



# WASHINGTON

## QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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## **At-Will Employment**

Washington is an at-will employment state, which means that the employer or employee may end the employment relationship for any reason or no reason as long as it is not in violation of another law (such as discrimination, retaliation, etc.).

## **Immigration Verification**

Washington places no additional employment verification procedures on employers beyond Federal I-9 compliance. Wash. Admin. Code § 162-12-140. There is no requirement to use E-Verify under Washington state laws. Note, however, that some municipalities in Washington have E-Verify requirements.

## **Drug Testing**

Washington does not have a drug and alcohol testing law that applies generally to private employers. Therefore, employers can implement drug and alcohol testing programs without restriction as long as they do not discriminate against a certain class of individuals or otherwise violate other laws. Effective, January 1, 2024, Washington employers are prohibited from disqualifying job applicants based on the lawful use of cannabis outside the workplace.

## **Jury Duty Leave**

Employers must provide employees with sufficient leave when summoned to serve as jurors. Wash. Rev. Code § 2.36.165.

Employers cannot discharge, threaten, coerce, harass, or deny promotional opportunities to employees because they receive or respond to a jury summons, serve as jurors, or attend court for prospective jury service. Wash. Rev. Code § 2.36.165.

## **Voting Leave**

Employers are not required to provide leave for voting.

Employers cannot discriminate against employees based on their support of or opposition to any candidate, ballot proposition, political party, or political committee. Wash. Rev. Code § 42.17A.495.

Employers cannot withhold or divert portions of employees' wages or salaries for contributions to political committees or for use as political contributions except upon request of the employee. The employee may revoke the request at any time, and at least annually, the employee must be notified of the right to revoke the request. Wash. Rev. Code § 42.17A.495.

## **Parental Leave**

Washington employees may be entitled to parental leave under various state laws. An employer must grant the same leave upon the same terms for men as it does for women. Wash. Rev. Code § 49.12.360.

If Washington employers offer additional leave to employees who are biological parents to care for their newborn children, this leave also must be offered under the same terms to male and female employees who are stepparents or adoptive parents. Employers may restrict the use of this leave to stepparents who live with their stepchild at the time the child is born and adoptive parents who live with their adopted child at the time the child is initially placed with them for adoption. Leave means any leave to care for a newborn or newly adopted child who is under the age of six. Wash. Rev. Code § 49.12.360.

## **Paid Sick Leave**

All Washington employers must allow eligible nonexempt employees (including part-time employees) to accrue at least one hour of paid sick leave for every 40 hours worked. They can use this leave to care for themselves or their family members, when their workplace or their child's school or place of care is closed for health-related reasons (or, effective January 1, 2025, after the declaration of a local or federal emergency), or for absences that qualify for crime victim leave. An employee may use paid sick leave beginning on the 90th day of employment. Wash. Rev. Code §§ 49.12.005, 49.46.200, 49.46.210.

## Ride-Share Drivers

Ride-share companies must offer paid sick time to drivers. Drivers accrue one hour of paid sick time for every 40 hours of recorded passenger platform time. Drivers may use paid sick time if they have recorded passenger platform time within 90 calendar days before their request to use earned paid sick time. Wash. Rev. Code §§ 49.46.210, 49.46.300, 49.46.350.

## Paid Family and Medical Leave

Eligible Washington employees are entitled to apply for Paid Family and Medical Leave (PFML) benefits through the PFML program administered by the Washington Employment Security Department (ESD). The PFML program is funded by premiums paid by both employees and employers and is administered by the Washington ESD. A withholding of a small percentage of employees' wages is deducted from employees' paychecks to cover the employees' portion of the premiums and is submitted quarterly to the Washington ESD. Wash. Rev. Code § 50A.10.030(5). To be eligible for PFML benefits, an employee must have worked in the State of Washington for at least 820 hours in either the last four completed calendar quarters or four of the last five completed calendar quarters. The 820 hours do not have to be for a single employer. Wash. Rev. Code § 50A.15.010. An eligible employee may receive PFML benefits for the following amounts of time within a one-year period:

- **Family Leave** – up to 12 weeks of leave to:
  - Bond with the employee's newborn child, newly adopted child, or newly placed foster child within 12 months after the birth, adoption, or placement of the child;
  - Participate in providing care, including physical or psychological care, for a family member with a serious health condition;
  - Prepare for a family member's pre- and post-deployment activities, as well as time for childcare issues related to a family member's military deployment; or
  - Bereavement leave for 7 calendar days following the death of a family member. Wash. Rev. Code §§ 50A.05.010(10), 50A.15.020.
- **Medical Leave** – up to 12 weeks for the employee's own serious health condition. Wash. Rev. Code §§ 50A.05.010(15), 50A.15.020(3)(b). Leave during the six-week postnatal period must be allowed as medical leave unless the employee chooses to use family leave. Wash. Rev. Code § 50A.15.020(4).
- **Combined Family and Medical Leave.** Up to 16 weeks of leave for a combination of Medical Leave and Family Leave (with up to an additional two weeks of leave if they experience a pregnancy-related disability). Wash. Rev. Code § 50A.15.020(3)(c).

For more information about PFML, visit [www.paidleave.wa.gov](http://www.paidleave.wa.gov).

## Pregnancy Disability Leave

Washington employers must provide a woman leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. Employers must treat a woman on pregnancy-related leave the same as other employees on leave for sickness or other temporary disabilities. Wash. Admin. Code § 162-30-020.

## Other Leave

### Crime Victim Leave

Employers must allow employees to take a reasonable amount of crime victim leave for certain permitted reasons if they or their family members are victims of domestic violence, sexual assault, or stalking. Wash. Rev. Code § 49.76.030.

### Emergency Response Leave

Employers must allow employees who are members of the Washington Civil Air Patrol to take leave related to an emergency service operation. They also must allow employees who are volunteer firefighters or reserve officers to take leave related to a fire alarm or emergency call. Wash. Rev. Code § 49.12.460.



## **Family Care Act**

If employees are entitled to sick leave or other paid time off under the terms of a collective bargaining agreement or employer policy, employers must allow them to use any of this leave to care for their child who has a health condition or other family members who have a serious health condition or emergency condition. Wash. Rev. Code § 49.12.270.

## **Military Leave**

Employers must reinstate qualified employees returning from military leave to their position or another position with similar seniority, status, and pay, except under certain conditions. Eligible employees are entitled to 15 days of unpaid leave each time their military spouse is deployed during a period of military conflict. Wash. Rev. Code §§ 73.16.031, 73.16.033, 49.77.030.

## **Smoking Laws**

Employers must prohibit smoking in enclosed office spaces or restrict it to designated smoking areas. Employers also must prohibit smoking in and around enclosed indoor workplaces that are open to the public. Wash. Rev. Code §§ 70.160.020, 70.160.030.

Exceptions: Certain private enclosed workplaces within public places are not covered by the smoking provisions. Wash. Rev. Code § 70.160.020.

Employers and owner-operators of workplaces and public places that are covered by the smoking provisions must post “No Smoking” signs at building entrances and other prominent locations throughout the establishment. Wash. Rev. Code § 70.160.050.

## **Break Time to Express Milk**

Employers may not fail or refuse to make reasonable accommodations for their employees’ needs to express breast milk unless employers can show that these accommodations would impose undue hardship on their business. Reasonable accommodations include reasonable break time for employees to express breast milk for two years after the child’s birth and a private location for employees to express breast milk that is not a bathroom. If an employer does not have a space for an employee to express breast milk, the employer must work with the employee to identify a convenient location and work schedule to accommodate the employee’s needs. Wash. Rev. Code § 43.10.005.

## **Meal and Rest Periods**

Employers must provide all covered employees working more than five hours a meal period of at least 30 minutes. Meal periods must be taken after the second hour of work but before completing the fifth hour of work. No employee may be required to work more than five consecutive hours without a meal break. Additionally, for every four hours of working time, employees must be allowed a paid rest period of not more than ten minutes, scheduled as near as possible to the midpoint of the work period. No employee may be required to work more than three hours without a break period. Employees cannot waive rest break requirements. Wash. Admin. Code §§ 296-126-092, 296-131-020.

Meal periods may be unpaid unless the employee is not relieved of work-related duties, remains on-call during the meal period, or is called back to work early. Wash. Admin. Code § 296-126-092.

Employees working three or more hours of overtime a day must take the required meal period before beginning work during the overtime hours. Wash. Admin. Code § 296-126-092.

Piece-rate employees: The time allotted to a piece-rate employee for rest periods shall be included in the number of hours for which the minimum wage must be paid. Wash. Admin. Code § 296-131-020.

## **Outdoor Workers**

Washington has specific rules applicable to outdoor workers. These rules include requirements for shade, rest, and acclimatization. More information is available here: [Be Heat Smart](#).

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

The state's hourly minimum wage is calculated according to Wash. Rev. Code § 49.46.020. On September 30 of each year, the Department of Labor and Industries calculates an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation.

Washington does not allow a tip credit. Employers must pay employees all tips and gratuities, and all service charges except those that are itemized as not payable to the employee serving the customer. Wash. Rev. Code § 49.46.020.

Employers with workers in certain localities, such as Seattle and SeaTac, may be subject to a higher minimum wage than the state minimum wage rate. Washington cities, towns, and other political subdivisions can establish minimum wage requirements for private employers.

All employees are covered except those specifically exempt by statute. Wash. Rev. Code § 49.46.010.

## **Overtime**

Employees covered by Washington's overtime law must be paid one and one-half times their regular rates for hours worked in excess of 40 hours per week.

An updated State salary threshold and job duties test might affect which workers qualify as exempt from overtime. The minimum salary that white-collar workers must receive to be exempt from minimum wage and overtime requirements is to rise incrementally, based on employer size and multipliers, until 2028.

After 2028, the salary threshold is to rise when the minimum wage is increased for inflation.

For more information on upcoming changes to overtime rules, visit <https://lni.wa.gov/workers-rights/wages/overtime/changes-to-overtime-rules>.

## **Recordkeeping**

Employers must keep a record of the name, address, and occupation of all employees; rate of pay and amount paid each pay period to all employees; and hours worked each day and each workweek by all employees. The records must be open for inspection or transcription by the Department of Labor at any reasonable time. Wash. Rev. Code § 49.46.070.

Employers who employ minors during the school year must sign a Parent/School Authorization form, which must be renewed annually by September 30. Employers also must have a minor work permit.

## **Final Payments**

Employers must pay final wages on the next regularly scheduled payday to discharged employees or employees who quit. Washington's Department of Labor and Industries has established this policy for final wage payments. For discharged employees see Wash. Rev. Code §§ 49.48.010, 49.48.160. For employees who quit, see Wash. Rev. Code § 49.48.010.

The amount of wages and other compensation owed to a deceased employee that may, on request, be paid to the employee's spouse increased to \$10,000 from \$2,500. Wash. Rev. Code § 49.48.120.

## **Unemployment Insurance**

Washington's Employment Security Law requires most Washington employers to contribute to the state unemployment insurance fund. The tax is administered by Washington's Employment Security Department.

## **Workers' Compensation**

Washington requires all covered employers to obtain and maintain insurance for on-the-job injuries and occupational diseases that result in total or partial incapacity or death. The state's law also establishes criteria for safety workplace programs that qualify employers for premium discounts.

Injured employees must notify their employer immediately of an injury. Upon receipt of such notification, employers are required to inform injured workers of their rights under the law.

For more information, visit the website of the Washington State Department of Labor & Industries: <https://lni.wa.gov/>.

### **Child Labor**

Employees younger than 18 years of age are considered child labor and subject to additional regulations. Wash. Rev. Code § 49.12.005.

Minor employees aged 14 to 17 are subject to daily and weekly work-hour limits, consecutive workday limits, and limits on the time of day they start and stop work. They must receive a meal period of at least 30 minutes when they work more than a certain number of hours in a day, plus a ten-minute rest period as required. Employers must obtain a work permit to hire those employees and obtain a parent/school authorization from them annually. Wash. Rev. Code § 49.12.005; Wash. Rev. Code § 49.12.121.

Minors aged 16 to 17 cannot be employed as follows:

- When school is in session, they cannot work more than four hours in a day preceding a school day, more than eight hours in a day preceding a non-school day, more than 20 hours in a week, or more than six consecutive days. They cannot begin work earlier than 7:00 a.m., continue working later than 10:00 p.m. on a day preceding a school day, or continue working later than midnight on a day preceding a non-school day.
- When school is not in session, they cannot work more than eight hours in a day, more than 48 hours in a week, or more than six consecutive days. They cannot begin work earlier than 5:00 a.m. or continue working later than midnight.

Minors aged 14 to 15 cannot be employed as follows:

- When school is in session, more than three hours in a day preceding a school day, more than eight hours in a day preceding a non-school day, more than 16 hours in a week, or more than six consecutive days.
- Begin work earlier than 7:00 a.m. or continue working later than 7:00 p.m.
- When school is not in session, work more than eight hours in a day, more than 40 hours in a week, or more than six consecutive days. From June 1 through Labor Day, they cannot begin work earlier than 7:00 a.m. or continue working later than 9:00 p.m.

Teens who are 16 to 17 years of age can work non-school week hours if they are married, are a parent, are enrolled and taking college courses, or have a high school diploma or equivalency.

Employers must provide minor employees aged 16 to 17 with a meal period of at least 30 minutes when they work more than five hours in a day, plus a ten-minute rest period at least once every three hours. Employers must provide minor employees aged 14 to 15 with a meal period of at least 30 minutes when they work more than four hours in a day, plus a ten-minute rest period at least once every two hours.

For more information on child working hour restrictions, visit [www.lni.wa.gov](http://www.lni.wa.gov).

Employers desiring to hire minors must obtain a Minor Work Permit from the Washington State Department of Labor Industries. Employers can apply for a permit to hire minors simultaneously with a business license. Wash. Rev. Code §§ 49.12.121, 49.12.123.

### **Gun Laws**

Washington does not have any statutory or regulatory provisions that directly apply to guns in the workplace or employee parking lot.

## Non-Compete Agreements

Non-compete agreements are not favored in the State of Washington. In Washington, a non-compete is void and unenforceable against an employee unless:

- The employer discloses the terms of the non-compete agreement in writing to the prospective employee when the employee accepts the employment offer and, if the agreement becomes enforceable only at a later date due to changes in the employee's compensation, the employer specifically discloses that the agreement may be enforceable against the employee in the future;
- If the covenant is entered into after the commencement of employment, the employer provides independent consideration for the covenant;
- The employee's earnings exceed \$120,559.99 per year, adjusted annually for inflation; and
- If the employee is terminated as the result of a layoff. Enforcement of the non-compete includes compensation equivalent to the employee's base salary at the time of termination for the period of enforcement minus compensation earned through subsequent employment during the period of enforcement. Wash. Rev. Code § 49.62.020 et seq.

## Additional Laws and Regulations

### Genetic Testing

Employers cannot require employees and applicants to submit to genetic screening or provide genetic information as a condition of employment. Wash. Rev. Code § 49.44.180.

### Hair Discrimination

Employers cannot discriminate against employees with hair texture and protective hairstyles, including hairstyles such as afros, braids, locks, and twists. Wash. Rev. Code § 49.60.040.

### Wage Disclosure

See Wash. Rev. Code § 49.58.040.

Employers cannot require employees to refrain from disclosing their wages as a condition of employment. Employers also cannot require employees to sign waivers or other documents that prevent them from disclosing the amount of their wages.

Employers can prohibit employees who have access to compensation information as part of their essential job functions from disclosing other employees' and applicants' wages to anyone who does not otherwise have access to this information. However, employees are permitted to make these disclosures in response to complaints, charges, or investigations, or in accordance with the employers' legal duty to provide the information if doing so is part of their essential job functions. These employees are otherwise protected by the wage disclosure provisions, including the protection against retaliation for disclosing their own wages.

### Salary History

See Wash Rev. Code § 49.58.100.

Employers cannot seek the wage or salary history of any job applicant from the applicant or their current or former employer, or require that an applicant's prior wage or salary history meet certain criteria. However, they can confirm an applicant's wage or salary history if:

- The applicant has voluntarily disclosed their wage or salary history; or
- The employer has already negotiated and made an employment offer with compensation to the applicant.

### Salary Transparency

Washington employers with 15 or more employees will be required to disclose their wage scale or salary range, along with a general description of all benefits and other compensation in every job posting. Wash. Rev. Code § 49.58.110.

## **Personal Information Protection**

See Wash. Rev. Code § 19.255 and § 42.56.

Employers must notify state residents, including employees and applicants, about a security breach of their unsecured personal information if the information is or probably was acquired by unauthorized people.

Employers also must notify state residents about a security breach of their secured personal information if the confidential process, encryption key, or other means for deciphering the information is acquired by unauthorized people. Security breaches don't include good-faith acquisition of personal information by employers' employees or agents for employer purposes if the information isn't used or subject to further unauthorized disclosures.

- Personal information consists of residents' first name/initial and last name in combination with data such as their Social Security number, medical information, or biometric data. The data alone is considered personal information if it is not encrypted, redacted, or otherwise made unusable and if its exposure would enable identity theft. Personal information also includes a username or email address in combination with a password or security questions/answers that permit access to an online account. It does not include information lawfully made available to the public from government records.

## **Social Media**

An employer may not request or require an employee or applicant to disclose login information for his or her personal social media account, or that an employee or applicant access his or her social media account in a manner that enables the employer to observe the account's contents. An employer may not compel an employee or applicant to add the employer or any person to those authorized to view the contents and may not take adverse action because the employee or applicant refuses to reveal information associated with his or her personal account.

There are several exceptions to this rule listed in Wash. Rev. Code § 49.44.200.

## **Marijuana**

Washington allows for the recreational use of marijuana. It also allows for medical use of marijuana to treat certain medical conditions; however, employers are not required to accommodate such use in the workplace. Employers are required to prohibit alcohol and narcotics in the workplace, except in industries and businesses that produce, distribute, or sell alcohol and narcotic drugs.

Personal use of marijuana: Employers are covered by the personal use of marijuana provisions. Wash. Rev. Code §§ 69.50.101 to 69.50.608.

Medical use of marijuana: Employers are covered by the medical use of marijuana provisions. Wash. Rev. Code § 69.51A.060.

## **Hiring and Conviction Records**

Employers cannot inquire into or obtain information about any applicants' criminal records until after making an initial determination that they are otherwise qualified for a position. Employers may request state criminal background checks through Washington criminal justice agencies that disseminate criminal history record information. Employers cannot be sued for damages based on whether they considered employees' and applicants' restoration of opportunity certificates in employment decisions. Wash. Rev. Code §§ 49.94.005 to 49.94.010.

## **Local Employment Regulations and Ordinances**

Several municipalities in Washington (e.g., Seattle, Tacoma, etc.) have additional employment law regulations and ordinances that provide protections for employees above and beyond what Washington state law requires. Employers with employees in these municipalities should be careful to note the impact of local regulations and ordinances.