



MAINE

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

In Maine (with few exceptions), an employee is considered an at-will employee, unless they are covered by a collective bargaining agreement or other contract that limits termination. Thus, either an employer or an employee may terminate the employment relationship without notice or cause. Without a union contract or individual employment contract, an employer may terminate an employee at any time and for any reason, as long as the reason is not discriminatory or otherwise violative of law.

Maine Anti-Discrimination Laws

Maine prohibits discrimination in employment because of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin, or familial status. Me. Rev. Stat. tit. 5, § 4571. Proposed legislation, introduced in April 2023, would add vaccination status and political affiliation to this list of protected classes.

The Maine Human Rights Act defines race to include characteristics or traits that are associated with race, including hair texture, Afro hairstyles, and protective hairstyles, including braids, twists, and locks. Me. Rev. Stat. tit. 5, § 4553.

Sexual Harassment Policies

Employers must act to ensure a workplace free of sexual harassment by implementing certain minimum requirements. For example, employers must post in a prominent and accessible location in the workplace, a poster providing information regarding: 1) the illegality of sexual harassment; 2) a description of sexual harassment, utilizing examples; 3) the complaint process available through the commission; and 4) directions on how to contact the commission, and must provide employees with written notice of similar information annually. The posting requirements are identified in Me. Rev. Stat. tit. 26, § 807.

Workplaces with 15 or more employees are required to conduct an education and training program for all new employees within one year of commencement of employment. The required information is identified in Me. Rev. Stat. tit. 26, § 807.

Minimum Wage, Overtime, and Recordkeeping

The minimum wage in Maine is \$14.15 per hour. Each January 1, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. Me. Rev. Stat. tit. 26, § 664.

An employer may not require an employee to work more than 40 hours in any one week unless the employer pays the employee one and one-half times the employee's regular hourly rate for all hours actually worked in excess of 40 hours that week. Me. Rev. Stat. tit. 26 § 664. An employer may not require an employee to work more than 80 hours of overtime in any consecutive two-week period. Me. Rev. Stat. tit. 26 § 603. The foregoing limitation does not apply to emergency care workers, essential services providers, and other such employees.

Employers must pay wages at regular intervals of no greater than 16 days. Me. Rev. Stat. tit. 26, § 621-A. Each payment must include all wages earned to within eight days of the payment date. *Id.* If employers pay wages more frequently, the interval may not then be increased without at least 30 days of advance written notice to employees. *Id.* Members of the employer's family and salaried employees are exempt from these requirements.

An employer shall keep a true record showing the date and amount paid to each employee. Me. Rev. Stat. tit. 26 § 622. Every employer shall keep a daily record of the time worked by each such employee unless the employee is paid a salary that is fixed without regard for the number of hours worked. *Id.* Newly enacted legislation removes this exemption for salaried employees.

Immigration Verification

Maine places no additional employment verification procedures on employers beyond federal I-9 compliance. The I-9 form must be completed within three business days of the employee's hire date. There is no requirement to use E-Verify under Maine state law.

Drug Testing

Maine permits but does not require, private employers to conduct drug testing of employees and applicants, absent exceptions for certain specialized positions (e.g., nuclear electrical-generating facilities).

An employer may not require, request, or suggest an employee or applicant to submit to a substance use test except in compliance with Me. Rev. Stat. tit. 26, § 683. Among other requirements, an employer must have an Employee Assistance Program and a written drug-testing policy before drug-testing any employee or applicant. The written policy must describe which positions, if any, will be subject to testing and the procedure to be followed in selecting employees to be tested on a random basis. For applicant and probable-cause testing, the employer may designate that all positions are subject to testing.

Jury Duty Leave

An employer may not deprive an employee of employment or health insurance coverage, or threaten or coerce the employee with the loss of these items because the employee has been summoned to jury duty, responds to a jury summons, serves as a juror, or attends court for prospective jury service. Me. Rev. Stat. tit. 14, § 1218. An employer also may not make deductions from pay for absences of a salaried employee occasioned by jury duty. 12-170-16 Me. Code R. § II. However, the employer may offset any amounts received by an employee as jury fees for a particular week against the salary due for that particular week without loss of the exemption. 12-170-16 Me. Code R. § II.

Voting Leave

Maine does not have a law requiring an employer to grant an employee paid or unpaid leave to vote.

Maine Family and Medical Leave Requirements Act

The Maine Family and Medical Leave Requirements Act (MFMLRA) provides that unless an employee is employed at a permanent work site with fewer than 15 employees, then every employee who has been employed by the same employer for 12 consecutive months is entitled to up to ten work weeks of family medical leave in any two years. Me. Rev. Stat. tit. 26, § 844. Employees must give at least 30 days' notice of the need for leave unless prevented by a medical emergency from giving that notice. Leave may be unpaid. If the employer provides paid leave for fewer than ten weeks, the additional weeks of leave needed to reach ten weeks may be unpaid. Me. Rev. Stat. tit. 26, § 844.

Eligible employees may take leave because of the employee's own serious health condition; the birth of the employee's or their domestic partner's child; adoption of a child who is, at most, 16 years old by the employee or the employee's domestic partner; a serious health condition of the employee's parent, child, grandparent, grandchild, domestic partner, the domestic partner's child, or the domestic partner's grandchild, sibling, or spouse; an organ donation; or, during qualifying active military duty, the death or serious health condition of the employee's spouse, domestic partner, parent, sibling, or child. Me. Rev. Stat. tit. 26, §843.

Earned Paid Leave

Maine became the first state in the country to require private employers to offer paid leave to employees, effective January 1, 2021. The law applies to employers with ten or more employees and covers employees who work at least 120 days per year for the employer. Pursuant to the 120-day requirement, all employees are covered (full-time, part-time, temporary, etc.).

Employees are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year of employment. Accrual begins immediately, but employers are not required to allow the use of leave for the first 120 days of employment. While taking earned leave, an employee must be paid at least the same base rate that the employee received immediately before taking leave and must receive the same benefits afforded by the employer's established paid leave policies. Me. Rev. Stat. tit. 26, § 637. Unless for use in an emergency, employees must provide reasonable notice of the intent to use earned leave. Me. Rev. Stat. tit. 26, § 637.

Military Leave of Absence

Employees who are members of the National Guard or the reserves of the U.S. Armed Forces are entitled to a military leave of absence from a position with any public or private employer in response to state or federal military orders. The military member must give reasonable notice, if reasonable under the military circumstances, of the anticipated absence for duty and, if requested by the employer, provide a confirmation of the anticipated military duty and satisfactory completion of the same. Employees who take such leave are entitled to reinstatement to the same pay, seniority, benefits, and status on their return if still qualified to perform the duties of their position. Me. Rev. Stat. tit. 26, § 811.

Family Military Leave

Employers with 15 or more employees must provide up to 15 days of family military leave (per deployment) to eligible employees. Family military leave may be taken only during either, the 15 days immediately prior to deployment; deployment, if the military member is granted leave; or the 15 days immediately following the period of deployment. Family military leave means leave requested by an employee who is a spouse, domestic partner, or parent of a person who is a resident of Maine and is deployed for military service for a period lasting longer than 180 days. The employee requesting such leave must give at least 14 days' notice of the need for leave if the leave will consist of five or more consecutive workdays. An employee taking leave for fewer than five consecutive workdays must give as much notice as is practicable. Employees who take such leave are entitled to restoration to their position or the equivalent upon return from leave. Me. Rev. Stat. tit. 26, § 814.

Leave for Victims of Violence

An employer must grant reasonable and necessary leave from work, with or without pay, for an employee to prepare for and attend court proceedings; receive medical treatment or attend to medical treatment for a victim who is the employee's daughter, son, parent, or spouse; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault, or stalking. Me. Rev. Stat. tit. 26, § 850. There are a few exceptions: 1) leave is not required if it would cause the employer to sustain undue hardship from the employee's absence; 2) the request for leave is not communicated within a reasonable time; or 3) the requested leave is impractical or unreasonable based on the facts made known to the employer. Me. Rev. Stat. tit. 26, § 850.

Smoking Laws

Maine's "Workplace Smoking Act of 1985" requires each employer to establish its own written policy regarding smoking and nonsmoking by employees in the business facility. The policy must generally prohibit indoor smoking to protect others from the detrimental effects of smoking. The policy can also prohibit smoking throughout the business facility, including outdoors. Violations will result in a fine of not more than \$100, and not more than \$1,500 for a pattern of conduct and lack of good faith in complying.

Exception: A qualifying club may allow smoking in its business facility. It must also have its policies agreed upon by the employer and employees and must provide written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote. The guidelines for a qualifying club are set forth in Paragraph 9(b). Me. Rev. Stat. tit. 22 § 1580-A.

Break Time to Express Milk

All employers must provide adequate unpaid break time or permit an employee to use paid break time or mealtime each day to express breast milk for her nursing child for up to three years after childbirth. The employer shall make reasonable efforts to provide a clean room or other location, other than a restroom, where an employee may express breast milk in privacy. An employer may not discriminate in any way against an employee who chooses to express breast milk in the workplace. Me. Rev. Stat. tit. 26 § 604.

Meal and Rest Breaks

Maine has no law regulating meal breaks.

Employees must be permitted to take a rest break of at least 30 consecutive minutes after no more than six consecutive hours of work. The employee may use this time as unpaid mealtime, but only if the employee is completely relieved of duty. The rest-break law does not apply to employers who have fewer than three employees on duty at any one time where the nature of the work done by the employee allows the employee frequent paid breaks of a shorter duration during the employee's workday. Me. Rev. Stat. tit. 26 § 601.

Final Payments

Any employee leaving employment must be paid in full no later than the employee's next established payday. Me. Rev. Stat. tit. 26 § 626.

Unemployment Insurance

Unemployment benefits are intended to be temporary to help people with basic needs while seeking new employment. In many cases, unemployment benefits are available for up to 26 weeks. The actual amount of benefits a person receives is based on wages earned during a specific time frame. Me. Rev. Stat. tit. 26 § 1191.

Workers' Compensation

An employee may be entitled to Workers' Compensation as set forth in Me. Title 39-A.

Child Labor

A minor under 14 years of age may not be employed in nonagricultural or agricultural employment, except for agricultural employment in the planting, cultivating, or harvesting of field crops or other agricultural employment not in direct contact with hazardous machinery or substances. This prohibition does not apply to minors under 14 years of age employed in school lunch programs, if limited to serving food and cleaning up dining rooms, or in a business solely owned by the minor's parents. Parents are prohibited from employing the parent's minor child in hazardous occupations. Me. Rev. Stat. tit. 26 § 771.

A minor under 18 years of age may not be employed in any capacity that is determined to be hazardous, dangerous to life or limbs, or injurious to the minor's health or morals. Me. Rev. Stat. tit. 26 § 772.

Hours minors may work depend on the age of the minor and whether they are in school at the time. Me. Rev. Stat. tit. 26 § 774.

Gun Laws

An employer or agent of the employer may not prohibit an employee with a valid permit to carry a concealed firearm from keeping the firearm in the employee's vehicle as long as the vehicle is locked, and the firearm is not visible. An employer or agent of an employer may not be held liable in any civil action for damages, injury, or death resulting from or arising out of another person's actions involving a firearm or ammunition. Me. Rev. Stat. tit. 26 § 600.

Marijuana Laws

Recreational and medical marijuana possession and usage are both permitted under Maine law for consumption by adults 21 years of age or older in private places. No employer is required to accommodate marijuana usage or to permit employees to use, consume, possess, trade, display, transport, sell, or cultivate marijuana or marijuana products in the workplace.

Employers may discipline employees who are under the influence of marijuana in the workplace or while otherwise engaged in activities in the course and scope of employment in accordance with the employer's workplace policies regarding the use of marijuana and marijuana products by employees. Me. Rev. Stat. tit. 28-B, § 112.

Maine Severance Pay Act (MSPA)

An employer that closes or engages in a mass layoff at a covered establishment is liable to eligible employees of the covered establishment for severance pay at the rate of one week's pay for each year, and partial pay for any partial year, from the last full month of employment by the employee in the establishment. A covered establishment means any industrial or commercial facility that employs or has employed at least 100 employees at any time in the previous 12 months. An eligible employee is one who has been continuously employed at the covered establishment at the time of closing or mass layoff for at least three years; has not been terminated for cause; and has not accepted employment at another or relocated establishment operated by the employer or is still employed by the covered establishment.

The MSPA requires employers to provide notice when there is a proposed closing or relocation of a covered establishment: the employer must notify employees and the municipal officers of the municipality where the covered establishment is located unless this notice requirement is waived by the Director of the Bureau of Labor Standards. This notice must be provided in writing at least 90 days before the permanent shutdown of operations. Me. Rev. Stat. tit. 26, § 625-B.