



WYOMING

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

Wyoming recognizes the at-will employment doctrine, which means that an employer or employee may terminate an employment relationship at any moment, and for any reason if the reason is not discriminatory, retaliatory, or otherwise illegal. [Worley v. Wyoming Bottling Co., 1 P.3d 615, 620 \(Wyo. 2000\)](#). Although employment for an indefinite period of time is presumed to be at-will, that presumption can be overcome by either an implied or express contract. [Davis v. Wyoming Medical Center, Inc., 934 P.2d 1246, 1249 \(Wyo. 1997\)](#). For example, an employer's handbook may change the employer's right to terminate an employee. [Leithead v. American Colloid Company, 721 P.2d 1059, 1062 \(Wyo.1986\)](#); [Alexander v. Phillips Oil Company, 707 P.2d 1385, 1388 \(Wyo.1985\)](#).

Wyoming has exceptions to the at-will doctrine. For example, Wyoming finds that an employer can violate the at-will doctrine if the employee's termination violates public policy. [McGarvey v. Key Prop. Mgmt. LLC, 211 P.3d 503 \(Wyo. 2009\)](#). Further, Wyoming law states that an employer violates the at-will doctrine when they retaliate against employees who file workers' compensation claims. [Griess v. Consolidated Freightways Corp., 776 P.2d 752, 754 \(Wyo.1989\)](#).

Right-to-Work Laws

Wyoming is a right-to-work state. [Wyo. Stat. § 27-7-109](#). This means that employees can neither be denied nor diminished employment on the basis of membership or non-membership in a labor union or organization, nor required to pay or refrain from paying any dues, fees, or other charges to a labor union or organization.

Immigration Verification

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

Drug Testing

Wyoming has no state law addressing an employer's right to drug test in the workplace. Therefore, Wyoming employers may institute any drug and alcohol-testing program as long as it is not discriminatory or otherwise unlawful.

Jury Duty Leave

It is unlawful for an employer to persuade or attempt to persuade any juror to avoid jury service, intimidate or threaten any juror in that respect, or remove or otherwise subject an employee to adverse employment action as a result of jury service if the employee provides reasonable notice of their absence. It is also unlawful for an employer to require or request an employee to use annual, vacation, or sick leave for time spent responding to a summons for jury duty. [Wyo. Stat. § 1-11-401](#). No Wyoming state law requires the employer to pay wages while an employee is on jury duty.

Voting Leave

Wyoming law requires employers to provide an employee with one hour of paid leave to vote in a primary, general, or special election to fill a seat for the U.S. Congress if the employee does not have three or more consecutive off-duty hours in which to vote while polls are open. An employer may dictate when an employee takes paid voting leave. [Wyo. Stat. § 22-2-111](#).

Parental Leave

Wyoming currently has no state laws pertaining to any kind of parental leave. Thus, each employer must make the decision to provide employees with such time that is not required by the Family and Medical Leave Act ([FMLA](#).) FMLA gives employees the right to take time off to bond with a new child as part of their 12-week leave entitlement. [5 U.S.C. § 6382](#).

Other Leave

Under Wyoming's Military Relief Service Act, employees who leave employment in order to perform service in the U.S. Armed Forces, the National Guard of any state, or the commissioned corps of the public health service are entitled to unpaid military leave. [Wyo. Stat. § 19-11-107](#). Employees on military leave are entitled to reemployment within ten days of application for reemployment so long as the application complies with the

necessary statutory requirements. [Wyo. Stat. § 19-11-111](#). Wyoming employers are still subject to the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and federal law preempts state law to the extent it offers greater protections.

Victims and witnesses who respond to a subpoena from either the prosecution or defense in a criminal case during work hours may not suffer any change in terms of employment as a result of responding to the subpoena. [Wyo. Stat. § 1-40-209](#).

In Wyoming, employers are not required to provide employees with vacation benefits, either paid or unpaid. [WY Atty. Gen. Opinion No. 1963-53](#). If an employer chooses to provide such benefits, it must comply with the terms of its established policy or employment contract. [Wyo. Stat. § 27-4-507](#); [WY Atty. Gen. Opinion No. 1963-53](#). Furthermore, “use-it-or-lose-it” vacation policies are not expressly prohibited by statute. The Wyoming Department of Workforce Services takes the view that such policies are permitted if the employer either provides a full opportunity to use earned vacation days or has not previously refused a request to use those days. Additionally, Wyoming law does not require employers to provide employees with sick leave benefits, either paid or unpaid.

Smoking Laws

Employers are prohibited from discriminating against applicants or employees for their use of tobacco products outside the course of employment, unless it is a bona fide occupational qualification (BFOQ). [Wyo. Stat. § 27-9-105](#). Wyoming is one of the only states in the country that does not prohibit smoking in workplaces or other public places generally.

Break Time to Express Milk

The State of Wyoming encourages breastfeeding and recognizes the importance of breastfeeding to maternal and child health. [Wyo. HJR 5](#) (2003). The legislature also commends employers, in both the public and private sectors, who provide accommodations for breastfeeding mothers. Note that no Wyoming law *requires* employers to accommodate breastfeeding or expressing milk at work. Wyoming law also exempts breastfeeding mothers from public indecency laws and gives breastfeeding women the right to nurse anywhere that they otherwise have a right to be. [Wyo. Stat. § 6-4-201](#).

Meal Breaks

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

Minimum Wage, Overtime, and Wage Recordkeeping

The State of Wyoming set the minimum wage at no less than \$5.15 per hour. [Wyo. Stat. § 27-4-202](#). Employers must still comply with federal wage laws and regulations. An employer can pay tipped employees \$2.13 per hour as long as the employee’s tips bring the total hourly wage up to the state minimum wage.

Any new employee under 20 years of age may be paid \$4.25 per hour during the first 90 days of employment. [Wyo. Stat. § 27-4-202](#).

Wyoming law does not specify general overtime payment requirements for employers. However, certain laborers, workmen, or mechanics engaged in public works contracts must be compensated at a rate of one and one-half times the regular rate of pay at which they are employed for all work in excess of forty hours in any one week. [Wyo. Stat. § 16-6-110](#).

Employers subject to the Minimum Wage Act shall make, and keep for a period of not less than two years in or about the premises where any employee is employed, a record of the name, address, and occupation of each of their employees; rate of pay; amount paid each pay period to each employee; and such other information as required by the director of the Department of Labor. [Wyo. Stat. § 27-4-203](#).

Final Payments

The State of Wyoming requires an employer to issue a final paycheck to an employee who resigns or is discharged no later than the employer's usual practice on regularly scheduled payroll dates. [Wyo. Stat. § 27-4-104](#).

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. Nothing is deducted from the employee's wages to pay for this coverage. Unemployment benefits are administered by the Wyoming Department of Workforce Services, and additional information regarding the benefits may be accessed at dws.wyo.gov/dws-division/unemployment-insurance/.

Workers' Compensation

[The Wyoming Worker's Compensation Act](#) (the Act) applies to every employer in Wyoming employing individuals engaged in an extra-hazardous occupation or those employers that elect coverage pursuant to the statute. 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 report an injury in a timely manner may result in a denial of benefits.

The Act is administered by the Wyoming Department of Employment, and additional information regarding the Act may be accessed at [Wyoming's Department of Workforce Services website](#).

Unlike some states, Wyoming recognizes a cause of action in tort for retaliation under the Act. [Griess, 776 P.2d 752, 754 \(Wyo.1989\)](#). When an individual's employment is terminated merely for exercising rights under the Act, courts recognize an exception to the "at-will" employment doctrine, allowing the individual to sue the employer for damages.

Child Labor

Children under 16 years of age cannot work in the operation of heavy construction equipment or employment requiring contact with explosives or dangerous chemicals, or any occupation declared by the Wyoming Department of Workforce Services as hazardous. [Wyo. Stat. § 27-6-112](#). Children under 14 years of age cannot work in any occupation except farm, domestic, and lawn or yard service. [Wyo. Stat. § 27-6-107](#). Proof of age is required to be kept by any employer employing a minor under the age of 16 years. [Id.](#)

Gun Laws

No Wyoming state law addresses the employer's right to control an employee's possession of a firearm in the workplace or on business property. Therefore, employers may prohibit possession of firearms at work (including parking lots) even if the employee holds a concealed carry permit.

Additional Laws & Regulations

Fair Employment Practices

Wyoming's civil rights law mimics federal laws in that it prohibits discrimination because of an individual's race, religion, color, sex, national origin, handicap, qualified disability, or age. [Wyo. Stat. § 27-9-105](#). Under the statute, an employee has six months from the date of the wrongful act to file a complaint with the Wyoming Department of Workforce Services. [Wyo. Stat. § 27-9-106](#).

Medical Marijuana

Wyoming does not have a law governing medical the use of marijuana to treat or alleviate certain debilitating medical conditions or related symptoms.

Equal Pay

Wyoming's Equal Pay Law prohibits employers from paying wages to employees of one sex at a lower rate than it pays to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions. [Wyo. Stat. § 27-4-302](#). An employer can pay different rates when the difference is based on a seniority system, merit system, system that measures earnings by quantity or quality of production, the geographic location where work is performed, training, or travel. [Id.](#) The law applies to all employers, both public and private, regardless of size. [Id.](#)

WARN Laws

Wyoming does not have its own state WARN law and instead adheres to the [Federal Worker Adjustment and Retraining Notification \(WARN\) Act](#). The Act applies to employers with 100 or more full-time employees and to mass layoffs or plant closings wherein a certain percentage of employees lose their jobs. Generally, the Act requires most employers to provide at least 60 days' notice of any plant closing and mass layoff.