



# MICHIGAN

## QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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## At-Will Employment

Michigan is an at-will employment state, which means that, in the absence of a contract providing to the contrary, either the employer or the employee can terminate the employment relationship for any reason that is not contrary to law. *McNeil v. Charlevoix Cty.*, 772 N.W.2d 18, 24 (Mich. 2009). Under Michigan law by presumption, employment relationships are terminable at the will of either party. *Eplee v. City of Lansing*, 327 Mich. App. 635, 654, 935 N.W.2d 104 (2019). Such at-will employment relationships may be terminated “for any reason or no reason at all. *Id.*” However, the presumption of employment at will can be rebutted so that contractual obligations and limitations are imposed on an employer’s right to terminate employment. *Lytle v. Malady*, 458 Mich. 153, 164, 579 N.W.2d 906 (1998).

The presumption of employment at will is overcome with proof of either a contract provision for a definite term of employment or one that forbids discharge absent just cause. *Id.* Courts have recognized the following three ways by which a plaintiff can prove such contractual terms: (1) proof of “a contractual provision for a definite term of employment or a provision forbidding discharge absent just cause;” (2) an express agreement, either written or oral, regarding job security that is clear and unequivocal; or (3) a contractual provision, implied at law, where an employer’s policies and procedures instill a “legitimate expectation” of job security in the employee.

Michigan also recognizes exceptions for a wrongful discharge claim when an employee’s termination clearly violates public policy. *Suchodolski v. Mich. Consol. Gas Co.*, 316 N.W.2d 710, 711-12 (Mich. 1982). Michigan courts do not have unfettered discretion or authority to determine what may constitute sound public policy exceptions to the at-will employment doctrine. *Smith v. Town & Country Properties II, Inc.*, 338 Mich. App. 462, 477; 980 N.W.2d 131 (2021).

The three recognized public-policy exceptions to the at-will employment doctrine are as follows:

- explicit legislative statements prohibiting the discharge, discipline, or other adverse treatment of employees who act in accordance with a statutory right or duty (e.g., the Civil Rights Act, the Whistleblowers’ Protection Act, and the Persons with Disabilities Civil Rights Act);
- where the alleged reason for the discharge was the failure or refusal of the employee to violate a law in the course of employment (e.g., refusal to falsify pollution reports; refusal to give false testimony before a legislative committee; refusal to participate in a price-fixing scheme); and
- where the reason for the discharge was the employee’s exercise of a right conferred by a well-established legislative enactment (e.g., retaliation for filing workers’ compensation claims).

*Smith v. Town & Country Properties II, Inc.*, 338 Mich. App. 462, 476; 980 N.W.2d 131 (2021)

Under Michigan’s Persons with Disabilities Civil Rights Act, an employer may not discharge or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment, because of a disability or genetic information that is unrelated to the individual’s ability to perform the duties of a particular job or position. Mich. Comp. Laws § 37.1202. Nor shall an employer fail or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, or marital status. Mich. Comp. Laws § 37.2202.

## Immigration Verification

Michigan places no additional employment verification procedures on private employers beyond Federal I-9 compliance. There is no requirement that private employers use E-Verify under Michigan state laws.

## Drug Testing

Michigan has no statute restricting drug and alcohol testing as to private employers in either pre-employment or during the course of employment. Private employers may establish employment policies, programs, procedures, or work rules about the use of alcoholic liquor or the illegal use of drugs. Mich. Comp. Laws § 37.1211(a).

## Jury Duty Leave

Michigan law does not require an employer to pay an employee for responding to a jury summons or serving on a jury. An employer (or agent of the employer) may not discharge, discipline, or threaten an employee for being summoned for jury duty, serving on a jury, or having served on a jury. Mich. Comp. Laws § 600.1348.

In Michigan, an employer may not require an employee who serves jury duty, without the employee's voluntary consent or pursuant to a collective bargaining agreement, to work: (i) any number of hours during a day which, if added to the number of hours which the employee spent on jury duty, exceeds the number of hours normally worked by the employee during a day; or ii) the number of hours normally worked by the employee if it would result in the employee working past the employee's normal quitting time. *Id.*

## Voting Leave

Michigan does not have a law that requires an employer to grant its employees leave, either paid or unpaid, to vote. While Michigan does not have a voting leave statute covering private employers, an employer may not, either directly or indirectly, discharge or threaten to discharge an employee to influence the employee's vote. Mich. Comp. Laws § 168.931(1)(d).

## Parental Leave

Michigan currently does not have a law that requires private employers to offer its employees paid or unpaid parental leave. However, the federal Family and Medical Leave Act (FMLA) requires employers with 50 or more employees to provide qualifying employees up to 12 weeks of unpaid job-protected leave for specified medical or family reasons under certain circumstances. 29 U.S.C. § 2601.

## Paid Sick Time

Effective February 21, 2025, most employers in Michigan are required to provide employees with at least one hour of paid sick time for every 30 hours worked. Employers who already provide paid time off are not required to provide additional leave if the employer's paid-time-off policy allows employees to take paid sick leave for the same reasons and under the same conditions as those provided under Michigan's Earned Sick Time Act. Employees are entitled to use paid sick time to care for the employee's own or a family member's mental or physical illness, if the employee or their family member is a victim of domestic violence or sexual assault, for meetings at a child's school or place of care, and for the closure of the employee's place of business due to a public health emergency or the closure of a child's school or place of care as a result of an order of a public official due to a public health emergency. Mich. Comp. Laws § 408.961 *et seq.*

## Other Leave

Michigan law does not require private employers to provide employees with vacation, or bereavement leave either paid or unpaid, except as provided in the Paid Sick Time section above. If an employer chooses to provide such benefits, it must comply with the terms of its established policy or employment contract. However, employers are subject to the FMLA and its requirements. Mich. Comp. Laws § 408.473.

## Smoking Laws

In Michigan, smoking is banned in all public places, including places of employment. A place of employment includes any enclosed indoor area where one or more employees perform work but excludes the Detroit casinos, cigar bars and tobacco retail stores, home offices, and motor vehicles.

Michigan law prohibits smoking anywhere in an employer's indoor facilities, including private, enclosed rooms or offices occupied exclusively by a smoker. "Smoking" means the burning of a lit cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product but does not include chewing tobacco. Employers are not required to report smoking violations to any police or government authority, but are required: (i) to post No Smoking signs at the entrances to and in every building or work area covered by the smoking ban; (ii) remove all ashtrays and other smoking paraphernalia from any work area covered by the smoking ban; (iii) inform any employee or other who is smoking in violation of the law that they are violating state law and are subject to penalties for doing so; and (vi) if applicable, refuse to serve an individual smoking in violation of the law. Mich. Comp. Laws § 333.12601 *et seq.*

### **Break Time to Express Milk**

Michigan law does not require employers to provide nursing mothers with breaks to express breast milk. However, employers are subject to the Fair Labor Standards Act (FLSA), which requires covered employers to provide non-exempt nursing mothers with reasonable rest breaks to express milk and private spaces, other than a bathroom, to express breast milk, up to one year after the birth of a child. There is an exemption for employers with fewer than 50 employees if compliance would impose undue hardship.

### **Meal Breaks**

Michigan does not require employers to provide breaks, including lunch breaks, for workers 18 years old or older. Minors under 18 must be given a 30-minute uninterrupted meal or rest period if they are scheduled to work for five or more continuous hours. An employer who chooses to provide a meal, lunch, or break period for adults must completely relieve employees of their work duties for the break period to be unpaid. Mich. Comp. Laws § 409.112a.

### **Minor Employees**

Minor employees – those under the age of 18 – may work no more than ten hours per day with a limit of 48 hours per week while school is not in session. When school is in session, minor employees can work a maximum of 24 hours per week. Minors 16 and older cannot work between 10:30 p.m. and 6:00 a.m. during a school week and cannot work after 11:30 p.m. otherwise. Minors under sixteen cannot work until 3 p.m. during a school week and cannot work between 9:00 p.m. and 7:00 a.m. Mich. Comp. Laws § 409.110-111.

Minor employees must be given a 30-minute break after every five continuous hours of work. Mich. Comp. Laws § 409.112.

The minimum age for employment of minors is 14 years, except that a minor 11 years of age or older may be employed as a golf caddy, bridge "caddy," or sports referee. A minor 13 years of age or older may be employed in certain agricultural service operations or as a trap setter. Mich. Comp. Laws § 409.103. The department may approve exceptions for minors employed by performing arts organizations in session. If school is in session, they may work up to 24 hours per week. Mich. Comp. Laws § 409.111.

### **Minimum Wage, Overtime, and Wage Recordkeeping**

For the calendar year of 2024, the minimum wage is \$10.00 per hour plus the state treasurer's inflation adjustment. Each year thereafter, until 2030 there will be increases based on a statutory amount plus an adjustment for inflation as determined by the state treasurer. Mich. Comp. Laws § 408.934.

Michigan overtime law requires that non-exempt employees receive overtime compensation equal to one and one-half of their regular hourly compensation for any hours worked more than 40 in a week. This compensation can come in the form of one and one-half of the employee's regular pay or via a time-off award at one and one-half hours for every hour over 40 worked. Mich. Comp. Laws § 408.934(d). The Michigan overtime law has the same major exemptions as the FLSA. Mich. Comp. Laws § 408.414a.

Under Michigan law, an employer must maintain a record for each employee that indicates the employee's name, address, birth date, occupation or classification in which employed, total basic rate of pay, total hours worked in each pay period, total wages paid each pay period, and a separate itemization of deductions and a listing or itemization of fringe benefits. Mich. Comp. Laws § 408.479. Records must be maintained for not less than three years. Mich. Comp. Laws § 408.479. The records shall be open to inspection by an authorized representative of the department at any reasonable time.

### **Final Payments**

The State of Michigan requires employers to pay an employee who is voluntarily leaving employment or discharged all wages earned and due as soon as the amount due can, with due diligence, be determined. Mich. Comp. Laws § 408.475.

### **Unemployment Insurance**

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. These benefits are intended to partially offset the loss of wages while an unemployed worker searches for work or until an employer can recall the employee to work. Nothing is deducted from the employee's wages to pay for this coverage. Unemployment benefits are administered by the State Department of Labor, and additional information regarding the benefits may be accessed at <https://www.michigan.gov/leo/bureaus-agencies/uia>.

### **Workers' Compensation**

In Michigan, employers (not to include agricultural employers), with three or more employees at any time, or one employee working 35 hours or more per week for 13 weeks or longer during a 52-week period, must carry workers' compensation insurance, which provides wage replacement, medical, and rehabilitation benefits to employees who experience a work-related illness or injury. There are certain limited exceptions, including some farmworkers and independent contractors. Mich. Comp. Laws § 418.115.

An employee's injury must be work-related. While injuries are covered regardless of fault, compensation may be denied if the injury was the result of intentional or willful misconduct.

### **Firearm Laws**

Under Michigan law, an employer cannot prohibit an employee from applying for or receiving a concealed pistol carry license. An employer, however, can prohibit an employee from carrying a concealed pistol in the course of their employment. Mich. Comp. Laws § 28.425n.

### **Additional Laws and Regulations**

#### **Equal pay**

The Michigan Civil Rights Act prohibits employers from failing or refusing to hire or recruit, discharge, or otherwise discriminate against individuals with respect to employment, compensation, or a term, condition, or privilege of employment, or limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of the employee or applicant because of their religion, race, color, national origin, age, sex (including pregnancy), sexual orientation, gender identity or expression, height, weight, disability, genetic information, or marital status. Mich. Comp. Laws § 37.2202. Michigan law also prohibits retaliation against an employee for reporting or alleging a violation of the equal pay law or participating as a witness in an equal pay claim proceeding.

#### **Medical Marijuana**

Michigan has enacted the Michigan Medical Marihuana Act (the Act), which offers medical marijuana registration cards for patients with debilitating medical conditions. Mich. Comp. Laws § 333.26423. The Act does not permit any person to engage in a task under the influence of marijuana when doing so would constitute negligence or professional malpractice. Mich. Comp. Laws § 333.26427(b)(1). Employers are not required to accommodate the consumption of marijuana in the workplace or allow an employee to work while under the influence of marijuana. Mich. Comp. Laws § 333.26427(c)(2).

Michigan authorizes recreational marijuana use pursuant to the Michigan Regulation and Taxation of Marihuana Act. Mich. Comp. Laws § 333.27951, *et seq.* Michigan employers are not required to permit or accommodate marijuana use in the workplace or on the employer's property. Mich. Comp. Laws § 333.27954. An employer may refuse to hire, discharge, discipline, or take any other adverse action against an employee because the employee violated a workplace drug policy or worked while under the influence of marijuana. Mich. Comp. Laws § 333.27954.