



MISSOURI

QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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At-Will Employment

Missouri is an at-will employment state. *Am. Fed'n of State, Cnty. & Mun. Employees, AFL-CIO, Council 61 v. State*, 653 S.W.3d 111, 122 (Mo. 2022) (en banc). This means that absent a contract for a definite term, contrary statutory provision, or public policy exception, an employer may terminate the employment relationship at any time, with or without cause. *Id.*; *DeLaney v. Signature Health Care Found.*, 376 S.W.3d 55, 56 (Mo. Ct. App. 2012). The Missouri Human Rights Act prohibits employers from discharging any individual because of race, color, religion, national origin, sex, ancestry, age, or disability. Mo. Rev. Stat. § 213.055. Further, Missouri employers must also abide by federal statutes restricting the termination of employment relationships, such as Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e- 2000e17.

Missouri also recognizes a narrow public policy exception to the at-will employment doctrine where termination may be unlawful if in violation of a clear mandate of public policy. *Fleshner v. Pepose Vision Inst., P.C.*, 304 S.W.3d 81, 92 (Mo. 2010). Employees in Missouri are protected by the public policy exception if the cause of their termination falls into one of these categories: (1) They refused to perform an illegal act or an act contrary to a strong mandate of public policy; (2) they reported the employer or fellow employees to superiors or third parties for violations of law or public policy (e.g., whistleblowing); (3) they acted in a manner public policy would encourage (e.g., attending jury duty, seeking public office, joining a labor union, testifying as a witness in litigation, etc.); or (4) they filed a claim for workers' compensation. *Boyle v. Vista Eyewear, Inc.*, 700 S.W.2d 859 (Mo. Ct. App. 1985); *Drury v. Mo. Youth Soccer Ass'n, Inc.*, 259 S.W.3d 558, 566 (Mo. Ct. App. 2008); *Ballard v. Siwak*, 521 S.W.3d 296, 300 (Mo. Ct. App. 2017); *see also Margiotta v. Christian Hosp.*, 315 S.W.3d 342, 346–347 (Mo. 2010); *Jaeger v. Res. for Human Dev., Inc.*, 605 S.W.3d 586 (Mo. Ct. App. 2020); *DeLaney v. Signature Health Care Found.*, 376 S.W.3d 55 (Mo. Ct. App. 2012); *Hughes v. Bodine Aluminum, Inc.*, 328 S.W.3d 353, 356–57 (Mo. Ct. App. 2011). “Public policy” likewise includes activities encouraged but not mandated by state regulations, such as taking time off work to donate an organ. *DeLaney*, 376 S.W.3d at 57-58.

The public policy exception prevents employers from terminating employees for actions that are beneficial to society. *Fleshner*, 304 S.W.3d at 92. As such, the violation does not have to affect the employee individually for the employee to successfully assert a cause of action under the public policy exception. *Id.* at 97. However, reliance on the public policy exception must be based on an employer's wrongful actions related to “a constitutional provision, a statute, a regulation based on a statute[,] or a rule promulgated by a governmental body.” *Margiotta*, 315 S.W.3d at 346. In other words, a cause of action for wrongful termination of at-will employment cannot be based on an employer's general action that is contrary to public policy. Rather, the employer's action must violate some specific authority or authority's goals, and then, that action is subsequently deemed contrary to public policy.

On August 28, 2018, Missouri Senate Bill 1007 became effective. This legislation reformed Missouri's civil service system by changing state employee classification to at-will employment, subject to narrow exceptions. Mo. Rev. Stat. § 36.025. Thus, state employees are no longer afforded certain protections in hiring, promotions, and firing.

Immigration Verification

In Missouri, “[n]o business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.” Mo. Rev. Stat. § 285.530. Missouri requires that all public employers and any employers with: (1) a contract or grant with the state in excess of \$5,000; or (2) a tax credit, tax abatement, or loan from the state enrolled in a federal work authorization program (currently called E-Verify) to ensure employment eligibility for all newly hired employees. *Id.* Employers subjected to this requirement must provide a sworn affidavit and documentation to affirm: (a) their enrollment and participation in E-Verify; and (b) that they are not knowingly employing an undocumented person in connection with the contracted services. *Id.* In addition, any other employer may enroll in E-Verify; after enrollment, the employer is obligated to verify the employment eligibility of every new employee. *Id.*

Drug Testing

Generally, Missouri does not regulate or require testing for alcohol or drugs, meaning private employers are free to develop their own testing policies, provided that those policies comply with applicable federal law. However, contractors and subcontractors performing public works construction projects on public and charter elementary and secondary schools must implement random drug and alcohol testing programs. Mo. Rev. Stat. § 161.371. Said drug and alcohol testing program shall be administered by a laboratory duly certified by the U.S. Department of Health and Human Services, or a similar agency approved by the office of administration. *Id.* Additionally, employers of licensed school bus operators must notify the Missouri Department of Revenue within ten days of the knowledge that a school bus driver tested positive for drugs or alcohol. Mo. Rev. Stat. § 302.275.

Under Missouri law, if an employer has sufficient cause to suspect the use of alcohol or nonprescribed controlled substances by the employee or has a post-injury testing policy, an employee's refusal to take a test for alcohol or nonprescribed controlled substances forfeits workers' compensation benefits. Mo. Rev. Stat. § 287.120.6(3).

In Missouri, an employer should use the following procedures contained in Mo. Rev. Stat. § 287.120.6(4) to test for nonprescribed controlled substances in the event of an employee's work-related injury:

1. Administer the initial testing within 24 hours of the accident or injury;
2. Give notice of the test results to the employee within 14 days of the employer's insurer or group self-insurer receiving notice of the confirmatory test results;
3. Give the employee an opportunity to perform a second test upon the original sample; and
4. Ensure the test was confirmed by mass spectrometry using generally accepted medical or forensic testing procedures.

If these procedures are followed, a positive test result will create a rebuttable presumption that the nonprescribed controlled substance was in the employee's system at the time of the accident or injury. Mo. Rev. Stat. § 287.120.6(4). In addition, an employee's voluntary consumption of alcohol resulting in a blood alcohol level at or above the legal intoxication concentration according to Missouri law creates a rebuttable presumption that the employee's voluntary consumption of the alcohol was the proximate cause of the employee's injury. Mo. Rev. Stat. § 287.120.6(3).

Note: Missouri has amended its constitution to legalize recreational and medical marijuana use. Mo. Const. art. XIV, § 1, 2. Recreational marijuana use is prohibited in the workplace by the state constitution. *Id.* at Mo. Const. art. XIV, § 2. Employers may discipline and/or terminate employees for marijuana use in the workplace. *Id.*

Jury Duty Leave

In Missouri, employers are prohibited from terminating, disciplining, threatening, or taking adverse actions against employees who receive or respond to a jury summons. Mo. Rev. Stat. § 494.460.1. An employer cannot require an employee to use annual, vacation, personal, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Mo. Rev. Stat. § 494.460.3.c An employer is also not required to provide annual, vacation, personal, or sick leave to employees participating in the jury process unless the company policies provide otherwise. *Id.* If an employer has five or fewer full-time employees, a court must postpone and reschedule the services of a summoned juror if another employee has already been summoned to appear within the same period of time. Mo. Rev. Stat. § 494.460.4. Any employee who is discharged for receipt of or responds to a jury summons is entitled to file suit against the employer within 90 days of the discharge to recover lost wages, other damages caused by the discharge, and an order directing reinstatement of the employee; if the employee prevails, the employee is also entitled to collect reasonable attorney's fees. Mo. Rev. Stat. § 494.460.2.

Voting Leave

In Missouri, upon notice to the employer prior to the day of the election, any person entitled to vote in any election held within the state is permitted to miss up to three consecutive hours of work to vote during the times the polls are open. Mo. Rev. Stat. § 115.639. The employer may specify the three-hour period during which the employee is permitted to miss work to vote, provided that the three-hour period is within the times that the polls are open. *Id.*

No employer may discharge, threaten to discharge, penalize, or discipline an employee for exercising their right to vote. *Id.* Similarly, no employer may reduce or deduct from the employee's normal salary or wages due to the employee's absence from work to vote. *Id.* It is a Class Four election offense and misdemeanor to make, enforce, or attempt to enforce any order, rule, regulation, or other device to prevent an employee from engaging in political activities; accepting a nomination to, being elected to, or holding political office; being a member of a political committee; soliciting or receiving funds for political purposes; acting as chair of or participating in political conventions; conducting a political campaign; or signing an initiative, referendum, recall petition, or any other petition circulated pursuant to law. Mo. Rev. Stat. §§ 115.637(6), 115.639.

Note: If the polls are open on the day of an election for three consecutive hours not within the employee's scheduled work hours, § 115.639 does not apply. For example, if the employee is scheduled to work from 8:00 a.m. to 4:00 p.m. on election day and the polls are open from 8:00 a.m. to 8:00 p.m., the employee is not entitled to miss the three hours allotted in § 115.639.

Parental Leave

There is no Missouri statute providing for parental leave, but the federal Family and Medical Leave Act of 1993 (FMLA) gives employees the right to take time off to bond with a new child as part of their 12-week leave entitlement. 29 U.S.C. § 2601, *et seq.* In addition, guidance issued by the Missouri Commission on Human Rights pursuant to the Missouri Human Rights Act (MHRA) requires employers to provide the same leave benefits to women affected by pregnancy and related conditions as are provided to employees with temporary disabilities. Mo. Code. Regs. tit. 8 § 60-3.040(16). For purposes of MHRA, an "employer" is defined to include, "a person engaged in an industry affecting commerce who has six or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and shall include the state, or any political or civil subdivision thereof, or any person employing six or more persons within the state[,] but does not include corporations and associations owned or operated by religious or sectarian organizations," among a few other exceptions. Mo. Rev. Stat. § 213.010.

Administrative Leave for Public Officers and Employees

In Missouri, a hearing is required to be held within 60 days from the date the employee was placed on administrative leave for misconduct. Mo. Rev. Stat. § 105.264. The hearing may not be continued past 180 days from the date of administrative leave. *Id.* If the employee is removed from administrative leave within 30 days of being placed on leave, these requirements do not apply. *Id.*

"Administrative leave" is defined as "time off without charge to any annual or sick leave or loss of pay due to misconduct or investigation of misconduct of an employee." *Id.* "Employee" refers to an individual that is employed by a department, division, or agency of the state, or of a school district within the state. This excludes probationary teachers. *Id.*

However, if an employer has referred the investigation of misconduct to a law enforcement agency or other state or federal agency, or if a law enforcement, federal, or state agency has commenced its own investigation, such provisions listed above shall not apply. *Id.*

If the employer is a school district, the employer must inform the board of education of the reason(s) for placing the employee on administrative leave within 30 days of placing the employee on leave. *Id.* If the employee remains on leave past the initial board meeting where the board of education is informed of the administrative leave, then the board shall be updated with the status of the leave at every prior meeting. *Id.*

Within seven days of being placed on administrative leave, an employee must be advised in writing of the reason or reasons for being placed on administrative leave. *Id.*

Smoking and Alcohol Laws

An employer must not discharge, refuse to hire, or otherwise disadvantage an individual with respect to compensation, terms, or conditions of employment because the individual uses legal tobacco or alcohol products off the employer's premises and not during the person's work hours. Mo. Rev. Stat. § 290.145. This statute provides an exception where the person's use of tobacco products interferes with their job duties and performance, other employees, or the overall operation of the employer's business. *Id.* The statute also expressly allows employers to provide or contract for health insurance benefits at a reduced premium rate or deductible for employees who do not use tobacco products. *Id.* This statute does not apply to religious organizations, church-operated institutions, and non-profit organizations whose principal business is health care promotion. *Id.*

Break Time to Express Milk

Missouri law provides that, "a mother may, with discretion, breastfeed her child or express breast milk in any public or private location where the mother is otherwise authorized to be." Mo. Rev. Stat. § 191.918. The Fair Labor Standards Act also requires that employers provide reasonable break time for an employee to express breast milk for their nursing child for one year after the child's birth each time such employee needs to express the milk. 29 U.S.C. § 218d. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, that may be used by an employee to express breast milk. *Id.* Employers with fewer than 50 employees are not subject to these requirements when they constitute an undue hardship on the employer. *Id.*

Meal Breaks

Missouri follows the federal requirements related to meal breaks. In accordance with the Department of Labor's guidance, the federal requirements state that when employers do offer short breaks (usually lasting about five to 20 minutes), federal law considers the breaks as compensable work hours that would be included in the sum of hours worked during the workweek and considered in determining if overtime was worked. However, meal periods (typically lasting at least 30 minutes), serve a different purpose than coffee or snack breaks and, thus, are not work time and are not compensable.

Minimum Wage

Missouri requires employers to pay the higher of the state or federal minimum wage rate. Mo. Rev. Stat. § 290.502. As posted on the Missouri Department of Labor and Industrial Relations website, effective January 1, 2024, Missouri's minimum wage is \$12.30 per hour. For tipped workers, the minimum cash wage is \$6.15 per hour; however, if a tipped employee's compensation does not reach the state minimum wage of \$12.30 per hour with tips, the employer must pay the difference, so the employee receives at least \$12.30 per hour. Missouri law also provides special wage and hour requirements (prevailing wage) for labor performed on public works and construction projects. Mo. Rev. Stat. § 290.230.

Beginning on January 1, 2024, and each year thereafter, the minimum wage will be adjusted up or down pursuant to the procedures in Subsection (2). Mo. Rev. Stat. § 290.502(2). If at any time the federal minimum wage exceeds the Missouri minimum wage, the effective minimum wage in Missouri will be that of the federal minimum wage, though the minimum wage provided under Missouri law will continue to be adjusted by the methods described in Subsections (2) and (3). *Id.*

Final Payments

A discharged employee must receive all unpaid wages on the date of discharge. Mo. Rev. Stat. § 290.110. If the wage payment is not made on the day of discharge and the employee requests, in writing, that wages be paid, they must be received within seven days from the date of the request. *Id.* If payment is not made, the discharged employee's wages continue to accrue until the employee is paid, for not more than 60 days. *Id.*

Unused vacation pay or credit are not considered “wages” within the meaning of Mo. Rev. Stat. § 290.110. *Monterosso v. St. Louis Globe-Democrat Pub. Co.*, 368 S.W.2d 481, 488–89 (Mo. 1963). Thus, unless an employment agreement or company policy states that accrued but unused vacation time will be paid out, an employee is not entitled to payment for accrued but unused vacation time under Mo. Rev. Stat. § 290.110. *Solter v. P.M. Place Stores*, 748 S.W.2d 919, 921 (Mo. Ct. App. 1988).

Unemployment Insurance

Missouri has an unemployment insurance system administered by the Missouri Department of Labor & Industrial Relations Division of Employment Security (DES) that requires most Missouri employers to contribute to the state unemployment insurance fund. Mo. Rev. Stat. § 288.120, 288.220. According to the Missouri State Website, unemployment insurance benefits provide income to individuals who have lost work through no fault of their own, are unable to work due to a natural disaster, or quit for a good cause related to the work or the employer. 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. Nothing is deducted from the employee’s wages to pay for this coverage.

Employers are assessed for unemployment insurance taxes based on claim histories. The taxes are assessed against employers only; there is no employee liability. Employers are required to remit unemployment insurance taxes, submit certain related reports on a prescribed schedule, and keep certain records relating to employment histories. Unemployed workers must meet certain criteria to qualify for unemployment insurance benefits. For purposes of unemployment insurance, payroll records must be kept for at least three calendar years after the record is made. Mo. Rev. Stat. §§ 288.120-130.

More information about Employer Rights and Responsibilities regarding unemployment insurance benefits may be accessed at labor.mo.gov/sites/labor/files/pubs_forms/M-INF-151-AI.pdf.

Workers’ Compensation

Missouri workers’ compensation is administered by the Missouri Department of Labor & Industrial Relations Division of Workers’ Compensation and contained in Mo. Rev. Stat. § 287.010, *et seq.* The workers’ compensation laws apply to all public and private entities employing five or more people and to any construction industry employers who employ at least one person to “erect, demolish, alter[,] or repair improvements.” Mo. Rev. Stat. § 287.030. Any other public or private entity that employs fewer than five people may elect to be subject to the provisions under Mo. Rev. Stat. § 287.090.

Under Missouri’s workers’ compensation laws, employers must not discriminate against or discharge an employee when the exercising of such rights under the workers’ compensation statutes is the motivating factor in the discharge or discrimination. Mo. Rev. Stat. § 287.780.

To have a “work-related” injury for purposes of workers’ compensation, the incident causing the injury: (1) must have arisen out of and in the course of employment; and (2) must be the “prevailing factor” causing both the resulting medical condition and disability. Mo. Rev. Stat. § 287.020.3. An injury by accident is covered by these provisions only “if the accident was the prevailing factor in causing both the resulting medical condition and disability.” *Id.* Injuries for which the cause is unknown are not covered. *Id.* Most injuries that occur when an employee is traveling to and from work are also excluded, even if they occur while the employee is operating a company-owned or subsidized vehicle. Mo. Rev. Stat. § 287.020.5; see also *Jemison v. Superior Auto Mall*, 932 S.W.2d 431 (Mo.App. 1996).

Note: See the Drug Testing section regarding mandatory drug testing when an employee suffers a workplace injury.

Firearm/Weapon Laws

People who have a concealed carry permit or endorsement generally can carry concealed firearms on their person throughout Missouri. However, employers can prohibit employees – even if they hold a concealed carry permit or endorsement – from carrying concealed firearms on employer property if they aren't authorized to do so by employers. Mo. Rev. Stat. § 571.107.1(15). Employees and other people who hold a concealed carry permit or endorsement cannot carry concealed firearms on private property where one or more signs indicate that concealed firearms are prohibited on the premises. *Id.* The signs must be at least 11 by 14 inches, have one inch or larger letters, and be displayed in a conspicuous place. *Id.* Employers must post the signs on or about their premises if carrying concealed firearms is prohibited in their buildings or on their premises that are open to the public. *Id.* People who have a certain permit or endorsement generally can carry concealed firearms in their vehicle throughout Missouri. However, employers can prohibit employees and other people who hold a concealed carry permit or endorsement from carrying concealed firearms in employer-owned vehicles. *Id.*

Additional Laws and Regulations

Minimum Age

No child under the age of 14 shall be employed in any gainful occupation unless working for a parent, legal custodian, or guardian, or unless the person is 12 years of age or older and is providing childcare, delivering or selling newspapers, participating as a referee or coach in a youth sporting event, or performing occasional yard or farm work with the knowledge and consent of the parent. Mo. Rev. Stat. §§ 294.011(7); 294.021. Children under the age of 16 may not be employed during the regular school term unless the child has been issued a work certificate or a work permit. Mo. Rev. Stat. § 294.024. Further, a child under the age of 16 may not be employed in hazardous occupations delineated in Mo. Rev. Stat. § 294.040. Subject to a few exceptions, people under 21 years of age may not sell or dispense alcoholic beverages. Mo. Rev. Stat. § 311.300.

Violations of Missouri's child labor laws are Class C misdemeanors. Mo. Rev. Stat. § 294.110.

WARN Laws

Missouri does not have a statute mandating notice for terminations. Employers in Missouri must follow the federal Worker Adjustment and Retraining Notification (WARN) Act.

Municipal Ordinances

Municipalities and other local governments may adopt various laws impacting employers. In 2021, the City of St. Louis adopted Ordinance 71074, which prohibits employers of ten or more employees from making hiring or promotional decisions based upon a job applicant's prior criminal history unless the frequency, recentness, and severity of the criminal history impacts the employee's job duties and responsibilities. Further, employers in St. Louis may not consider an applicant's criminal history until the final selection stage, advertise a job posting that excludes applicants with criminal history, inquire into criminal history on a job application, or seek publicly available information about an applicant's criminal history. *Id.*