp/LS204.PDF) (PDF) |

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in New York (NY)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.

New York requires employers to maintain the following types of records:

### Wages/Hours/Payroll Records

* Payroll records for each employee showing the following information must be retained for 6 years:
  + Name and address;
  + Social security number;
  + Daily/weekly hours;
  + Rate or rates of pay and the basis of the wage payment;
  + Deductions and allowances; and
  + Gross and net wages.
* Additionally, under the New York Wage Theft Prevention Act, employers are also required to maintain for 6 years certain acknowledgements obtained from employees confirming receipt of notification of wages and other information required to be provided by employers under the law. [Click here](https://www.labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm) for more information.

### Unemployment Insurance

* For purposes of unemployment, the following information must be retained for 3 years for each employee:
  + Name;
  + Social security number;
  + Beginning and ending date of the period;
  + Total compensation;
  + Pay for each pay period, including cash and cash value of noncash remuneration;
  + Total amount of compensation on which contributions are due under the New York Unemployment Insurance Law solely because the employer is liable for a tax on such compensation under the Federal Unemployment Tax Act; and
  + Days on which the employee was employed reflecting the pay applicable to each day.

### Safety and Health/Workers' Compensation

* For purposes of workers’ compensation, the following records must be kept for 4 years:
  + Number of employees;
  + Classification of employees;
  + Wages; and
  + Information regarding accidents.
* An employer must report most injuries and all occupational diseases to the Board and the insurance company, if insured, within 10 days after an accident.
* A record must be made and kept of any injury or illness incurred by an employee in the course of employment, even if the extent of the injury does not require that a report be filed with the Board or carrier.
* A report must be filed with the Board and carrier if the accident results in personal injury which has caused, or will cause:
  + A loss of time from regular duties of one day beyond the day or shift when the accident occurred;
  + Has required, or will require, medical treatment beyond ordinary first aid; or
  + More than two treatments by a person giving first aid.
* For each employee that uses or handles a hazardous substance, the following records must be kept for 40 years:
  + Name;
  + Address; and
  + Social security number.

### Child Labor

* Employment certificates must be kept on file for each minor.
* The certificate must be returned to the minor upon termination.

### Destroying Records

* New York state law requires employers to protect and correctly dispose of any personal information in employers records, and employers should have a policy in place for the disposal of such documents.
* Employers disposing of records containing personal identifying information (as defined below) must do one of the following:
  + Shred the record before disposal;
  + Destroy the personal identifying information;
  + Modify the record to make the personal identifying information unreadable; or
  + Take action that they reasonably believe will ensure that no unauthorized person will have access to the personal identifying information in the record.
* "Personal identifying information" includes any of the following information:
  + Social security number;
  + Mother's maiden name;
  + Driver's license;
  + Financial services account number or code;
  + Checking account number or code;
  + Debit card number or code;
  + ATM card number or code;
  + Electronic serial number; or
  + Personal identification number.

### New York Paid Family Leave (PFL)

Under the New York PFL law, an employee of a covered employer must be provided the option to [**file a waiver**](http://www.wcb.ny.gov/PFL/pfl-regs-text.jsp#380-2) (§ 380-2.6) of family leave benefits under certain instances.

The covered employer **must keep a copy** of the fully executed waiver for as long as the employee remains in employment with the covered employer.

### Scheduling in New York City

Certain fast food and retail employers must maintain and retain—in an electronically accessible format—**records** documenting compliance with the [Fair Workweek Law](http://www1.nyc.gov/site/dca/workers/workersrights/fastfood-retail-workers.page) for a period of **3 years**. Such records must include documents that show:

* **Actual hours worked** by each employee each week;
* An employee's **written consent** to any schedule changes, where required; and
* Each **written schedule** provided to an employee.

Additionally, covered **fast food employers** must also maintain records that show:

* **Good faith estimates** provided to employees under the [Fair Workweek Law](http://www1.nyc.gov/assets/dca/downloads/pdf/about/FairWorkweek-LawRules.pdf) (§ 20-1221(a)); and
* **Premium pay** to individual fast food employees and the dates and amounts of the payments, whether noted on an employee's wage stub or other form of written documentation.

Additional rules are [available here](http://www1.nyc.gov/assets/dca/downloads/pdf/about/FairWorkweek-LawRules.pdf#page=16).

[Click here](https://www.hr360.com/State-Laws/New-York/Scheduling-in-New-York-City.aspx) for more information, including additional recordkeeping requirements.

## Same Sex Relationships

# Same-Sex Relationships in New York (NY)

## New York State Law

New York recognizes same-sex relationships under state law as follows:

### Same-Sex Marriage

* New York allows eligible same-sex couples to marry.
  + Same-sex couples who are legally married are entitled to the same rights, responsibilities, and benefits under New York state law.
* New York recognizes valid same-sex marriages performed in other jurisdictions.

[Click here](http://open.nysenate.gov/legislation/bill/A8354-2011) for more information.

### Domestic Partnerships

* Certain localities maintain domestic partnership registries, including [New York City](http://www.cityclerk.nyc.gov/html/marriage/domestic_partnership_reg.shtml), [Rochester](http://www.cityofrochester.gov/article.aspx?id=8589937602), and [Westchester County](http://www.westchesterclerk.com/index.php?option=com_content&view=article&id=17&Itemid=212). Specific eligibility requirements and benefits may vary by jurisdiction.

## Smoking

# Smoking and Tobacco Use in the Workplace in New York (NY)

**Special Note:** New York City has its own [Smoke-Free Air Act](http://www1.nyc.gov/site/doh/business/food-operators/smoking-legislation.page).

New York regulates smoking, vaping (i.e., the use of an electronic cigarette), and the use of tobacco in the workplace as follows:

### No-Smoking and No-Vaping Requirements

Employers are required to prohibit smoking and vaping in virtually all indoor places of employment, including restaurants and bars. Smoking and vaping generally may be permitted in the following areas and businesses:

* Private homes and private residences when not used for day care;
* Private automobiles;
* Hotel or motel rooms rented to one or more guests;
* Retail tobacco businesses (primary activity is the retail sale of tobacco products and accessories, and the sale of other products is merely incidental);
* Membership associations where all duties related to the operation of the association are performed by volunteers who are not compensated in any manner;
* Cigar bars in existence prior to January 1, 2003 (where 10% or more of total annual gross income is from the sale of tobacco products); and
* Up to 25% of seating in outdoor areas of restaurants with no roof or ceiling enclosure, provided that the area is at least 3 feet away from the outdoor area not designated for smoking and vaping and is clearly designated with signage as a smoking and vaping area.
* [Retail electronic cigarette stores](http://legislation.nysenate.gov/pdf/bills/2017/s2543a) (provided that such stores may only permit the use of electronic cigarettes).

Smoking and vaping are allowed in restaurants, bars, hotel and motel conference rooms, catering halls, convention halls and other similar establishments only when the enclosed areas are being used for the sole purpose of inviting the public to sample tobacco products or electronic cigarettes and serving food and drink is incidental to such purpose. A business establishment may schedule no more than two days in a calendar year for these events.

### Posting Requirements

* "No Smoking" signs, "No Vaping" signs, or a sign with the international "no smoking" symbol on it must be prominently posted and properly maintained where smoking and vaping are prohibited.
  + [International No Smoking Symbol](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/graphic_no_smoking.pdf) – PDF format
  + [No Smoking Poster in English](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/text_no_smoking.pdf) – PDF format
  + Note: Further information (including posters) is available by [clicking here](https://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/).
* An outdoor dining area where smoking and vaping are permitted must be clearly designated with written signage as a smoking and vaping area.
  + [Smoking Permitted Poster in English](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/docs/smoking_permitted.pdf) – PDF format
  + Note: Further information (including posters) is available by [clicking here](https://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/).
* The owner, operator, or manager of a hotel or motel that chooses to develop and implement a smoking and vaping policy for rooms rented to guests must post a notice at the reception area as to the availability, upon request, of rooms in which no smoking and vaping are allowed.

[Click here](http://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/) for more information about the State of New York's Clean Indoor Air Act.

## Unemployment

# Unemployment Insurance in New York (NY)

* [New York Unemployment Insurance Program](https://labor.ny.gov/unemploymentassistance.shtm)
* [File a UI Claim Over the Internet](https://ui.labor.state.ny.us/UBC/index.jsp)
* [File a Claim by Telephone](https://labor.ny.gov/ui/how_to_file_claim.shtm)
* [Employer Resources](https://labor.ny.gov/ui/employer.shtm)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

[Department of Labor](http://www.labor.ny.gov/ui/bpta/Important%20Telephone%20Numbers.shtm)   
W A Harriman Campus  
Building 12, Room 356  
Albany, NY 12240-0322   
(518) 457-2635

## Wage Payment Timing

# Wage Payment Timing in New York (NY)

Employers in New York are generally required to pay employees at least twice per month on paydays designated in advance.

* Fringe benefits (such as vacation or holiday pay) must be paid within 30 days after payment is required to be made.

### Special Rules for Employers in Certain Industries

* **Clerical and other workers** must be paid the wages earned in accordance with the agreed terms of employment, but not less frequently than semimonthly, on regular pay days designated in advance by the employer.
* **Manual workers** must generally be paid weekly and not later than 7 calendar days after the end of the pay period. Non-profit organizations may pay workers twice a month if that is their agreement. Under certain conditions, a large business may ask the state Labor Department for permission to pay its manual workers twice per month.
* **Commission salespeople** must receive wages, salary, drawing account, or commissions at such times as provided in the employment agreement, but they must be paid at least once a month and not later than the last day of the month following the month in which the money is earned. If a salesperson receives monthly payments of wages, salary, drawing account, or commissions that are substantial, additional compensation such as bonuses or "incentive" earnings may be paid at such times as agreed by the employer and salesperson.

## Wage Notification Requirements

The New York [Wage Theft Prevention Act](http://www.labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm) amended the [New York Labor Law](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLLAB0A6+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=55044198+&TARGET=VIEW) to expand employee notifications, enhance available remedies for wage law violations, and strengthen whistleblower protections. Highlights of the law are outlined below.

**Time of Hire Notice and Written Acknowledgement**

Employers are required to provide employees, **at the time of hiring**, a notice containing the following information:

* The rate(s) of pay (including the regular hourly and overtime rates of pay for employees not exempt from overtime pay) and the basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances;
* The regular pay day designated by the employer; and
* The name (including any "doing business as" names) used by the employer, along with the physical and mailing addresses and telephone number of the employer's main office or principal place of business.

This notification must be provided in writing, in English and in the language identified by each employee as his or her primary language.

Additionally, the employer must obtain a signed and dated written acknowledgement of receipt of this notice from each employee (in English and in the employee's primary language) each time such notice is provided. This acknowledgement must include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer was in that language (or as otherwise required under the law). Employers are required to maintain this acknowledgement for 6 years.  
   
Under the law, the New York State Department of Labor is responsible for preparing dual-language templates that comply with these requirements. Please [click here](http://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm) for these templates. Note: When an employee identifies as his or her primary language a language for which a template is not available from the labor commissioner, the employer must provide that employee an English-language notice or acknowledgment.  
  
Employers are also required to notify employees in writing of any changes to the information required by the above notice at least 7 calendar days in advance, unless the change is listed on the employee's pay stub.

**Payroll and Paystub Notice**

Employers are required to provide each employee with a statement **with every payment of wages**, listing the following:

* The dates of work covered by that payment of wages;
* Name of employee, name of employer, and address and phone number of employer;
* Rate(s) of pay and basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
* Gross wages;
* Deductions;
* Allowances, if any, claimed as part of the minimum wage; and
* Net wages.

For employees who are not exempt from overtime pay, this statement must also include:

* The regular hourly rate or rates of pay;
* The overtime rate or rates of pay;
* The number of regular hours worked; and
* The number of overtime hours worked.

Payroll records showing the hours worked per week, the rate or rates of pay and the basis of the wage payment, gross wages, deductions, allowances, and net wages for each employee also must be maintained by the employer for 6 years.   
  
To view a sample wage statement, please [click here](http://www.labor.ny.gov/workerprotection/laborstandards/images/sample_wage_statement.jpg).

Note: Under a [local law](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2900942&GUID=F6382D3F-7D70-4324-A083-65BD4E355E55&Options=ID|Text|&Search=1396) ("Introduction Number 1396-A") in New York City, a **fast food employer** must pay **schedule change premiums** at such time as the employer pays an employee wages owed for work performed during that work week. Schedule change premium pay must be **separately noted on a wage stub** or other form of written documentation and **provided to the employee** for that pay period. [Click here](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2900942&GUID=F6382D3F-7D70-4324-A083-65BD4E355E55&Options=ID|Text|&Search=1396) for more information, including details on additional requirements and the scope of coverage. [Rules](http://www1.nyc.gov/assets/dca/downloads/pdf/about/FairWorkweek-LawRules.pdf#page=12) are also available.

**Enforcement Provisions**

Action by Employee

* If any employee is not provided the "time of hire" notice within 10 business days of his or her first day of employment, the employee may recover damages of **$50** for each work day that  the violations occurred or continue to occur (but not to exceed a total of **$5,000**) together with  costs and reasonable attorney's fees. A court may also award other relief, including injunctive and declaratory relief.
* If any employee is not provided with the required "payroll/paystub" notice (with every payment of wages), he or she will recover damages of **$250** for each work day that the violations occurred or continue to occur (but not to exceed a total of **$5,000**) together with costs and reasonable attorney's fees. The court may also award other relief, including injunctive and declaratory relief, that the court in its discretion deems necessary or appropriate.

Action by Labor Commissioner on Behalf of Employee

* On behalf of any employee not provided  the "time of hire" notice, the commissioner may (among other things) assess against the employer damages of **$50** for each work day that the violations occurred or continue to occur, but not to exceed a total of **$5,000**.
* On behalf of any employee not provided the "payroll/paystub" notice (with every payment of wages), the commissioner may (among other things) assess against the employer damages of **$250** for each work day that the violations occurred  or continue to occur, but not to exceed a total of **$5,000**.

There are also potential criminal penalties for violating the law.

For more information about the Wage Theft Protection Act, please review § 195 of the New York [Labor Code](http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:). For more information about wage payment timing generally in New York, please [click here](http://www.labor.ny.gov/workerprotection/laborstandards/workprot/payofwag.shtm).  
  
[Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3269) to view a chart outlining the final paycheck timing requirements for each state.

### New York City "Freelance Workers"

* A [law](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2530972&GUID=61F8754B-80AF-493E-895E-D6D17209776E) enacted by the New York City Council establishes and enhances protections for **freelance workers**, including, among other things, the right to **timely payment**.
  + The term "freelance worker" means any natural person or any organization composed of no more than one natural person, whether or not incorporated or employing a trade name, **that is hired or retained as an independent contractor** by a hiring party to provide services in exchange for compensation. The term does not include certain sales representatives and lawyers.
  + The contracted compensation must be paid to the freelance **worker on or before the date such compensation is due under the terms of the contract**. If the contract does not contain a payment date or mechanism by which the date will be determined, payment must be made **no later than 30 day after completion of the freelance worker's services under the contract**. [Click here](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2530972&GUID=61F8754B-80AF-493E-895E-D6D17209776E) for more information.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in New York (NY)

This page features the following topics regarding workers' compensation:

* [Overview](#OverviewNYWC)
* [Workers' Compensation Forms & Notices](#Workers'_Compensation_Forms_&_NoticesNYWC)
* [Workers' Compensation Publications](#Workers'_Compensation_PublicationsNYWC)
* [Workers' Compensation Poster](#Workers'_Compensation_PosterNYWC)
* [State Workers' Compensation Contact Information](#State_Workers'_Compensation_Contact_InformationNYWC)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in New York below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [Employer's Report of Work-Related Injury/Illness](http://www.wcb.ny.gov/content/main/forms/c2F.pdf)
  + [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_EMPLOYER.jsp) for additional languages.
* [Employer's Report of Injured Employee's Change in Status or Return to Work](http://www.wcb.ny.gov/content/main/forms/c11.pdf)
* [Employer's Statement of Wage Earnings Preceding Date of Accident](http://www.wcb.ny.gov/content/main/forms/c240.pdf)
* [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_EMPLOYER.jsp) for additional forms.

### Forms for Employees

* [Employee Claim](http://www.wcb.ny.gov/content/main/forms/c3.pdf)
  + [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_CLAIMANT.jsp) for additional languages.
* [Claim for Compensation and Notice of Commencement of Third Party Action](http://www.wcb.ny.gov/content/main/forms/c121.pdf)
* [Discharge or Discrimination Complaint](http://www.wcb.ny.gov/content/main/forms/dc120.pdf)
* [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_CLAIMANT.jsp) for additional forms.

### Forms to Submit to Government Agencies

* [Employer's Report of Injured Employee's Change in Status or Return to Work](http://www.wcb.ny.gov/content/main/forms/c11.pdf)
* [Notice of Treatment Issue/Disputed Bill](http://www.wcb.ny.gov/content/main/forms/c8_1.pdf)
* [Doctor's Progress Report](http://www.wcb.ny.gov/content/main/forms/c4_2.pdf)
* [Click here](http://www.wcb.ny.gov/content/main/forms/AllForms.jsp) for additional forms.

### Forms for Insurance Carriers

* [Notice of Treatment Issue/Disputed Bill](http://www.wcb.ny.gov/content/main/forms/c8_1.pdf)
* [Notice to Health Care Provider and Injured Worker of a Carrier's Refusal to Pay All (or a Portion of) a Medical Bill Due to Valuation Objection(s)](http://www.wcb.ny.gov/content/main/forms/c8_4.pdf)
* [Carrier's Request for Reimbursement of Medical Payments Under WCL Section 15(8)](http://www.wcb.ny.gov/content/main/forms/C251_1.pdf)
* [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_CARRIER.jsp) for additional forms.

### Forms for Doctors & Medical Facilities

* [Doctor's Progress Report](http://www.wcb.ny.gov/content/main/forms/c4_2.pdf)
* [Doctor's Report of MMI/Permanent Impairment](http://www.wcb.ny.gov/content/main/forms/c4_3.pdf)
* [Attending Doctor's Request for Authorization and Carrier's Response](http://www.wcb.ny.gov/content/main/forms/c4AUTH.pdf)
* [Click here](http://www.wcb.ny.gov/content/main/forms/Forms_HEALTH_PROVIDER.jsp) for additional forms.

## Workers' Compensation Publications

* [Employers' Handbook](http://www.wcb.ny.gov/content/main/Employers/EmployerHandbook.pdf)
* [Your Responsibilities as an Employer - Reporting Injury and Illness](http://www.wcb.ny.gov/content/main/TheBoard/EMP-TimelyReporting.pdf)
* [Injured on the Job? An Employee's Guide to Workers' Compensation in New York State](http://www.wcb.ny.gov/content/main/Workers/InjuredOnTheJob.pdf)
  + [Click here](http://www.wcb.ny.gov/content/main/TheBoard/publications.jsp) for additional languages.
* [Click here](http://www.wcb.ny.gov/content/main/TheBoard/publications.jsp) for additional publications.

## Workers' Compensation Poster

* New York (NY) Workers' Compensation Required Notice - Notice of Compliance for Workers' Compensation
  + Supplied by employer's insurance carrier.

## State Workers' Compensation Contact Information

**[New York State Workers' Compensation Board](http://www.wcb.ny.gov/" \o "New York State Workers' Compensation Board" \t "_blank)**

PO Box 5205  
Binghamton, NY 13902-5205  
Phone: (877) 632-4996   
Fax: (877) 533-0337  
Fraud: (888) 363-6001

**[New York State Insurance Fund](http://ww3.nysif.com/" \o "New York State Insurance Fund" \t "_blank)**

199 Church Street   
New York, NY 10007   
Phone: (212) 587-5435

# Texas

## Arrests and Convictions

# Arrests and Convictions in Texas (TX)

Texas employers may generally access employee and applicant arrest and conviction records, including information related to arrests, charges, prosecutions, convictions, outcomes, and imprisonments. However, employers **may not** disclose criminal history record information unless authorized by law.

**Additional requirements and exceptions may apply**. For more information, contact the [Texas Department of Public Safety's Crime Records Service](http://www.txdps.state.tx.us/administration/crime_records/pages/index.htm) at 512-424-7364.

## Child Labor

# Child Labor in Texas (TX)

## Minimum Wage for Certain Students & Minors

An employer is exempt from the Texas minimum wage laws with respect to the employment of a person who:

* Is less than 18 years of age and is not a high school graduate or a graduate of a vocational training program (other than a person employed in agriculture whose pay is computed on a piece rate);
* Is less than 20 years of age and is a student regularly enrolled in a high school, college, university, or vocational training program (other than a person employed in agriculture whose pay is computed on a piece rate); or
* Has a disability and who is:
  + Not more than 21 years of age;
  + A client of vocational rehabilitation; and
  + Participating in a cooperative school-work program.

However, where federal and state law have different minimum wage rates, the higher standard applies.

## For More Information

* [Texas Minimum Wage Information](http://www.twc.state.tx.us/ui/lablaw/texas-minimum-wage-law.html)
* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
* [Parental Consent Form to Employ a Child to Solicit](http://www.twc.state.tx.us/ui/lablaw/parental-consent-employ-child-solicit.pdf)
* [Texas Workforce Commission](http://www.twc.state.tx.us/)
* [Texas Child Labor Law – Labor Code Chapter 51](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.51.htm)
* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
* [U.S. Department of Labor – Child Labor](http://www.dol.gov/whd/childlabor.htm)

# Child Labor in Texas (TX)

Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## Exemptions from State Child Labor Law

When a business is owned or operated by a parent or legal custodian, the parent or custodian may employ their own children at any age to work any hours, so long as the work is non-hazardous (not prohibited) and the child works under the parent or custodian’s direct supervision.

In addition, Texas child labor law does not apply to employment of a child who is:

* Engaged in non-hazardous casual employment that will not endanger the safety, health or well-being of the child and to which a parent or legal custodian has consented.
  + Casual employment is work that is unscheduled and nonrecurring.
  + Non-hazardous employment involves work that neither the federal government nor TWC have determined is dangerous to the safety, health or well-being of a child. (For more information, see the sections about prohibited and permitted occupations.)

* 11 years or older delivering newspapers on a newspaper route (exemption does not include direct sales).
* 16 years or older engaged in the direct sale of newspapers to the general public.
* Participating in a school-supervised and school-administered work-study program approved by TWC.
* Employed through a rehabilitation program supervised by a county judge.
* Employed in agriculture during a period when the child is not legally required to be attending school.

According to the [Texas Workforce Commission](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html) (TWC), child labor laws generally cover employees under 18 years of age. Once an individual reaches age 18, he or she is considered an adult under child labor laws.

## For More Information

* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
* [Parental Consent Form to Employ a Child to Solicit](http://www.twc.state.tx.us/ui/lablaw/parental-consent-employ-child-solicit.pdf)
* [Texas Workforce Commission](http://www.twc.state.tx.us/)
* [Texas Child Labor Law – Labor Code Chapter 51](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.51.htm)
* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
* [U.S. Department of Labor – Child Labor](http://www.dol.gov/whd/childlabor.htm)

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Both state and federal law restrict the employment of minors. When state youth employment laws differ from the [federal provisions](http://www.dol.gov/whd/regs/compliance/whdfs43.pdf), an employer must comply with the higher standard. State child labor standards are presented below.

## State Restrictions on Hours Worked

* A child age **16 or 17** has no restrictions on the number of hours or times of day he or she may work.
* There are hour restrictions only for children ages **14 and 15**, with separate state and federal laws that cover their work hours.

Under state law, **14 and 15 year olds**:

* Can work no more than 8 hours in one day.
* Can work no more than 48 hours in one week.
* Cannot go to work before 5 a.m.
* Cannot work after 10 p.m. on a day that is followed by a school day, including summer school sessions when applicable.
* Cannot work past midnight on a day that is not followed by a school day.

**Hardship Exemption**To request that TWC approve a hardship waiver of the hour restrictions for a child age 14 or 15 because it is necessary for the child to work to support himself or herself or his or her immediate family, follow the process described in the [regulations](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=817&rl=22).

## For More Information

* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
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* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
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## State Restrictions on Age and Duties Performed

**Minimum Age**It is illegal to employ a child under age 14 except under [specific circumstances](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html#restrictionsEmployment), including certain acting and performance jobs.

**Solicitation**Soliciting is considered a hazardous occupation. It is illegal to:

* Employ anyone under age 14 and unaccompanied by a parent to sell or solicit goods or services for any person other than an exempt organization or a business owned or operated by a parent or legal custodian. Exempt organizations include:
  + Charitable organizations;
  + An organization regulated under [Title 15 of the Texas Election Code](http://www.statutes.legis.state.tx.us/?link=EL); or
  + A club, organization, or other group engaged in a fund-raising activity for the club, organization, or group if the activity is sponsored by a public or private primary or secondary school.

* Employ a child to sell or solicit goods or services for any person other than an exempt organization (unless permission is granted by a parent or legal custodian on the [parental consent form](http://www.twc.state.tx.us/ui/lablaw/parental-consent-employ-child-solicit.pdf) at least 7 days before employment begins).

**Sexually Oriented Business**State law prohibits employment of a child in a sexually oriented business, requires a sexually oriented business to maintain certain photographic identification records, and provides for a criminal penalty.

## For More Information

* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
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* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
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## Permitted and Prohibited Occupations

Note: This is not an exhaustive list of job restrictions. For a complete list of prohibited occupations for minors, employers may review the [state](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.51.htm) and [federal](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl) child labor laws.

**Permitted Occupations for 14- and 15-Year Olds**A child who is age 14 or 15 may be employed in the following occupations in retail, food service, and gasoline service establishments:

* Office and clerical work (including operation of office machines).
* Cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping.
* Price marking and tagging by hand or by machine; assembling orders, packing and shelving.
* Bagging and carrying out customers' orders.
* Errand and delivery work by foot, bicycle and public transportation.
* Cleanup work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters.
* Work in connection with cars and trucks if confined to the following:
  + Dispensing gasoline and oil.
  + Courtesy service on premises of gasoline service station.
  + Car cleaning, washing and polishing.
  + Other occupations permitted by this section.
* Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as (but not limited to) dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders and coffee grinders.
* Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from areas where meat is prepared for sale and outside freezers or meat coolers.
* But not including work:
  + Involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

**Prohibited Occupations for 14- and 15-Year Olds**A child who is age 14 or 15 may not be employed in:

* Manufacturing, mining or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed.
* Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines.
* The operation of motor vehicles or service as helpers on such vehicles.
* Public messenger service.
* Occupations which the U.S. Secretary of Labor may declare to be [hazardous](https://www.dol.gov/general/topic/youthlabor/hazardousjobs) for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.
* Occupations in connection with:
  + Transportation of persons or property by rail, highway, air, water, pipeline or other means.
  + Warehousing and storage.
  + Communications and public utilities.
  + Construction (including demolition and repair).
  + Exception: Office work (including ticket office work) or sales work that does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.
* Work performed in or about boiler or engine rooms.
* Work in connection with maintenance or repair of the establishment or equipment.
* Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds or their substitutes.
* [Cooking and baking](http://www.dol.gov/whd/regs/compliance/whdfs58.htm):
  + Including the use of electric and gas grilles that entail cooking over an open flame.
  + Including the use of deep fryers that are not equipped with and utilize devices that automatically lower and raise the baskets into and out of oil or grease.
  + Including the cleaning of kitchen surfaces and non-power driven kitchen equipment (including the filtering, transporting and dispensing of oil and grease) but only when the temperature of the surfaces, equipment, oil and grease exceeds 100 F.
* Work in freezers and meat coolers and all work in the preparation of meats for sale.
* Occupations which involve operating, setting up, adjusting, cleaning, oiling or repairing power-driven food slicers and grinders, food choppers, and cutters and bakery-type mixers.
* Loading or unloading goods to and from trucks, railroad cars or conveyors.
* All occupations in warehouses except office and clerical work.

**Prohibited Occupations for 16- and 17-Year Olds**A child who is age 16 or 17 may not be employed in the occupations listed below, except that those occupations shown with an asterisk (\*) may have apprentice or student-learner exemptions for employment:

* In or about plants or establishments manufacturing or storing explosives.
* Involving the [driving of motor vehicles and outside helpers](http://www.dol.gov/whd/regs/compliance/whdfs34.htm) (for example, someone riding on the outside of the vehicle to pick up trash bins):
  + On any public road or highway.
  + In or about any place where logging or sawmill operations are in progress.
  + In excavations.
  + Note: Under certain conditions, driving a motor vehicle for a commercial purpose is not considered a hazardous occupation under [state](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html#driving) or [federal law](http://www.dol.gov/whd/regs/compliance/whdfs34.htm).
* Connected with coal mining.
* In connection with mining, other than coal.
* Involving logging operations and sawmill operations, forest fire fighting and forest fire prevention operations and timber tract and forestry service occupations.
* \*Operating or assisting to operate power-driven woodworking machines.
* Involving exposure to radioactive substances and to ionizing radiations.
* Operating or assisting to operate power-driven hoisting apparatus such as elevators, cranes, derricks, hoists and high-lift trucks.
* \*Operating or assisting to operate power-driven metal forming, punching, and shearing machines.
* \*Operating or assisting to operate power-driven meat processing machines and in slaughtering, meat and poultry packing, processing, or rendering.
* Operating or assisting to operate power-driven bakery machines.
* \*Involving the operating of power-driven paper-products machines, balers and compactors (Under certain conditions, loading a baler or box compactor is not considered a hazardous occupation under state or [federal law](http://www.dol.gov/whd/regs/compliance/whdfs57.htm)).
* Manufacturing brick, tile and kindred products.
* \*Operating or assisting to operate power-driven circular saws, band saws and guillotine shears, abrasive cutting discs, reciprocating saws, chain saws, and wood chippers.
* Wrecking, demolition and ship-breaking operations.
* \*Roofing operations and work on or about a roof.
* \*Connected with excavation operations.

For the prohibited occupations listed above with an asterisk (\*), a child who is age 16 or 17 may be employed as an [apprentice or student learner](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html#prohibited17Olds).

## For More Information

* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
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* [Texas Workforce Commission](http://www.twc.state.tx.us/)
* [Texas Child Labor Law – Labor Code Chapter 51](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.51.htm)
* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
* [U.S. Department of Labor – Child Labor](http://www.dol.gov/whd/childlabor.htm)

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## Work Permits/Age Certificates

* A child who is at least 14 years of age may apply to the commission for a certificate of age that states the date of birth of the child.
* It is a defense to prosecution of a person employing a child who does not meet the minimum age requirement for a type of employment that the person relied in good faith on an apparently valid certificate of age presented by the child that showed the child to meet the age requirement for that type of employment.
* If a prospective or current employer asks a child, ages 14 to 17, to furnish a Certificate of Age, the certificate may be obtained from TWC. An [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf) is available from TWC.

## Poster

An optional Texas Child Labor Laws poster is available from TWC in [English](http://www.twc.state.tx.us/ui/lablaw/llcl70.pdf) and [Spanish](http://www.twc.state.tx.us/files/businesses/child-labor-law-poster-espanol-twc.pdf).

## For More Information

* [Application for Certificate of Age](http://www.twc.state.tx.us/ui/lablaw/application-certificate-age.pdf)
* [Application for Child Actor/Performer Authorization](http://www.twc.state.tx.us/ui/lablaw/application-child-actor-performer-authorization.pdf)
* [Federal Child Labor Regulations](http://www.ecfr.gov/cgi-bin/text-idx?SID=acf20418a0ee5ddcfb5c16646563bfae&tpl=/ecfrbrowse/Title29/29cfr570_main_02.tpl)
* [Information on Texas Child Labor Law](http://www.twc.state.tx.us/ui/lablaw/texas-child-labor-law.html)
* [Parental Consent Form to Employ a Child to Solicit](http://www.twc.state.tx.us/ui/lablaw/parental-consent-employ-child-solicit.pdf)
* [Texas Workforce Commission](http://www.twc.state.tx.us/)
* [Texas Child Labor Law – Labor Code Chapter 51](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.51.htm)
* [Texas Child Labor Rules – Texas Administrative Code](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=20&ch=817)
* [U.S. Department of Labor – Child Labor](http://www.dol.gov/whd/childlabor.htm)

## Continuation of Benefits

# Continuation of Benefits in Texas (TX)

## Texas Continuation of Coverage ("mini-COBRA")

Texas requires employers to provide employees and dependents not eligible for federal COBRA the right to continue coverage for up to 9 months if coverage under the group policy is terminated (except under self-funded plans). Employers also must allow employees and dependents who are eligible for continuation coverage under federal COBRA to continue coverage for an additional 6 months under state law after federal COBRA is exhausted. Additionally, employers must continue coverage for certain dependents for up to 3 years if termination of coverage is caused by severance of the family relationship, or death or retirement of the employee.

### Qualifying Events

Continuation coverage must be provided for up to 9 months for employees and eligible dependents not eligible for federal COBRA when coverage under the group policy is terminated for any reason other than involuntary termination for cause, including discontinuance of the group policy. To be eligible, the individual must have been continuously insured under the group policy for at least 3 consecutive months immediately prior to the termination.

Continuation coverage also must be provided for any employee or dependent eligible for coverage under federal COBRA for 6 additional months following any period of coverage under federal COBRA.

Spouses and dependents whose eligibility for coverage under the group policy ends due to the retirement or death of the employee or severance of the family relationship must be permitted to continue coverage for up to 36 months, provided that the individual has been insured under the group policy for at least 1 year (or is an infant under 1 year of age).

### Employer/Employee Notice Requirements

*Notice Upon Termination of Coverage*

* Written notice of the continuation privilege upon termination must be provided to each insured employee or dependent that would be affected by a termination.
* Generally, notice of the right to continue coverage must also be provided to each individual whose coverage is terminating not less than 30 days before termination. In situations in which the employer becomes aware that coverage will terminate less than 30 days before actual termination, notice must be given immediately.
  + [Click here](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=28&pt=1&ch=21&rl=5311) for information regarding the required content of the notice.
* An individual must request continuation of group coverage in writing no later than 60 days following the date the group coverage would otherwise terminate, or the date the individual is given notice of the right to continue coverage, whichever is later.

*Notice Upon Severance of the Family Relationship or Death or Retirement of Employee*

* Written notice of the continuation option upon severance of the family relationship or death or retirement of the employee must be provided to each insured employee and dependent when the policy is issued.
* The employee or dependent must provide written notice of severance of the family relationship not later than the 15th day after the date of severance.
* Notice of an eligible dependent's right to continue coverage must be provided to the dependent immediately after receipt of the dependent's notice.
* The eligible dependent must provide written notice of the desire to continue coverage no later than 60 days following the qualifying event.

### Premium Payments

Generally, the monthly premium for continuation of coverage is equal to the amount of contribution required plus 2% of the group rate. The first payment must be made no later than 45 days after the initial election for continuation coverage.

For spouses and dependents who continue coverage due to severance of the family relationship or the retirement or death of the employee, the premium may not exceed the group rate, except that a monthly administrative fee of not more than $5 may be required.

### How Coverage May be Terminated

Continuation of benefits may be terminated before the end of the maximum period of coverage for any person eligible for continuation due to loss of group coverage for reasons other than involuntary termination, for the following reasons:

* Failure to make timely premium payments;
* Group coverage terminates in its entirety;
* Insured's eligibility or coverage under Medicare;
* Insured's coverage for similar benefits by another plan or program;
* Insured's eligibility for similar benefits under any insured or uninsured group policy; or
* Availability of similar benefits under any state or federal law (other than federal COBRA).

Employers may terminate the continuation of benefits for spouses and dependents due to severance of the family relationship or the retirement or death of the employee before the end of 36 months, for the following reasons:

* Failure to make a timely premium payment; or
* Insured's eligibility for substantially similar coverage under another plan or program.

### For More Information

* [Texas Statutes](http://www.statutes.legis.state.tx.us/Docs/IN/htm/IN.1251.htm#F) (§1251.251 et seq.)
* [Texas Department of Insurance: Losing Group Coverage](http://www.tdi.texas.gov/pubs/consumer/cb005.html#losing)

## Deductions From Wages

# Deductions from Wages in Texas (TX)

## Mandatory Deductions

The following deductions are [required by law](http://www.twc.state.tx.us/news/efte/texas_payday_law_deduction_summary.html) and no authorization is needed:

* Court-ordered child support and alimony;
* Guaranteed student loan wage attachment;
* Internal Revenue Service (IRS) tax levy;
* Withholding tax;
* Federal Insurance Contributions Act (FICA) tax; and
* Any garnishments mandated by a federal court (such as in bankruptcy cases).

## Permissible Deductions

The following deductions are [authorized by law](http://www.twc.state.tx.us/news/efte/texas_payday_law_deduction_summary.html) and written employee authorization is needed:

* Child and spousal support administrative fees;
* Student loan wage attachment administrative fees;
* Meals, lodging, and other facilities;
* Voluntary wage assignments;
* Loans;
* Wage or salary advances (provided that [certain conditions](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=25148&p_tloc=&p_ploc=1&pg=3&p_tac=&ti=40&pt=20&ch=821&rl=29) are met);
* Vacation pay advances;
* Wage overpayments;
* Uniform and uniform cleaning costs;
* Union dues;
* Misappropriated cash; and
* Any other deduction for a lawful purpose ([click here](http://www.twc.state.tx.us/news/efte/texas_payday_law_deduction_summary.html) for examples).

Note: Please see the discussions in "[Deduction Problems under the Texas Payday Law](http://www.twc.state.tx.us/news/efte/deduction_problems_under_tpl.html)" for restrictions on certain deductions. Additionally, written authorization is recommended for some deductions—please see "[Deductions for Administrative Fees](http://www.twc.state.tx.us/news/efte/deduction_problems_under_tpl.html#deductionsadminfees)."

## Prohibited Deductions

* An employer may not withhold or divert any part of an employee's wages unless the employer is ordered to do so by a court of competent jurisdiction; is authorized to do so by state or federal law; or has written authorization from the employee to deduct part of the wages for a lawful purpose (see mandatory and permissible deductions above).
* A contract that permits or requires the retention of part of an employee's compensation to pay dues or assessments to a labor union is void without the employee's written consent.
* Properly withheld wages not applied toward their authorized purpose are considered unlawful deductions.
* In recouping a loan made to an employee from any of the employee's paychecks (including the employee's final paycheck), an employer may not withhold or divert more than the [agreed amount](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=148362&p_tloc=&p_ploc=1&pg=7&p_tac=&ti=40&pt=20&ch=821&rl=29).

## For More Information

* [Texas Payday Law Deduction Summary](http://www.twc.state.tx.us/news/efte/texas_payday_law_deduction_summary.html)
* [Allowable Deductions Under the Fair Labor Standards Act](http://www.twc.state.tx.us/news/efte/allowable_deductions.html) (Texas Workforce Commission)
* [Deduction Problems under the Texas Payday Law](http://www.twc.state.tx.us/news/efte/deduction_problems_under_tpl.html)
* [Wage Deduction Authorization Agreement](http://www.twc.state.tx.us/news/efte/wage_deduction_authorization_agreement.html)

## Discrimination

# Discrimination in Texas (TX)

This page features information on the following topics regarding discrimination in Texas:

* [Overview](#Overview_TXDISC)
* [Coverage](#Coverage_TXDISC)
* [Prohibited Employer Actions](#Prohibited_Employer_Actions_TXDISC)
* [Additional Information](#Additional_Information_TXDISC)

## Overview

Texas law prohibits certain [employment discrimination](http://www.twc.state.tx.us/jobseekers/employee-rights-laws) on the basis of protected categories.

Note: This page provides a general overview only of state discrimination law. Additional federal, state, or local laws may provide further nondiscrimination protections. Employers are strongly advised to contact their [state labor departments](https://www.dol.gov/whd/contacts/state_of.htm) or a knowledgeable employment law attorney to ensure full compliance with the law.

## Coverage

Under the law, "employer" generally means (among other things) a business with **15 or more employees**. [Click here](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm#21.002) for more information and definitions.

## Prohibited Employer Actions

**Discrimination and segregation.** An employer commits an unlawful employment practice if—because of race, color, disability, religion, sex, national origin, or age—it:

* **Fails or refuses to hire** an individual, **discharges** an individual, or **discriminates** in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or
* **Limits, segregates, or** **classifies** an employee or applicant in a manner that would deprive (or tend to deprive) an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

**Retaliation.** An employer commits an unlawful employment practice if it **retaliates or discriminates against** a person who, under the law: opposes a discriminatory practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.

**Aiding and abetting.** An employer commits an unlawful employment practice if it **aids, abets, incites, or coerces** a person to engage in a discriminatory practice.

**Foster child care.** An employer commits an unlawful employment practice if:

* The employer administers a **leave policy** under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
* The leave policy described by the bullet above does not treat in the same manner as an employee's biological or adopted minor child any **foster child** of the employee who: resides in the same household as the employee; and is under the conservatorship of the state Department of Family and Protective Services.

[Click here](http://www.capitol.state.tx.us/tlodocs/85R/billtext/pdf/HB00088F.pdf) for more information.

**Sex discrimination.** A provision in the law referring to discrimination because of sex (or on the basis of sex) includes discrimination because of (or on the basis of) **pregnancy, childbirth, or a related medical condition**.

A woman affected by pregnancy, childbirth, or a related medical condition must be treated for all purposes related to employment—including receipt of a benefit under a fringe benefit program—in the **same manner** as another individual not affected but similar in the individual's ability or inability to work.

**Discrimination based on religion.** A provision in the law referring to discrimination because of religion (or on the basis of religion) applies to discrimination because of (or on the basis of) any aspect of **religious observance, practice, or belief**—unless an employer demonstrates that it is unable **reasonably to accommodate** the religious observance or practice of an employee or applicant without **undue hardship** to the conduct of its business.

**Reasonable accommodation (disability).** It is an unlawful employment practice for a [respondent](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm#21.002) covered under the law to fail or refuse to make a **reasonable workplace accommodation** to a known physical or mental limitation of an otherwise **qualified individual with a disability** who is an employee or applicant—unless the respondent demonstrates that the accommodation would impose an **undue hardship** on the operation of its business.

[Click here](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm#21.128) for more information.

**Genetic information.** An employer commits an unlawful employment practice if it fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to compensation or the terms, conditions, or privileges of employment:

* On the basis of **genetic information** concerning the individual; or
* Because of the refusal of the individual to submit to a **genetic test**.

[Click here](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm#H) for more information.

Further details, including additional prohibited actions and exceptions, are available by [clicking here](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm).

## Additional Information

* [Texas Workforce Commission](http://www.twc.state.tx.us/jobseekers/employee-rights-laws)
* [Labor Code, Chapter 21: Employment Discrimination](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.21.htm)
* [Labor Code, Chapter 22. Employment Discrimination for Participating in Emergency Evacuation](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.22.htm)
* [Emergency Evacuation Discrimination](http://www.twc.state.tx.us/jobseekers/emergency-evacuation-discrimination)
* [State Military Forces: Protections Against Adverse Employment Actions](http://www.twc.state.tx.us/jobseekers/state-military-forces-protections-against-adverse-employment-actions)

## Drug Testing

# Drug and Alcohol Testing in Texas (TX)

Texas currently has no comprehensive law regulating the use of drug or alcohol testing by private employers.

## Employee Leave

# Jury Duty in Texas (TX)

Texas law prohibits employers from terminating, threatening to terminate, penalizing, or threatening to penalize an employee because the employee performs jury duty. However, employers are not required to pay an employee for time missed from work due to jury service.

For more information, please [click here](http://www.txcourts.gov/about-texas-courts/juror-information/jury-service-in-texas.aspx).

# Voting Leave in Texas (TX)

Texas requires private employers to grant employees time off to vote as follows:

* Employers are required to provide employees time off to vote unless an employee has 2 consecutive hours of nonworking time during the time the polls are open.
* Employers may not penalize employees for taking voting leave or deduct voting time from their wages.

[Click here](http://www.twc.state.tx.us/news/efte/voting_time_off.html#276.004) for more information.

## Family and Medical Leave

# Family and Medical Leave in Texas (TX)

## Texas Family and Medical Leave

Texas currently has no comprehensive family and medical leave law requiring private employers to provide leave rights greater than those required by the federal Family and Medical Leave Act (FMLA).

## Leave for Foster Child Care

Under a law in Texas, effective September 1, 2017, an employer with **15 or more employees** (among other entities) commits an **unlawful employment practice** if:

* The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
* The leave policy described by the bullet above does not treat in the same manner as an employee's biological or adopted minor child any **foster child** of the employee who: resides in the same household as the employee; and is under the conservatorship of the state Department of Family and Protective Services.

The law applies only to a claim of discrimination based on conduct that occurs **on or after** September 1, 2017. A claim of discrimination that is based on conduct that occurs **before** September 1, 2017 is governed by the law in effect on the date the conduct occurred, and the former law is **continued in effect** for that purpose.

[Click here](http://www.capitol.state.tx.us/tlodocs/85R/billtext/pdf/HB00088F.pdf) to read the text of the law.

## Final Pay Requirements

# Final Paycheck Requirements in Texas (TX)

## If the Employee is Involuntarily Terminated

The final paycheck is due within 6 days after termination.

## If the Employee Quits

The final paycheck is due no later than the next regularly scheduled payday.

## Payment of Unused Benefits on Termination

Vacation, holiday, sick leave, parental leave, or severance pay owed to an employee under a written agreement or policy is considered [wages](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.61.htm) due upon termination.

More information regarding [final paycheck requirements](http://www.twc.state.tx.us/news/efte/final_pay.html) and [payment of unused benefits](http://www.twc.state.tx.us/news/efte/accrued_leave_payouts.html) on termination is available from the State of Texas.

## Immigration and Verifying Employment Eligibility

# Immigration Law and Verifying Employment Eligibility in Texas (TX)

There is no requirement for private employers in Texas to enroll and participate in the federal work authorization program commonly known as [E-Verify](http://www.uscis.gov/e-verify) to verify the employment eligibility of employees hired to work.

Note: Federal law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. [Click here](https://www.hr360.com/Resource-Center/Federal-Laws/Labor-and-Employment-Laws/Immigration-Reform-and-Control-Act.aspx) for more information.

### Public Contracts

All agencies under the direction of the governor must include—as a condition of all state contracts for services—a requirement that contractors utilize [E-Verify](http://www.uscis.gov/e-verify) to determine the eligibility of:

* All persons employed during the contract term to perform duties within Texas; and
* All persons (including subcontractors) assigned by the contractor to perform work pursuant to the contract.

**Federal E-Verify Rules Applicable**

Federal E-Verify requirements are in effect at all times. Under federal E-Verify rules, most employers using E-Verify may only create E-Verify cases for **new hires** (although the rules provide an exception for employers enrolled in E-Verify as federal contractors). Federal E-Verify rules also bar all employers from creating E-Verify cases for an individual before he or she accepts a job offer and completes a Form I-9. Consequently, **employers using E-Verify for prospective employees or using E-Verify for current employees when not enrolled in E-Verify as federal contractors would violate federal E-Verify program rules.**

Additionally, an employer that uses Executive Order RP-80 (state E-Verify provisions) to assign an employee to work in Texas for the purpose of re-verifying the employee's employment authorization may raise concerns that it is treating that employee differently in the employment eligibility verification process based on perceived citizenship status or national origin, which may violate the federal [Immigration and Nationality Act](https://www.law.cornell.edu/uscode/text/8/1324b).

### For More Information

* [E-Verify Guidance](https://www.justice.gov/sites/default/files/crt/legacy/2015/04/16/184.pdf)
* [E-Verify Memorandum of Understanding](https://www.uscis.gov/e-verify/publications/memos/publications-memorandums)
* [Executive Order RP-80](http://www.lrl.state.tx.us/scanned/govdocs/Rick%20Perry/2014/RP-80.pdf)
* [State Attorney General Opinion Letter](https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0070.pdf)

## Meal and Rest Breaks

# Meal & Rest Breaks in Texas (TX)

Texas generally does not require private employers to provide employees meal or rest breaks, except as follows:

### Day of Rest Requirement for Retail Employees

* Employers in the business of retail must give employees at least 24 consecutive hours to rest or worship every 7 days.

[Texas Workforce Commission](http://www.twc.state.tx.us/)

## Minimum Wage

# Minimum Wage Rate in Texas (TX)

* The Texas minimum wage rate is $7.25 per hour and $2.13 per hour for tipped employees.

**Special Note Regarding Tipped Employees**: A tipped employee customarily and regularly receives more than $30 per month in tips. If the employee's tips and the cash wage do not equal the minimum wage, the employer must make up the difference.

**Special Note Regarding Minor and Student Employees**: An employer is [exempt](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.62.htm) from the Texas minimum wage laws with respect to the employment of a person who:

* Is less than 18 years of age and is not a high school graduate or a graduate of a vocational training program (other than a person employed in agriculture whose pay is computed on a piece rate);
* Is less than 20 years of age and is a student regularly enrolled in a high school, college, university, or vocational training program (other than a person employed in agriculture whose pay is computed on a piece rate); or
* Has a disability and who is:
  + Not more than 21 years of age;
  + A client of vocational rehabilitation; and
  + Participating in a cooperative school-work program.

### For More Information

* [Texas Minimum Wage Information](http://www.twc.state.tx.us/ui/lablaw/tmwsum.html)
* [Federal Minimum Wage Rate and Fair Labor Standards Act](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2840&libID=2861)
* [Minimum Wage FAQs from the U.S. Wage and Hour Division](http://www.dol.gov/dol/topic/wages/minimumwage.htm)

[**Texas Workforce Commission**](http://www.twc.state.tx.us/)101 E. 15th Street  
Austin, Texas 78778  
(512) 463-2236

## New Hire Reporting

# New Hire Reporting in Texas (TX)

Texas requires private employers to submit information regarding newly hired employees, as well as certain employees who are returning to work, to the Employer New Hire Reporting Operations Center as follows:

### Reporting Requirements

* Employers must report the following information for each newly hired or recalled employee within 20 days from the date of hire or reemployment (employers reporting electronically must transmit twice monthly every 12-16 days):
  + Employee's name, address, date of hire (the first day services are performed for pay) and social security number.
  + Employer's name, address and federal employer identification number.

### How to Submit Reports

* Employers may report via the Internet through the [Texas OAG Child Support](https://portal.cs.oag.state.tx.us/wps/portal/!ut/p/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os_ggLx_XUGcjI0ODAD8LA093RyfHQDcnYwMDY30_j_zcVP2CbEdFAMsxbFQ!/dl2/d1/L2dJQSEvUUt3QS9ZQnB3LzZfUkpMRVVDMjIxMFBOODBJR0FCQVFGQjMwSTU!/?rd=eosReportNewHire) website or they may [upload](https://portal.cs.oag.state.tx.us/wps/portal/UploadInstructionsforNewHire) their reports and transmit them via the Internet.
* Employers may alternatively submit one of the following paper reports, which may be faxed or mailed by first class mail to the Employer New Hire Reporting Operations Center:
  + [New Hire Reporting Form](http://portal.cs.oag.state.tx.us/OAGStaticContent/EmployerOneStopProject/EmployerOneStop/HelpfulInformation/Tx_employer_new_hire_rpt.pdf);
  + Form W-4 (that contains all of the required information); or
  + An employer-created form that contains all of the required information.
* Employers with employees in two or more states who transmit reports magnetically or electronically may designate a single state to which all new hires can be reported after notifying, in writing, the federal Department of Health and Human Services, of this designation.

### Penalty for Failure to Report

* Employers who knowingly fail to report newly hired or recalled workers may be fined up to $25 for each violation and up to $500 if the failure is the result of a conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report.

[**Texas Employer New Hire Reporting Operations Center**](https://portal.cs.oag.state.tx.us/wps/portal/!ut/p/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os_ggLx_XUGcjI0ODAD8LA093RyfHQDcnYwM_A6B8JG55AwMCuv088nNT9QtyI8oBeE5ffw!!/dl2/d1/L2dJQSEvUUt3QS9ZQnB3LzZfUkpMRVVDMjIxMFBOODBJR0FCQVFGQjMwNzQ!/)P.O. Box 149224   
Austin, TX 78714   
(800) 850-6442   
Fax: (800) 732-5015  
  
**Federal Multistate Employer New Hire Notification:**U.S. Department of Health and Human Services  
Office of Child Support Enforcement  
Multi-State Employer Registration  
Box 509, Randallstown, MD 21133  
(410) 277-9470

* [Federal multistate employer new-hire notification form](https://www.acf.hhs.gov/css/resource/multistate-employer-registration-form-instructions)
* [Federal new-hire reporting requirements](http://www.acf.hhs.gov/programs/css/employers/new-hire-reporting)

## Occupational Safety and Health

This state/jurisdiction does not have a state plan applicable to private sector employees. Please visit the federal Occupational Safety and Health Administration's [website](https://www.osha.gov/) for applicable federal requirements.

## Overtime

# Overtime Rates in Texas (TX)

Texas currently has no overtime law requiring private employers to pay more than the [federal overtime rate](http://www.dol.gov/whd/overtime_pay.htm) equal to 1 ½ times an employee's regular rate of pay for hours worked in excess of 40 per workweek.  
  
**Texas Workforce Commission**[Overtime Pay](http://www.twc.state.tx.us/news/efte/otpay_conclusions.html)

## Personal Information Protection

# Personal Information Protection in Texas (TX)

Texas regulates the protection of personal information as follows:

### What is Considered Personal Information

Sensitive personal information is defined as:

* An individual's first name or first initial and last name in combination with any one or more of the following items (if the name and items are not encrypted):
  + Social security number;
  + Driver's license number or government-issued identification number; or
  + Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or

* Information that identifies an individual and relates to:
  + The physical or mental health or condition of the individual;
  + The provision of health care to the individual; or
  + Payment for the provision of health care to the individual.

Note: Sensitive personal information does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

### Requirements for Employers

A business must implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business.   
  
A business must also destroy or arrange for the destruction of customer records containing sensitive personal information within the business's custody or control that are not to be retained by the business by:

* Shredding;
* Erasing; or
* Otherwise modifying the sensitive personal information in the records to make the information unreadable or indecipherable through any means.

Additionally, a person who conducts business in Texas and owns or licenses computerized data that includes sensitive personal information must disclose any breach of system security (after discovering or receiving notification of a breach) to any individual whose sensitive personal information was—or is reasonably believed to have been—acquired by an unauthorized person.

A person that maintains computerized data that includes sensitive personal information not owned by the person generally must notify the owner or license holder of the information of any breach of system security immediately after discovering a breach, if the sensitive personal information was—or is reasonably believed to have been—acquired by an unauthorized person.

Note: The Texas Identity Theft Enforcement and Protection Act also contains certain prohibitions against obtaining, possessing, transferring, or using another person’s personal identifying information. [Click here](http://www.statutes.legis.state.tx.us/Docs/BC/htm/BC.521.htm) for more information.

### For More Information

* [Texas Identity Theft Enforcement and Protection Act](http://www.statutes.legis.state.tx.us/Docs/BC/htm/BC.521.htm)
* [Texas Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=871)
* [Employee Privacy Rights and Identity Theft](http://www.twc.state.tx.us/news/efte/employee_privacy_rights_and_identity_theft.html) (concerning the use of social security numbers as employee identifiers)
* [Federal Recordkeeping Requirements](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810)

## Posters

# Notices and Posters in Texas (TX)

The following posters are mandatory for Texas employers so that employees have access to and information about applicable labor laws.  These posters can be downloaded from the links below.

##STATE\_LAW\_POSTER\_BANNER##

## Texas (TX) State Poster Requirements

| **Posting Requirements** | **Notes** | **Poster Format** |
| --- | --- | --- |
| Texas (TX) Child Labor Laws | Optional | [English](http://www.twc.state.tx.us/ui/lablaw/llcl70.pdf) (PDF)  [Spanish](http://www.twc.state.tx.us/ui/lablaw/llcl70s.pdf) (PDF) |
| Texas (TX) Employer's Notice of Ombudsman Program |  | [English](http://www.oiec.state.tx.us/documents/employernotice0913.pdf) (PDF)  [Spanish](http://www.oiec.state.tx.us/documents/employernoticesp0913.pdf) (PDF) |
| Texas (TX) Equal Employment Opportunity is the Law in Texas | Optional | [English](http://www.twc.state.tx.us/files/businesses/employee-rights-poster-twc.pdf) (PDF) |
| Texas (TX) Hazard Communication Act | Public employers and private employers not covered by federal Occupational Safety and Health standards | [English](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=11418&libID=11661) (PDF) |
| Texas (TX) Payday Law |  | [English](http://www.twc.state.tx.us/ui/lablaw/ll10.pdf) (PDF)  [Spanish](http://www.twc.state.tx.us/files/businesses/texas-payday-law-poster-espanol-twc.pdf) (PDF) |
| Texas (TX) Payday Law & Unemployment Law | If a business's employees are [covered by the Texas Unemployment Compensation Act](http://www.twc.state.tx.us/ui/tax/subject.html) and are also covered by the Texas Payday Law, use this poster. | [English](http://www.twc.state.tx.us/files/businesses/texas-unemployment-compensation-act-and-texas-payday-law-poster-twc.pdf) (PDF)  [Spanish](http://www.twc.state.tx.us/files/businesses/texas-unemployment-compensation-act-and-texas-payday-law-poster-spanish-twc.pdf) (PDF) |
| Texas (TX) Whistleblower Protection | Public employers | [English](https://www.texasattorneygeneral.gov/files/agency/whistleblower_poster.pdf) (PDF) |
| Texas (TX) Workers' Compensation Insurance Notice 5 | Special size requirement: print with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type | [English](http://www.tdi.texas.gov/forms/dwc/notice5.pdf) (PDF)  [Spanish](http://www.tdi.texas.gov/forms/dwc/notice5s.pdf) (PDF) |
| Texas (TX) Workers' Compensation Insurance Notice 6 | Special size requirement: print with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type | [English](http://www.tdi.texas.gov/forms/dwc/notice6.pdf) (PDF)  [Spanish](http://www.tdi.texas.gov/forms/dwc/notice6s.pdf) (PDF) |
| Texas (TX) Workers' Compensation Insurance Notice 7 | Special size requirement: print with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type  Self-insured employers | [English](http://www.tdi.texas.gov/forms/dwc/notice7.pdf) (PDF)  [Spanish](http://www.tdi.texas.gov/forms/dwc/notice7s.pdf) (PDF)  [Vietnamese](http://www.tdi.texas.gov/forms/dwc/notice7v.pdf) (PDF) |
| Texas (TX) Workers' Compensation Insurance Notice 9 Regarding Communicable Diseases | Special size requirement: print with a title in at least 15 point bold type and text in at least 14 point normal type  Employers of law enforcement officers, fire fighters, emergency medical service employees, paramedics, and correctional officers | [English](http://www.tdi.texas.gov/forms/dwc/notice9.pdf) (PDF)  [Spanish](http://www.tdi.texas.gov/forms/dwc/notice9s.pdf) (PDF) |
| Texas (TX) Workers' Compensation Insurance Notice 10 | Special size requirement: print with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type  Members of self-insurance groups under [Labor Code Chapter 407A](http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.407A.htm) | [English](http://www.tdi.texas.gov/forms/dwc/notice10.pdf) (PDF)  [Spanish](http://www.tdi.texas.gov/forms/dwc/notice10s.pdf) (PDF)  [Vietnamese](http://www.tdi.texas.gov/forms/dwc/notice10v.pdf) (PDF) |

##STATE\_LAW\_POSTER\_FOOTER##

## Recordkeeping

# Recordkeeping Requirements in Texas (TX)

Employers may be required under both federal and state law to retain certain types of records relating to their current and former employees. Please see [Recordkeeping Requirements by Federal Law](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3810) for detailed information about the federal requirements.

Texas requires employers to maintain the following types of records:

### Unemployment Insurance

* For purposes of unemployment, the following information must be retained for 4 years for each employee:
  + Name, address, and social security number;
  + Dates/periods of employment;
  + State(s) where services were performed;
  + Wages for each payroll period, dates of payment and amounts paid other than wages; and
  + Whether during any payroll period the employee worked less than full-time and, if so, the hours and dates worked.
* Employers must also keep records for 4 years establishing:
  + Ownership and any changes in ownership of the employer;
  + Address of the employer's headquarters;
  + Mailing address of the employer;
  + Address at which records are available for inspection; and
  + Addresses of the owners of the employer or, if the employer is a corporation or unincorporated association, the addresses of directors, officers and individuals on whom service of process may be served.

### Discrimination

* Keep all personnel records for at least one year following an employee's last day of work.

### Safety and Health/Workers' Compensation

* Employers are required to keep a record of all injuries for 5 years.
* Self-insurers must maintain payroll information, books, records, and a complete annual report.
* Workplace chemical lists and Safety Data Sheets (SDS) for each chemical, updated annually, must be retained for 30 years.

## Same Sex Relationships

# Same-Sex Relationships in Texas (TX)

The [U.S. Supreme Court](http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf) has held that states are required to **license a marriage** between two people of the same sex, and to **recognize** a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. Employers with questions on how to proceed regarding the administration of employee benefits for same-sex couples (or other applicable employment laws) are advised to contact a knowledgeable employment law attorney.

## Smoking

# Smoking and Tobacco Use in the Workplace in Texas (TX)

Texas currently has no state laws restricting smoking in private workplaces. [Click here](http://shsordinances.uh.edu/) for information regarding local restrictions.

### Additional Resources

* [Sample Workplace Smoking Policy](http://www.twc.state.tx.us/news/efte/smoking_policy.html)

## Unemployment

# Unemployment Insurance in Texas (TX)

* [Texas Unemployment Insurance Program](http://www.twc.state.tx.us/customers/jsemp/jsempsub2.html)
* [File a UI Claim Over the Internet](https://services.twc.state.tx.us/UBS/changeLocale.do?language=en&country=US&page=/security/logon.do)
* [File a Claim by Telephone](http://www.twc.state.tx.us/ui/bnfts/offices.html)
* [Employer Resources](http://www.twc.state.tx.us/customers/bemp/unemployment-tax.html)
* [Unemployment Insurance Taxes](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp)
* [Unemployment Rates by State](http://www.bls.gov/web/laus/laumstrk.htm)
* [U.S. Employment and Training Administration](http://workforcesecurity.doleta.gov/unemploy/index.asp)

### Agency Information

[Workforce Commission](http://www.twc.state.tx.us)   
PO Box 149037   
Austin, TX 78714-9037

(512) 463-2700

## Wage Payment Timing

# Wage Payment Timing in Texas (TX)

Employers in Texas are required to pay employee wages as follows:

* Employers are generally required to pay employee wages at least semi-monthly on regularly scheduled paydays.
  + Pay periods must consist of as close to an equal number of days as possible.
* If no payday is designated by an employer, the default pay schedule is the first and 15th days of each month.
* Employees who are absent on a payday must be paid at their request on any following business day.

Note: Employees who are exempt from overtime under the [Fair Labor Standards Act](http://www.dol.gov/whd/flsa/) may be paid monthly.

### Notice Requirement

Employers must post [notices](http://www.twc.state.tx.us/ui/lablaw/ll10.pdf) of regular paydays in conspicuous places in their workplace.  
  
For more information, please [click here](http://www.texasworkforce.org/news/efte/frequency_of_pay.html).  
  
[Click here](https://www.hr360.com/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3269) to view a chart outlining the final paycheck timing requirements for each state.

## Workers Comp

# Workers' Compensation (Workman's Compensation) in Texas (TX)

 This page features the following topics regarding workers' compensation:

* [Overview](#Overview_TXWC)
* [Workers' Compensation Forms & Notices](#Forms_TXWC)
* [Workers' Compensation Publications](#Publications_TXWC)
* [Workers' Compensation Posters](#Posters_TXWC)
* [State Workers' Compensation Contact Information](#SWC_TXWC)

## Overview

Workers' compensation provides benefits to workers who are injured on the job or have a work-related illness, including:

* Payment for medical treatment for a work-related injury or illness.
* Cash payments that partially replace lost wages on a temporary or permanent basis.

With the exception of [certain industries](https://www.dol.gov/owcp/), workers' compensation programs are designed and administered by state governments. In general, state laws require employers to purchase insurance from an authorized carrier or to self-insure. Programs vary by state in terms of benefit levels, duration, and types of compensable injuries. You can find helpful information about workers' compensation in Texas below.

## Workers' Compensation Forms & Notices

### Forms for Employers

* [New Employee Notice](http://www.tdi.texas.gov/forms/dwc/newempnotice011.pdf)
  + Note: Covered and non-covered employers must notify their employees of coverage status, in writing.
  + This notice is also available in [Spanish](http://www.tdi.texas.gov/forms/dwc/newempnotices01.pdf) and [Vietnamese](http://www.tdi.texas.gov/forms/dwc/newemplyeeenotv.pdf).
* [DWC001: Employer's First Report of Injury or Illness](https://www.tdi.texas.gov/forms/dwc/dwc001rpt.pdf)
* [DWC003: Employer's Wage Statement](https://www.tdi.texas.gov/forms/dwc/dwc003wage.pdf)
* [Click here](https://www.tdi.texas.gov/forms/form20employer.html) for additional forms and Spanish versions.

### Forms for Employees

* [DWC024: Benefit Dispute Agreement](https://www.tdi.texas.gov/forms/dwc/dwc24.pdf)
* [DWC032: Request for Designated Doctor Examination](https://www.tdi.texas.gov/forms/dwc/dwc032desdoc.pdf)
* [DWC041: Employee's Claim for Compensation for a Work-Related Injury or Occupational Disease](https://www.tdi.texas.gov/forms/dwc/dwc041firstrpt.pdf)
* [Click here](https://www.tdi.texas.gov/forms/form20employee.html) for additional forms and Spanish versions.

### Forms to Submit to Government Agencies

* [DWC155: Request for Record Check](https://www.tdi.texas.gov/forms/dwc/dwc155.pdf)
* [DWC005: Employer Notice of No Coverage or Termination of Coverage](https://www.tdi.texas.gov/forms/dwc/dwc005nocovst.pdf)
  + Note: [Click here](https://www.tdi.texas.gov/forms/dwc/dwc005nocov.pdf) for the electronic version of this form.
* [DWC025: Benefit Dispute Settlement](https://www.tdi.texas.gov/forms/dwc/dwc25.pdf)
* [Click here](https://www.tdi.texas.gov/forms/form20numeric.html) for additional forms and Spanish versions.

### Forms for Insurance Carriers

* [DWC020A: Correction/Revision/Endorsement to Existing Policy](https://www.tdi.texas.gov/forms/dwc/dwc20a.pdf)
* [DWC022: Required Medical Examination (RME) - Request for Agreement/Request for Order](https://www.tdi.texas.gov/forms/dwc/dwc022rme.pdf)
* [Click here](https://www.tdi.texas.gov/forms/form20carrier.html) for additional forms and Spanish versions.

### Forms for Doctors & Medical Facilities

* [DWC044: Election to Engage in Arbitration](https://www.tdi.texas.gov/forms/dwc/dwc044arb.pdf)
* [DWC045M: Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision](https://www.tdi.texas.gov/forms/dwc/dwc045mbrc.pdf)
* [DWC066: Statement of Pharmacy Services](https://www.tdi.texas.gov/forms/dwc/dwc066pharm.pdf)
* [Click here](https://www.tdi.texas.gov/forms/form20medical.html) for additional forms and Spanish versions.

## Workers' Compensation Publications

* [Employer Frequently Asked Questions (FAQs)](https://www.tdi.texas.gov/wc/employer/employerresources.html)
* [How a Workers' Compensation Claim Works](https://www.tdi.texas.gov/WC/employer/index.html#claim)
* [Workplace Safety](https://www.tdi.texas.gov/WC/safety/index.html)
* [Click here](https://www.tdi.texas.gov/WC/employer/index.html) for additional publications.

## Workers' Compensation Posters

* **Employer's Notice of Ombudsman Program** (All employers participating in the workers' compensation system must post notice of the [Office of Injured Employee Counsel's Ombudsman Program](http://www.oiec.texas.gov/resources/employernotice.html). This notice must be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis.)
  + [Notice in English](http://www.oiec.state.tx.us/documents/employernotice0913.pdf) – PDF format
  + [Notice in Spanish](http://www.oiec.state.tx.us/documents/employernoticesp0913.pdf) – PDF format
* **Notice to Employees Concerning Workers' Compensation in Texas ("Notice 5")** (non-covered employers)
  + [Notice in English](http://www.tdi.texas.gov/forms/dwc/notice5.pdf) – PDF format
  + [Notice in Spanish](http://www.tdi.texas.gov/forms/dwc/notice5s.pdf) – PDF format
* **Notice to Employees Concerning Workers' Compensation in Texas ("Notice 6")** (employers covered through a commercial insurance company)
  + [Notice in English](http://www.tdi.texas.gov/forms/dwc/notice6.pdf) – PDF format
  + [Notice in Spanish](http://www.tdi.texas.gov/forms/dwc/notice6s.pdf) – PDF format
* **Notice to Employees Concerning Workers' Compensation in Texas ("Notice 7")** (self-insured employers)
  + [Notice in English](http://www.tdi.texas.gov/forms/dwc/notice7.pdf) – PDF format
  + [Notice in Spanish](http://www.tdi.texas.gov/forms/dwc/notice7s.pdf) – PDF format
* **Required Workers' Compensation Coverage** (building or construction projects for governmental entities)
  + [Notice in English](http://www.tdi.texas.gov/forms/dwc/notice8.pdf) – PDF format
  + [Notice in Spanish](http://www.tdi.texas.gov/forms/dwc/notice8s.pdf) – PDF format
* **Notice Regarding Certain Work-Related Communicable Diseases and Eligibility for Workers' Compensation Benefits** (law enforcement officers, fire fighters, emergency medical service employees, paramedics, and correctional officers)
  + [Notice in English](http://www.tdi.texas.gov/forms/dwc/notice9.pdf) – PDF format
  + [Notice in Spanish](http://www.tdi.texas.gov/forms/dwc/notice9s.pdf) – PDF format

## State Workers' Compensation Contact Information

**Texas Department of Insurance**[Division of Workers' Compensation](http://www.tdi.state.tx.us/wc/indexwc.html)  
7551 Metro Center Drive, Suite 100   
Austin, TX 78744-1645   
Phone: (512) 804-4239 or (800) 252-7031