



KANSAS

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

Kansas is an at-will employment state; however, there are exceptions. The four exceptions articulated through case law are: (1) whistleblowing; (2) exercising a public employee's First Amendment right to free speech; (3) an employee filing a claim under the Federal Employers Liability Act (FELA); and (4) an employee filing a claim under the Kansas Workers Compensation Act (KWPA). [Campbell v. Husky Hogs, L.L.C., 292 Kan. 225 \(Kan. 2011\)](#). Kansas statute also prohibits terminations based on race, religion, color, sex, disability, national origin, or ancestry. [KS Stat. § 44-1009](#).

Right-to Work-Laws

Kansas is a right-to-work state. No person shall be denied the opportunity to obtain or retain employment because of membership or non-membership in any labor organization. Agreements to exclude individuals from employment or to continue employment based on membership or lack thereof to a labor organization is prohibited. [K.S.A. Const. Art. 15 § 12](#).

Immigration Verification

Kansas places no additional employment verification procedures on employers beyond Federal I-9 compliance.

Drug Testing

Kansas does not have any law regulating or prohibiting drug testing in the private sector.

- For employers who wish to conduct drug testing for job application purposes, the [Kansas Human Rights Commission](#) requires that a conditional job offer be made before requesting a drug screening. Under the Kansas Human Rights Commission, a private employer may require an applicant to submit a drug test, so long as: (1) all entering employees in the same job category face that same requirement, and (2) information obtained remains confidential except to supervisors/managers, or for safety reasons.

[K.S. Stat. § 75-4362](#) governs drug screening of certain public officers and employees.

Jury Duty Leave

It is unlawful for an employer to fire or threaten to fire an employee for the employee's jury service, or the attendance or scheduled attendance in connection with the service. This is applicable in any Kansas court.

- If an employer violates this provision, they will be liable for damages for lost wages. Any actual damages suffered by the employee will be ordered to be reinstated to the employee and may be enjoined from other violations of the section, and the wages have to provide the appropriate relief. The employee shall be reinstated to their prior position without loss of seniority and be entitled to participate in the benefits offered by the employer. Attorney's fees may be awarded to the prevailing party, but attorney's fees can only be awarded to the prevailing employer if the court finds the action was frivolous or brought in bad faith. [K.S Stat. § 43-173](#).

No Kansas state law requires the employer to pay wages while an employee is on jury duty.

Voting Leave

A person who is entitled to vote on election day is entitled to be absent for a maximum of two consecutive hours between the opening and closing of the polls. Additional time may be taken, not to exceed two hours, in the event the polls are open prior to or after the shift to allow the employee to vote. The employee shall not be penalized for going to vote. [K.S. Stat. § 25-418](#).

An employer may specify what time during the day an employee may be absent from work in order to vote, so long as it does not include the employee's regular lunch period.

Parental Leave

The Governor of Kansas, through Executive Order, implemented and expanded its paid parental leave in 2021. [Bulletin 21-01](#). The paid parental leave runs concurrently with the Family and Medical Leave Act leave if the employee is eligible. All State of Kansas employees, no matter whether they work full or part time, may take paid parental leave following the birth or adoption of a child or the placement of a foster child(ren).

- The parent who is the primary caregiver receives eight weeks of paid parental leave, while the secondary caregiver shall receive four weeks. If both parents are state workers, then they both receive parental leave, which may be taken at the same time, back-to-back, or different times.
- The paid parental leave can only be taken up to 30 days before the projected due date of birth or adoption and within the 12 weeks immediately following the birth or adoption of a child.

Other Leave

The State of Kansas does not require private employers to offer employees paid vacation or sick leave. However, the employer may be subject to the federal [Family Medical Leave Act \(FMLA\)](#). The FMLA entitles eligible employees to take unpaid, job-protected leave for certain family and medical reasons while requiring employers who provide health coverage to its employees to continue group health insurance coverage.

Smoking Laws

The State of Kansas has made it unlawful to smoke in an enclosed area or at a public meeting place; this includes any place of employment. Employers must also adopt and maintain a written smoking policy that prohibits smoking without exception in all areas of the workplace. The written policy must be provided to all employees. [K.S. Stat. § 21-6110](#).

Break Time to Express Milk

The State of Kansas allows a mother to breastfeed at any place that they have the right to be. [K.S. Stat. § 65-1,248](#). Kansas does not have any laws supporting breastfeeding moms in the workplace. However, the [FLSA](#) requires certain employers to provide a reasonable breaktime for an employee to express breast milk for her nursing child for one year after the child's birth. Employers must also provide a place, other than a bathroom, for nursing mothers to express breast milk.

Meal Breaks

The State of Kansas has no law regulating meal breaks or rest periods.

Minimum Wage, Overtime and Wage Recordkeeping

Beginning, January 1, 2010, the State of Kansas set minimum wage at not less than \$7.25 per hour. Employers must still comply with federal wage laws and regulations. The employer can pay tipped employees \$2.65 per hour as long as the employee's tips bring the total hourly wage up to the state minimum wage. [K.S. Stat. § 44-1203](#).

Provisions governing overtime pay can be found at [K.S. Stat. § 44-1204](#). Generally, if an employee works more than 40 hours per week, he or she must be compensated at a rate of one and one-half times the regular rate of pay at which he or she is employed.

For a minimum of three years, every employer must keep a record of the name and occupation of each of its employees, the employee's rate of pay, the amount paid each pay period, and the hours an employee worked per day and per week. [K.S. Stat. § 44-1209](#).

Final Payments

Whenever an employee quits, resigns, or is otherwise discharged, the employer must pay the employee's earned wages on or before the next regular payday which the employee would have been paid if still employed. [K.S. Stat. § 44-315](#).

Unemployment Insurance

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work or until an employer can recall the employee to work. This benefit is available to unemployed individuals for up to 16 weeks. Nothing is deducted from the employee's wages to pay for this coverage. Unemployment benefits are administered by the Department of Labor and additional information regarding the benefits may be accessed at www.getkansasbenefits.gov/Home.aspx.

Workers' Compensation

The Kansas Workers' Compensation Act, [K.S. Stat. § 44-501](#), et seq., applies to all employers in Kansas, except for certain employers in the agricultural field, not including those where the employer is the state, or any department, agency, or authority of the state, and any job where the employer made \$20,000 or less in gross annual payroll for the current calendar year. 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 Act. Under the Act, a workplace injury must be immediately reported to the employer; failing to timely report an injury may result in a denial of benefits. The Act is administered by the Kansas Department of Labor Division of Workers Compensation, and additional information regarding the Act may be accessed [here](#).

Child Labor

Children under the age of 14 years cannot be employed in Kansas. [Kan. Stat. § 38-601](#). At age 16, a child may be employed for most work unless the work is declared hazardous by the state labor commissioner. Additionally, children under the age of 16 cannot: (1) work before 7 a.m., or after 10 p.m., except Fridays, Saturdays, or any other day that is not followed by a school day; (2) work more than eight hours a day; and (3) work more than 40 hours a week. [Kan. Stat. § 38-603](#). Additional restrictions for employers of minors – may be found [here](#).

Gun Laws

Employers in Kansas may prohibit employees from possessing firearms at work, including in company parking lots, but in order to do so the employer must post a conspicuous notice of the ban. [K.S. Stat. § 75-7c10\(a\)](#).