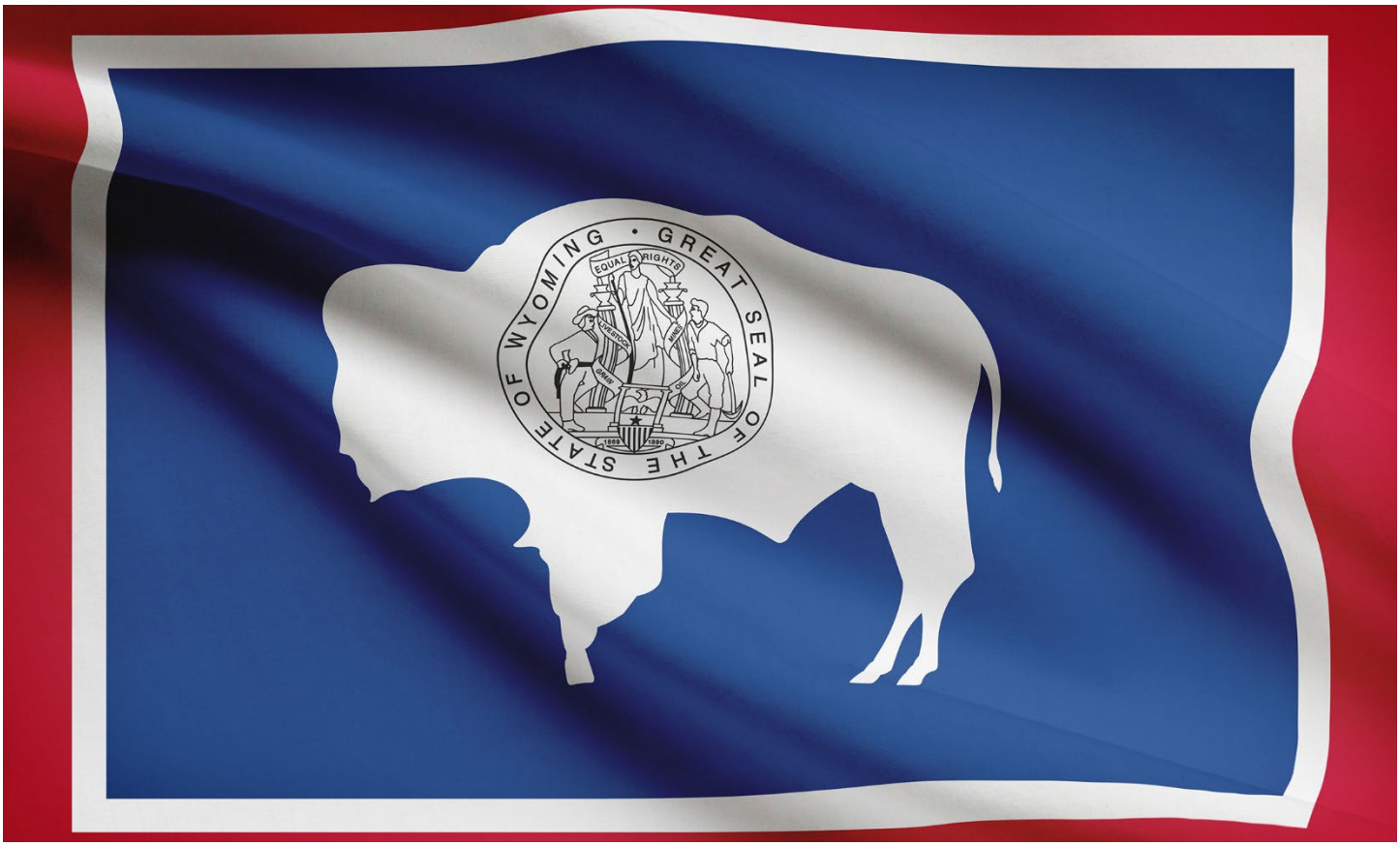

WYOMING
QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

PROVIDED BY BAKER DONELSON

Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.

At-Will Employment

In Wyoming, employment is presumed to be at-will. This means either the employer or the employee can terminate the employment relationship at any time, for any reason, or for no reason at all, as long as the reason is not discriminatory, retaliatory, or illegal (*Worley v. Wyoming Bottling Co., Inc.*, 1 P.3d 615, 620 (Wyo. 2000)).

The presumption of at-will employment can be rebutted by either an implied or express contract (*Davis v. Wyoming Medical Center, Inc.*, 934 P.2d 1246, 1249 (Wyo. 1997)). For instance, provisions in an employee handbook may alter the employer's right to terminate employees (*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 recognizes exceptions to the at-will doctrine. One significant exception is when an employee's termination violates public policy (*McGarvey v. Key Prop. Mgmt. LLC*, 211 P.3d 503 (Wyo. 2009)). Additionally, Wyoming law prohibits employers from retaliating against employees who file workers' compensation claims, thus violating the at-will principle (*Griess v. Consolidated Freightways Corp.,* 776 P.2d 752, 754 (Wyo.1989)). These exceptions provide protections for employees against arbitrary or discriminatory terminations in Wyoming.

Hiring Employees

Immigration Verification

Wyoming imposes no additional employment verification procedures on employers beyond federal I-9 compliance, including the use of E-Verify.

Drug Testing

Wyoming lacks state laws governing an employer's right to conduct drug testing in the workplace. Consequently, employers in Wyoming have the discretion to implement drug and alcohol testing programs, provided they are nondiscriminatory and lawful in their application.

Equal Employment Opportunity (EEO) and Diversity and Employee Relations

Fair Employment Practices

(Wyo. Stat. §§ 27-9-105 & 27-9-106)

Wyoming's civil rights law mimics federal laws in that it prohibits discrimination because of an individual's age, sex, race, creed, color, national origin, ancestry or pregnancy, or qualified disability. Under Wyoming law, an employee has six months from the date of the alleged violation to file a complaint with the Wyoming Department of Workforce Services.

Equal Pay

(Wyo. Stat. § 27-4-302)

Wyoming's Equal Pay Law mandates that employers cannot pay employees of one sex less than employees of the opposite sex for equal work that requires equal skill, effort, and responsibility and is performed under similar working conditions. However, employers may differentiate pay based on factors such as seniority, merit, quantity or quality of production, geographic location, training, or travel. This law applies universally to all employers, encompassing both public and private sectors, regardless of their size.

WARN Laws

Wyoming follows the guidelines set forth in the Federal Worker Adjustment and Retraining Notification (WARN) Act. Wyoming requires employers with 100 or more full-time employees who are going to lay off at least 50 people at a single site of employment to give at least 60 calendar days' notice in the event of a plant closing or mass layoff. Part-time workers and workers employed for less than six months are not included.

Ban on Non-Compete Clauses

(Wyo. Stat. § 1-23-108)
Effective July 1, 2025, Wyoming prohibits any covenant or agreement that restricts the right of any person to receive compensation for performing labor, including physicians. The law is not retroactive – it applies only to contracts entered into on or after July 1, 2025. There are several exceptions to the prohibition on non-compete clauses, including:

- Non-compete clauses in contracts for purchasing or selling a business;
- Non-compete clauses that provide for protection of trade secrets;
- Non-compete clauses that allow for the recovery of relocation, education, and training expenses;
- Non-compete clauses applicable to executive and management personnel and officers; and
- Non-compete clauses applicable to professional staff, executive and management personnel, and officers.

Wage, Hours, and Benefits

Minimum Wage

(Wyo. Stat. §§ 27-4-202 & 27-4-203)
Employers must comply with both state and federal wage laws and regulations.

- General minimum wage: $5.15 per hour.
- Tipped employees: $2.13 per hour, provided tips bring the total hourly wage up to the state minimum wage.
- New employees under 20 years of age: $4.25 per hour during the first 90 days of employment.

Employers subject to the Minimum Wage Act must maintain the following records for each employee for at least two years:

- Employee's name, address, and occupation;
- Rate of pay;
- Amount paid each pay period; and
- The hours worked each day and each work week by the employee.

Overtime Wage

(Wyo. Stat. §§ 27-5-101, 16-6-110)
Wyoming law does not mandate general overtime payment requirements for employers. However, specific provisions apply to state and county employees as well as certain laborers, workmen, and mechanics involved in public works contracts. These employees must be compensated at a rate of one and one-half times their regular rate of pay for all hours worked in excess of forty hours in a single week.

Final Payments

(Wyo. Stat. § 27-4-104)
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 or the time specified under the terms of a collective bargaining agreement between the employer and employee.

Unemployment Insurance

Unemployment insurance benefits offer financial support to individuals who have lost their jobs through no fault of their own. These benefits are designed to partially offset lost wages while the unemployed worker seeks suitable employment or waits to be recalled by their employer. Importantly, no deductions are made from the employee's wages to fund this coverage. The Wyoming Department of Workforce Services administers unemployment benefits. For more information, visit dws.wyo.gov/dws-division/unemployment-insurance/.

Workers' Compensation
(Wyo. Stat. §§ 27-14-101, *et seq.*)
The Wyoming Worker's Compensation Act (the Act) applies to all employers in Wyoming who have employees engaged in extra-hazardous occupations, as well as those who opt for coverage under the statute. Employees who suffer injuries or occupational diseases arising out of and in the course of their employment may be eligible for various benefits under the Act. It is crucial to report workplace injuries immediately to the employer, as failing to do so in a timely manner can result in a denial of benefits.

Unlike some states, Wyoming recognizes a tort cause of action for retaliation under the Act. If an individual is terminated solely for exercising their rights under the Act, courts recognize an exception to the "at-will" employment doctrine, allowing the individual to sue the employer for damages (*Griess v. Consolidated Freightways Corp.,* 776 P.2d 752, 754 (Wyo.1989)).

The Act is administered by the Wyoming Department of Employment. For more information, visit https://dws.wyo.gov/dws-division/workers-compensation/.

Attendance and Leave
Jury Duty Leave
(Wyo. Stat. § 1-11-401)
It is unlawful for an employer to:

- Persuade or attempt to persuade any juror to avoid jury service;
- Intimidate or threaten any juror regarding jury service;
- Remove or subject an employee to adverse employment action as a result of jury service if the employee provides reasonable notice of their absence; and
- Require or request an employee to use annual, vacation, or sick leave for time spent responding to a jury duty summons.

No Wyoming state law requires employers to pay wages while an employee is on jury duty.

Voting Leave
(Wyo. Stat. § 22-2-111)
Wyoming law mandates that employers 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 while polls are open. Employers have the discretion to determine when this paid voting leave can be taken.

Parental Leave
(29 U.S.C. §§ 2601, *et seq.*)
Wyoming does not have any state laws regarding parental leave. Thus, it is up to each employer to decide whether to provide such leave beyond what is required by the Family and Medical Leave Act (FMLA). Under the FMLA, employees are entitled to take up to 12 weeks of unpaid, protected leave to bond with a new child.

Military Leave
(Wyo. Stat. §§ 19-11-107 & 19-11-111)
Under Wyoming's Military Relief Service Act:

- Employees who leave employment to serve in the U.S. Armed Forces, the National Guard, or the commissioned corps of the public health service are entitled to unpaid military leave;
- Employees on military leave are entitled to reemployment within ten days of applying for reemployment, provided they comply with statutory requirements; and
- Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) preempts state law if it offers greater protections.

Subpoena Leave
(Wyo. Stat. § 1-40-209)
Victims and witnesses responding to a subpoena in a criminal case during work hours may not suffer any change in terms of employment as a result.

Vacation Leave
(Wyo. Stat. § 27-4-507)
In Wyoming, there is no legal requirement for employers to offer vacation benefits, whether paid or unpaid. However, if an employer opts to provide vacation benefits, they must adhere to the terms outlined in their established policy or employment contract.

Sick Leave
Wyoming law does not require employers to provide employees with sick leave benefits, either paid or unpaid.

Meal Breaks
Wyoming does not have any laws that regulate meal breaks or rest periods.

Health and Safety
Smoking Laws
(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. Furthermore, 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.

Lactation Break Time
(29 U.S.C. § 218d(a))
Wyoming does not have a state mandate requiring employers to provide accommodations for breastfeeding or expressing milk at work. Employers are required, under the PUMP Act (effective April 28, 2023), to provide a reasonable break time – in a place other than a bathroom that is shielded from view and free from intrusion from coworkers and the public – for employees to express breast milk for a period of one year after the child's birth.

Child Labor
(Wyo. Stat. §§ 27-6-107 & 27-6-112)
Employers hiring minors under the age of 16 are required to maintain proof of age records.

- Children under 14 years of age are restricted from working in any occupation, except:
  - Farm work;
  - Domestic work; and
  - Lawn or yard service.
- Children under 16 years of age are prohibited from working in the following occupations:
  - Operation of heavy construction equipment;
  - Employment involving contact with explosives or dangerous chemicals; and
  - Any occupation designated as hazardous by the Wyoming Department of Workforce Services.

Gun Laws
Wyoming state law does not specifically address the employer's authority to regulate employees' possession of firearms on workplace premises or business property. Consequently, employers retain the discretion to prohibit employees from possessing firearms at work, including in parking lots, even if the employee possesses a concealed carry permit.

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