



ALABAMA

QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.

At-Will Employment

Alabama is an at-will employment state. [Hoffman-La Roche, Inc. v. Campbell, 512 So. 2d 725 \(Ala. 1987\)](#). Generally, either the employer or employee may end the employment relationship at any time and for any reason.

There are three general exceptions to employment at will under state law: whistleblower protection, anti-discrimination laws, and anti-retaliation laws. Federal whistleblower protection, anti-discrimination, and anti-retaliation laws may otherwise apply.

1. **Whistleblower** – [Ala. Code § 36-25-24](#), which only applies to government employees and not private employers, states that supervisors cannot discharge an employee for reporting a violation of any law.
2. **Discrimination**
 - a. Age: [Ala. Code § 25-1-21](#) – no employer shall discriminate against a worker 40 years of age or older on the basis of age.
3. **Retaliation** – [Ala. Code § 25-5-11.1](#) states that an employee shall not be terminated solely because the employee has maintained an action against the employer for workers' compensation benefits or solely because the employee has filed a written notice of violation of a safety rule pursuant to [Ala. Code. § 25-5-11\(c\)\(4\)](#).

Right to Work Laws

According to [Ala. Code § 25-7-30](#), the right of persons to work cannot be denied or abridged because of membership or non-membership in any labor union or organization. Employers cannot require participation in or abstention from membership in a labor union/organization as a condition of employment. [Ala. Code § 25-7-32](#); [Ala. Code § 25-7-33](#). Employers also cannot require payment of union dues as a condition of employment. [Ala. Code § 25-7-34](#).

Immigration Verification

[Ala. Code. § 31-13-15](#) states that no employer shall knowingly employ, hire, or continue to employ an "unauthorized alien" to work in Alabama. "Continue to employ" means to employ the "unauthorized alien" knowing that the person is or has become not authorized to work, regardless of whether the employed knew of the individual's unauthorized status at the time of employment. Further, the statute states that all employers must use the federal E-Verify system to verify the legal presence of their employees. An employer who uses E-Verify to verify the work authorization of an employee will not be punished for a violation of [Ala. Code § 31-13-15](#) with respect to the employment of that employee. Alabama businesses with 25 or fewer employees may choose to use the Alabama E-Verify Employer Agent Service, which was created to "provide assistance to employers to comply with this process." verify.alabama.gov.

Penalties for violation of the statute include ordering the business to terminate employees who are unauthorized to work in violation of [Ala. Code. § 31-13-15](#), requiring a sworn, signed affidavit that they have done so, placing the business in a three-year state-wide probationary period where they must file quarterly reports of new employees, and suspending of business licenses/permits for a period of 10 business days or less.

In addition, any employers receiving the award of a contract, grant or incentive by the state or a state-funded entity to a business entity shall not hire or continue to employ an "unauthorized alien within the State of Alabama." [Ala. Code § 31-13-9](#).

Drug Testing

Alabama has an optional drug-free workplace program that rewards employers for participating by providing a five percent premium discount under the employer's workers' compensation insurance policy. [Ala. Code § 25-5-330](#); [Ala. Code § 25-5-332](#). The participating business must also follow the requirements set forth in [Ala. Code. § 25-5-333](#), which includes a mandatory drug test for potential employees upon extending an offer of employment, reasonable suspicion testing and follow-up testing in the case of a positive test result. [Ala. Code § 25-5-335](#). The program requires that all results remain confidential. [Ala. Code § 25-5-339](#).

Jury Duty Leave

Upon receiving a summons for jury duty, an employee, on the next day they are engaged in their employment, shall show the jury summons to their supervisor and will be excused from employment for the day(s) required of them serving as a juror. An employer may not require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury duty. In addition, any full-time employee will be entitled to their usual compensation despite the excused absence. [Ala. Code § 12-16-8](#). Employers may not discharge an employee solely because they serve on a jury so long as that employee reports for work on their next regularly scheduled hour after being dismissed. Employees who are fired in violation of this rule have a cause of action against the employer for the discharge and may recover both actual and punitive damages. [Ala. Code § 12-16-8.1](#).

Voting Leave

Employees of the state, with reasonable notice, shall be permitted to take the necessary time to vote so long as it does not exceed one hour. However, if the employee's work hours start at least two hours after the opening of the polls or end at least one hour prior to the closing of the polls, then time off for voting need not be available. Employers may specify the hours during which an employee may leave to vote. [Ala. Code § 17-1-5](#).

Parental Leave

Alabama does not have any laws that require employers to provide parental leave; however, employers with more than 15 employees have the obligations set forth by the [Pregnancy Discrimination Act. Employers with more than 50 employees have the obligations set forth by the Family and Medical Leave Act \(FMLA\)](#). Under the [Pregnancy Discrimination Act](#), pregnant employees must be permitted to work so long as they are able to perform their jobs. Under FMLA, new parents may be eligible for 12 weeks of leave.

Other Leave

Family and Medical Leave

The State of Alabama does not require that private employers offer employees paid vacation or sick leave. However, the employer may be subject to the federal [FMLA](#) and its requirements.

Military Leave

Alabama law also provides members of the National Guard, National Militia, state guard, or other reserve components of the Armed Forces of the United States with paid leave for the days they are engaged in the field, but no more than 168 hours per calendar year for an employee who is called into active state service. Employees on military leave may not suffer loss of time, efficiency rating, or annual/sick leave upon their return. [Ala. Code. § 31-2-13](#).

Crime Victim Leave

The State of Alabama provides that crime victims must be permitted to testify in a criminal proceeding or participate in the preparation of a criminal proceeding without the loss, or threat of loss, of their employment. [Ala. Code. § 15-23-81](#).

Smoking Laws

According to [Ala. Code § 22-15A-5](#), employers have the right to adopt and maintain a written smoking policy which allows employees to designate their work area as non-smoking and prohibits smoking in all common work areas, unless the majority of employees who work in that area agree that it will be allowed. The policy must be communicated to employees within three weeks of its adoption and a written policy must be supplied when asked for. Employers have the right to designate any place of employment non-smoking. However, according to [Ala. Code §22-15A-6](#), child care facilities, hospitals/doctors' offices, elevators, public transport, government buildings, restrooms, service lines, public areas of aquariums, galleries, libraries, museums, seniors housing, common areas in apartment buildings, polling places, schools, retail establishments (excluding restaurants) and lobbies of multi-unit commercial facilities must be non-smoking.

Break Time to Express Milk

According to [Ala. Code § 22-1-13](#), a mother may breastfeed her child in any location, public or private, where the mother is otherwise authorized to be present. However, Alabama does not have a state law protecting an employee's right to breastfeed or express milk in the workplace.

The [Fair Labor Standards Act \("FLSA"\)](#), which covers employers that have at least two employees and either have an annual dollar volume of sales or business of at least \$500,000, requires employers to provide a reasonable break time for employees to express milk and provide a place, other than a bathroom, which is shielded from view and free from intrusion from others for milk expression.

Meal Breaks

The State of Alabama has no law regulating meal breaks or rest periods for adults. For employees aged 14 or 15 years, employers must give a 30-minute rest period when the employee works more than five hours continuously. [Ala. Code § 25-8-38](#). However, employers may be subject to the FLSA.

Minimum Wage, Overtime and Wage Recordkeeping

Alabama has not adopted a state minimum wage law or an overtime law for adults. As a result, employers subject to the FLSA must pay the federal minimum wage of \$7.25 per hour. Similarly, employers subject to the FLSA must comply with FLSA overtime requirements. Under the FLSA, covered employees must receive overtime pay for hours worked more than 40 in a work week and at a rate of not less than one and one-half times their regular rate of pay.

For employees under 19 years of age, [Ala. Code § 25-8-38](#) requires employers to keep proof of age, as well as copies of time records for one year after the employee's last day. The time records must include the number of hours the employee worked per day, the employee's starting and ending times, and the employee's break times). Children aged 14 and 15 years cannot work overtime. [Ala. Code § 25-8-36](#).

Final Payments

Alabama does not have state laws regarding final payments of wages.

Unemployment Insurance

[Unemployment insurance](#) benefits provide income to individuals who have lost work through no fault of their own that meet Alabama's requirements. To be eligible, the person must be a resident of Alabama, unemployed, worked in Alabama during the past 12 months, earned a minimum amount of wages determined by Alabama guidelines and be actively seeking work each week the person collects benefits.

Workers' Compensation

The Alabama Workers' Compensation Act, [Ala. Code. § 25-5-1, et seq.](#) applies to all employers in Alabama. Employees who suffer injuries and/or occupational diseases arising out of and in the course of their employment may be eligible to receive several types of benefits under the [Workers' Compensation Act](#). A workplace injury must be immediately reported to the employer; failing to timely report an injury may result in a denial of benefits. [Ala. Code 25-5-78](#). Employees must make their claim within two years of the accident. [Ala. Code § 25-5-80](#). Also, Alabama recognizes a claim for retaliation under that prohibits discharging an employee solely because the employee sought workers' compensation benefits. [Ala. Code § 25-5-11.1](#).

The Alabama Workers' Compensation Commission administers this law, and additional information regarding the Act may be accessed at labor.alabama.gov/wc/benefits.aspx.

Child Labor

Alabama's child labor laws may be found at [Ala. Code §§ 25-8-33 to 61](#). Employers must obtain a Child Labor Certificate for each location where persons under the age of 18 are employed, and the laws impose time/place restrictions on those employees between the ages of 14 and 17. For each 14 or 15 year old employed, the employer must obtain an Eligibility to Work form from the employee. [Ala. Code § 25-8-45](#).

No person under 16 years of age shall be employed, except in agricultural service, and except as otherwise provided in Chapter 8. Any person 14 or 15 years of age may be employed outside school hours and during school vacation periods, so long as the person is not employed in, about or in connection with, any manufacturing or mechanical establishment, cannery, mill, workshop, warehouse, or machine shop or in any occupation or place of employment otherwise prohibited by law. The presence of any person under 18 years of age in any restricted business establishment or restricted occupation is sufficient evidence of his or her employment in the establishment. [Ala. Code § 25-8-33](#). Violations of child labor laws may result in civil penalties. [Ala. Code § 25-8-59](#).

For more information on restrictions for places of work dealing with minors, as well as restrictions on the hours minors may work, see labor.alabama.gov/uc/childlabor/child-labor.aspx.

Gun Laws

An employer may restrict or prohibit an employee from carrying a concealed weapon, even if the employee has a concealed weapon permit, while on the employer's property or while engaged in the employee's duties of employment. [Ala. Code § 13A-11-90\(a\)](#); see also [id. § 13A-11-61.3\(g\)\(2\)](#).

However, the employer cannot prevent the employee from storing a concealed weapon in his or her private motor vehicle while parked in a public or private area assuming the motor vehicle is parked in a location it is otherwise permitted to be, the firearm is either kept from ordinary observation or locked in a compartment, and either: (1) the employee has a valid concealed weapons permit or (2) the weapon is a firearm for legal use of hunting in Alabama other than a pistol and complies with Ala. Code. § 13A-11-90(b)(1)(B). [Ala. Code § 13A-11-90](#). Effective January 1, 2023, however, an employer may not restrict an employee from storing a pistol in his or her vehicle, even without a valid concealed weapons permit, provided that the vehicle is parked in a location it is otherwise permitted to be and the employee keeps the pistol hidden from outside observation, and if the vehicle is unattended, locked away.

Employers have no duty to confirm or determine an employee's compliance with the gun laws or to patrol or inspect parking lots. Moreover, the presence of the firearm alone does not constitute the employer's failure to provide a safe workplace, and employers are immune from liability for damages relating to firearm brought onto their property as long as the employer does not commit an affirmative wrongful act that causes another person harm. [Ala. Code § 13A-11-91](#).

If an employer discovers by other means that an employee is transporting or storing a firearm in his or her private motor vehicle, the employer may not take any adverse employment action against the employee based solely on the possession of that firearm if the employee has complied with the requirements in subsection (B) above. [Ala. Code § 13A-11-90\(d\)](#).

Additional Laws and Regulations

Families First Coronavirus Response Act

The [FFCRA](#) expired on December 31, 2020, and leave benefits were not extended into 2021.

Cares Act

On February 12, 2021, Alabama enacted Act [2021-1](#), which designated three separate acts: The Alabama Taxpayer Stimulus Freedom Act of 2021, (2) the Alabama Business Tax Competitiveness Act, and (3) the Alabama Electing Pass-Through Entity Tax Act. These acts, independently and together, exempt Alabama income tax from a variety of CARES Act tax benefits and addressed the "SALT CAP."

Alabama implemented the Coronavirus Relief Fund (CRF) which provided assistance to businesses who need assistance in accessing programs within the CARES Act. However, the eligibility period for all CRF programs closed on December 31, 2021. More information may be found here: covidrelief.alabama.gov.

Employee v Independent Contractor

[Ala. Code § 25-1-3](#), became effective on July 1, 2021, to clarify the classification of independent contractor versus employee by requiring the Alabama Department of Labor and the Alabama Department of Revenue to follow the IRS's common law test, known as the "20-factor test."

Polygraph Testing

No person may require or demand a person to consent to or take a polygraph test as a condition of continued employment within the State of Alabama. [Ala. Code § 36-1-8](#).

False or Deceptive Hiring

Alabama's laws regarding unlawful trade practices may be found in [Ala. Code. § 8-19-5](#).

Equal Pay

The Clarke-Figures Equal Pay Act, found in [Ala. Code § 25-1-30](#), requires equal pay within the same establishment for equal work that requires equal skill, effort, education, experience, responsibility, and performance under similar working conditions, except when payment is made pursuant to any of the following: a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than sex or race.

Human Rights

Alabama primarily relies on federal legislation for civil rights protections in the labor and employment space, except for the [Alabama Age Discrimination in Employment Act \(AADEA\)](#), which protects workers age 40 and older from discriminatory employment decisions based on age.

Disabilities

Alabama does not have a law prohibiting employers from discriminating on the basis of disability, however, private employers with 15 or more employees may be covered by the federal [Americans with Disabilities Act](#).

Genetic Information

Alabama does not have any laws related to genetic discrimination.

References

Alabama prohibits blacklisting, which is when a person, firm, corporation or associations of persons maintains a list that they use to prevent any person from receiving employment from whomsoever he desires. [Ala. Code § 13A-11-123](#).

Medical Marijuana

The Darren Wesley 'Ato' Hall Compassion Act, which was signed into law on May 17, 2021, allows persons with certain medical conditions to legally access marijuana. [Ala. Code § 20-2A-1, et seq](#). The law, however, does not require that employers change their policies regarding the use of medical cannabis, highlighting that employers may still refuse to hire, terminate, discipline, etc. for use of medical marijuana. [Ala. Code § 20-2A-6](#).