

STATE EMPLOYMENT REGULATIONS FOR OHIO

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STATE EMPLOYMENT REGULATIONS FOR OHIO

What's New

- 031505 – Employers may not require employees to use annual, vacation or sick leave while on jury duty. Also, employees of a small company (25 or fewer employees) may get an automatic postponement of jury service if another employee is already out for jury service.
- 010107 – As of January 1, 2007 Ohio's minimum wage is \$6.85 per hour. Tipped employees may be paid \$3.43.
- 010107 – New sections added on Emergency Services Leave, Job Reference Liability and Breastfeeding Rights.
- 010108 – As of January 1, 2008 Ohio's minimum wage is \$7.00 per hour. Tipped employees may be paid \$3.50.
- 032408 – As of March 24, 2008 it is illegal to discriminate in employment those who are or who have been in service in the military or National Guard.
- 010109 – As of January 1, 2009 Ohio's minimum wage is \$7.35 per hour. Tipped employees may be paid \$3.65.
- 072409 – As of July 24, 2009 Ohio's minimum wage for 14 and 15 year-old employees and for small employers whose gross annual income is \$267,000 or less is \$7.25 per hour.
- 011513 - Changes were made to the following sections: Family Leave, Minimum Wage, Military Leave, Voting Time, Child Labor, Jury Duty and Discrimination. The following sections were added: New Hire Reporting, Access to Personnel Files and Smoking.
- 041013 - Changes were made to the following section: Continuation of Benefits.
- 010114 – Effective 1/1/14 the minimum wage is \$7.95

STATE EMPLOYMENT REGULATIONS FOR OHIO

Introduction

Employment laws vary from state to state with some being more employee-friendly than others. Federal regulations set minimum standards of worker protections that all employers of a given size must meet. Individual states, however, are free to grant workers additional or expanded rights or protections above this federal minimum.

Virtually all employers in the U.S. are subject to federal employment regulations. Only the smallest, strictly local employers are not subject to federal regulations. If an employer does any of the following, they are participating in interstate commerce and are subject to federal employment regulations:

- Production of goods for commerce, such as transportation or communication
- Use of mail over state lines
- Interstate communications using the telephone
- Use of the Internet over state lines
- Interstate communications using electronic mail
- Make purchases from out-of-state vendors
- Sell to customers in other states

This summary of employment regulations does not include information for those few employers not subject to the federal minimum employment regulations.

Many states have regulations for public employers that are different than those for employers in the private sector. This document also does not include information on regulations (federal and state) that apply only to public sector employers.

In this document we summarize the workplace regulations and worker protections available in Ohio. Although not an exhaustive list, it covers the major topics small to mid-sized employers must deal with on a regular basis. Covered areas include:

- Wage, hour and overtime rules (including child labor and break rules);
- Leaves of absence (family leaves, voting time and jury duty);
- Discrimination and harassment regulations; and
- State rules on continuation of benefits.

The federally mandated, but state run new-hire reporting requirements are covered under a separate document, available for download from Libretto or from the Agent 77 store.

The following Quick View table summarizes these regulations. This is followed by a more detailed description of these regulations. Please be sure to read both carefully to understand your responsibilities under Ohio and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR OHIO

Topic	Ohio Regulation
Minimum Wage	<ul style="list-style-type: none"> • \$7.95 / hour • Maximum tipped employee credit is 50% of wages • Some localities have a higher minimum
Overtime	Non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week
Payment of Wages	<ul style="list-style-type: none"> • Employees must be paid at least semi-monthly, by the first of the month for wages earned through the 15th of the previous month and by the 15th of the month for wages earned through the end of the previous month • Final paychecks must include any accrued vacation, unless written policy states otherwise • Final paychecks must be delivered no later than the following payday
Work Hours and Breaks	Ohio has no break time rules, except for minors.
Child Labor	<ul style="list-style-type: none"> • Employers employing minors under 18 must keep an employment certificate on file (issued by Superintendent of Schools or parent) • Required 30-minute break for every 5 hours worked • Federal and Ohio law prohibit minors in certain occupations. See the U.S. Department of Labor and the Ohio Division of Labor & Worker Safety for information on these prohibitions (contact information is in the reference section). • Employers have posting and record-keeping requirements. • See the details section below for restrictions on hours minors may work
Military Leave	<ul style="list-style-type: none"> • Employers must grant up to 5 years of military leave • Employee must be reinstated to same or equivalent position after completion of military leave • Employers may not terminate or threaten to terminate any employee called to military service • Special benefit rules apply for military leave • Ohio has a separate military leave law that provides for up to 10 days or 80 hours of unpaid leave for certain conditions detailed below.
Voting Time	<ul style="list-style-type: none"> • Unpaid time off to vote must be granted for any election where employee is qualified to vote • Employees must also be granted unpaid time off to act as elections officials • Employees of a small company (25 or fewer employees) may get an automatic postponement of jury service if another employee is already out for jury service

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR OHIO

Emergency Services Leave	Employees who are volunteer firefighters or emergency medical responders may not be penalized or threatened with discharge, suspension or other employment penalty for taking unpaid time from work to respond to an emergency.
Jury Duty, Witness Leave and Crime Victim Leave	<ul style="list-style-type: none"> • Leave is required for jury duty or if subpoenaed to serve as a witness, but is unpaid • Employee must be reinstated to same position after completion of jury duty • Employers may not require employees to use annual, vacation or sick leave while on jury duty • Employees of a small company (25 or fewer employees) may get an automatic postponement of jury service if another employee is already out for jury service • Employers must allow employees who are crime victims or family members of a crime victim unpaid time off to attend pre-trial, court or other hearings to protect their interests
Family Leave	<ul style="list-style-type: none"> • Employers with 50 or more employees must: Grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours Grant leave for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for leave. Employee must be reinstated to same or equivalent position after completion of leave Benefits must be maintained during leave
Breastfeeding Rights	Mothers must be allowed to breastfeed their child in any place that they otherwise are allowed to be. Employers are not required to provide any special time off or location for this.
Job Reference Liability	Employers who give out job performance information about current or former employees to a prospective employer are protected from civil suit, unless the information given is knowingly false.
New Hire Reporting	Employers are required to report certain information about new hires/rehires to the state within 20 days.
Access to Personnel Files	Employers must furnish certain information upon written request.
Smoking	<ul style="list-style-type: none"> • Smoking is prohibited in enclosed areas of workplaces. • Posting requirements apply.
Discrimination and Harassment	Ohio prohibits employers from discriminating based on ancestry or national origin, race or color, religion, AIDS, age (over 40), physical or mental disability, service in the military or National Guard, or sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions)
Continuation of Benefits	<ul style="list-style-type: none"> • Details and contact information are listed below.

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Wage, Hour and Overtime Rules

Employers are subject to the federal minimum wage, hour and overtime rules through the Fair Labor Standards Act. This act specifies that businesses that do at least \$500,000 in gross revenue, as well as all health care facilities and schools are subject to the federal rules. Also, employers involved in interstate commerce are subject to the federal rules.

Minimum Wage

Ohio minimum wage is \$7.95 per hour. Employers may apply a credit of up to 50% of the minimum for tipped employees (or \$3.98 per hour), provided that the total wages plus tips come to at least the minimum of \$7.95 per hour. Small employers whose gross annual income is \$288,000 or less may pay a minimum wage of \$7.25 per hour.

Ohio exempts from its minimum wage rules many agricultural workers, domestic help, outside salespeople, executive, administrative, professional employees, employees of charitable hospitals, police and firefighters, and students employed at an accredited college or university.

Be aware that certain local governments in Ohio have a higher minimum wage for employees in their jurisdictions. Be sure to contact your city or county government to see if there are any local minimum wage rules for your business.

Finally, both federal and Ohio regulations allow employers to apply for licenses to pay sub-minimum wages to certain disabled persons. Please contact the U.S. Department of Labor or the Ohio Division of Labor & Worker Safety for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

Overtime

Ohio has the same overtime rules as the federal government. That is, for any hours worked over 40 in a given week, non-exempt employees must be paid at least one and one-half times their regular pay.

Like the federal rules Ohio exempts certain employees from overtime rules. Excluded employee classes include: executive, administrative, professional, outside salespeople and computer professionals. (Use Libretto's FLSA Resource Package for help in determining whether a given employee is exempt). Ohio also permits exemptions for certain small employers not involved in interstate commerce. See the Ohio Division of Labor & Worker Safety web site for a list of these exemptions.

Payment of Wages

Ohio law requires that employees be paid at least semi-monthly, on or before the first of the month for wages earned through the 15th of the previous month and on or before the 15th of the month for wages earned through the end of the previous month.

Ohio requires that a terminating employee be paid for any accrued vacation in addition to all wages earned, unless the employer's written policy states otherwise. Final paychecks must be delivered no later than next payday following termination. Deductions from the final paycheck may not be made without the employee's written consent, unless required by law.

Work Hours and Breaks

Ohio has no break time rules, except for minors (see below).

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Child Labor

The Ohio Child Labor Law requires all employers employing minors under the age of 18 who have not received a high school diploma or equivalent to have employment certificates on file (issued by a city or county superintendent of schools or the minor's parent or guardian). Minors of 16 or 17 years of age do not need a work permit for summer employment (when school is not in session), as long as proof of age is provided as well as a signed note from a parent or guardian is on file.

Employers who employ minors less than 16 years of age are subject to the following limits for hours worked per day and per week for their minor employees:

1. When school is in session children 14 and 15 years of age may NOT be employed:
 - More than 3 hours per day on a school day;
 - More than 8 hours per day on a non-school day;
 - During school hours, unless employment is part of a vocational training program;
 - Between the hours of 7:00 pm and 7:00 am; and
 - More than 18 hours per week in a school week.
2. When school is not in session children 14 and 15 years of age may NOT be employed:
 - More than 8 hours per day;
 - Between the hours of 9:00 pm and 7:00 am; and
 - More than 40 hours per week.

Employers who employ minors 16 or 17 years of age are subject to the following limits for work hours when school is in session (there are no restrictions on hours worked per day or maximum hours per week). There are no restrictions for these minors when school is not in session:

- They may not work after 11:00 pm Sunday through Thursday;
- They may not work before 7:00 am (or 6:00 am if not employed after 8:00 pm the previous night).

Both federal and Ohio law prohibits minors from working in hazardous or certain other occupations. Please contact the U.S. Department of Labor or the Ohio Department of Labor for more information on restricted occupations for minor employees.

Employers must conspicuously post a printed abstract, furnished by the Director of Commerce, that summarizes the provisions of the child labor law.

Employers must also keep written records that include each minor's hours of work each day, start and stop times and start and stop times of meal periods among other information.

Ohio law also requires that any minor working 5 or more continuous hours in a day be given a 30-minute break.

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Leaves of Absence

Military Leave

Federal law provides that employees must be granted up to 5 years of military leave and must be restored to their position (or an equivalent position) within the company as if they had been on furlough. Also, employers may not terminate or threaten to terminate any employee called to military service, Please see Libretto's White Paper on USERRA for more details on military leave.

Ohio law provides that employers with 50 or more employees must permit employees to take up to ten (10) days or 80 hours, whichever is less, of unpaid leave once per calendar year when a parent, spouse or child is called to active duty for a period longer than 30 days or is injured, wounded or hospitalized while serving on active duty. To be eligible for leave an employee must 1) have worked at least twelve (12) consecutive months and for at least 1250 hours in the 12 months immediately preceding commencement of leave and 2) must not have any other leave available to use except for sick or disability leave.

Employees have notice requirements and employers may require appropriate certification. Employers must restore employees to their position or one with equivalent seniority, benefits, pay and other terms and conditions of employment.

Voting Time

Employees must be granted time off in any election in which they are eligible to vote, although this time need not be paid except for salaried employees. Also, employees must be granted to act as election officials on registration or election day (again this need not be paid time). It is unlawful for employers to discharge or threaten to discharge employees for taking reasonable time off to vote on Election Day.

Emergency Services Leave

Employees who are volunteer firefighters or emergency medical responders may not be terminated, threatened with termination, suspended, demoted or otherwise penalized for being absent from work when responding to an emergency call, though the leave need not be paid. Employees must present notification of their status as a volunteer firefighters or emergency medical responder to their employer within 30 days of certification.

Jury Duty/Court Attendance

Employers must provide leave for jury duty, but need not pay for the leave. Also, employers may not terminate or threaten to terminate any employee called to jury duty, and employees must be restored to their position within the company as if they had been on furlough. Employers may not require employees to use any annual, vacation or sick leave while on jury duty. Finally, an employee of a company with 25 or fewer employees may get an automatic postponement of jury service if another employee is already out for jury service.

Employees who are covered by FLSA exemptions must receive their full wage for jury duty service (minus jury duty stipend) or risk losing their exemption status.

Employers cannot discharge or retaliate against employees who attend juvenile, grand jury or criminal proceedings pursuant to a subpoena. Also, employers may not discharge, discipline or retaliate against crime victims, crime victims' families or victims' representatives for participating in preparations for criminal/delinquency proceedings or for attendance at such proceedings if attendance is necessary to protect the victims' interests.

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Family Leave

Employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for leave. After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave.

Ohio provides that an employer with four (4) or more employees must treat illnesses arising out of or occurring during the course of pregnancy, child birth and related medical conditions is to be treated the same for all employment related purposes as illnesses occurring to other persons who are not pregnant.

Other Employment Regulations

Breastfeeding Rights

Under Ohio law mothers may not be prohibited from breastfeeding their child in any location where they are otherwise authorized to be. However, employers are not required to provide any special time off or place for breastfeeding or expressing of breast milk.

Job Reference Liability

Employers who give out job performance information about current or former employees to a prospective employer are protected from civil suit, unless the information can be shown to be false or intentionally misleading.

New Hire Reporting

Employers are required to report to the state, within 20 days of hire/rehire, the employee or independent contractor's name, address, SSN, dates of birth and hire/rehire as well as the employer's name, address, FEIN, date payments begin to independent contractor and length of time contractor will be performing services.

The report may be made on Form W-4 or on the state's website.

Access to Personnel Files

Upon written request, employers must furnish a current or former employee with copies of medical records pertaining to physical examinations or tests required by the employer as a condition of employment or arising out of a work-related disease or injury. If a physician concludes that presenting all or part of an employee's medical record directly to the employee would result in serious medical harm to the employee, that fact must be noted on the medical record and a copy of the record must be given to a physician designated in writing by the employee.

Smoking

Smoking and burning of tobacco or any other plant, is prohibited in an enclosed area of a public place or workplace, with limited exceptions. Signs that state "no smoking" must be conspicuously posted in every public place and place of employment where smoking is prohibited, including at each entrance. Signs must be of sufficient size to be clearly legible and must contain a toll-free telephone number for reporting violations to the state department of labor.

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Discrimination and Harassment

Ohio prohibits discrimination or harassment based on:

- Ancestry or national origin
- Race or color
- Religion
- Service in the Military or National Guard
- Age (over 40)
- Disability or
- Sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions)
- AIDS

Employers with 15 or more employees are covered by GINA, which prohibits discrimination based on genetic testing.

Ohio has several employment-related posting requirements. The forms can be obtained from state agencies.

Whistleblowing is protected.

State Continuation of Benefits

Benefits change frequently. Currently continuation coverage requirements apply to employers that provide group health insurance coverage to employees. Eligible employees have the right to continue coverage for up to twelve (12) months.

The link below will provide access to current state law:

<http://codes.ohio.gov/orc/3023.88/>

Resources/Posters

Ohio Division of Labor & Worker Safety

<http://www.com.state.oh.us/laws/default.htm>

United States Department of Labor

<http://www.dol.gov/>

Ohio New Hire Reporting

www.OH-NewHire.com

Ohio Department of Commerce

www.com.ohio.gov/

Ohio Civil Rights Commission

www.crc.ohio.gov/

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Related Libretto Products

FLSA Resource Package (for help in determining overtime exempt / non-exempt status of employees)

Overtime Guidelines

Break Period Guidelines

Family Medical Leave of Absence Policy

Military Leave of Absence Policy

Jury Duty-Witness Leave Policy

Voting Time Policy

Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement

Guidelines on Verification of Employment and Providing References

COBRA Continuation Coverage Policy

General Notice of COBRA Continuation Coverage Rights

COBRA Continuation Coverage Election Information: Notice And Form

New Hire Reporting for Ohio