

STATE EMPLOYMENT REGULATIONS FOR WYOMING

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What's New

- 072407 – Wyoming minimum wage follows the federal minimum that was raised to \$5.85 as of July 24, 2007.
- 072408 – The Wyoming minimum wage was raised to \$6.55 per hour as of July 24, 2008 following the federal minimum wage. Tipped employees must be paid a minimum of \$2.13 per hour.
- 072409 – The Wyoming minimum wage was raised to \$7.25 per hour as of July 24, 2009 following the federal minimum wage.
- 032212 - New sections added on Breastfeeding Rights, Smoking in the Workplace and Job Reference Liability.
- 070112 - Employers that implement drug-free workplace policy conforming to state regulations may be eligible for a 5% discount on their workers' compensation insurance and 10% for an approved safety program.
- 012413 - Changes were made to the following sections: Military Leave and Jury Duty. The following section was added: New Hire Reporting.
- 041013 - Changes were made to the following section: State Continuation of Benefits.
- 072213 - Changes were made to the following section: Payment of Wages.

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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 Wyoming. 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 Wyoming 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 WYOMING

Topic	Wyoming Regulation
Minimum Wage	<ul style="list-style-type: none"> • \$7.25/ hour - Tipped employees may be paid a minimum of \$2.13; however tips and cash earnings must equal the applicable minimum wage.
Overtime	<ul style="list-style-type: none"> • 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"> • Employers must establish and maintain regular paydays: <ul style="list-style-type: none"> ◦ On or before the first day of current month for wages earned the first half of the preceding month. ◦ On or before the fifteenth day of current month for wages earned the last half of the preceding month. • Final paychecks must include any accrued vacation unless a written, acknowledged policy exists. • Final paychecks must be delivered no later than 5 working days after termination. Certain rights of off-set apply. • Direct deposit of paychecks must be voluntarily authorized by the employee.
Work Hours and Breaks	<ul style="list-style-type: none"> • Wyoming has no break time rules.
Child Labor	<ul style="list-style-type: none"> • Employers employing minors under 16 must keep proof of age. • Federal and Wyoming law prohibit minors in certain occupations. See the U.S. Department of Labor and the Wyoming Department of Workforce Services for information on these prohibitions (contact information is in the reference section). • See the details section below for restrictions on hours minors may work and the occupations in which they may work.
Family Leave	<p>Wyoming has no separate Family Leave aside from the Federal Law outlined below:</p> <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. • Leave must be granted 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 serious injury or illness of covered service member for military family leave. • Employee must be reinstated to same or equivalent position after completion of leave. • Benefits must be maintained during leave.

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Military Leave	<p>The Federal Law is outlined below</p> <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
Jury Duty	<ul style="list-style-type: none"> • Leave is required, but is unpaid. • Employee must be reinstated to same position without loss of seniority after completion of jury duty. • Employers may not terminate or threaten to terminate an employee called to jury duty.
Voting Time	<ul style="list-style-type: none"> • One hour paid leave for any election where employee is qualified to vote, and casts a vote, unless polls are open for 3 or more consecutive non-working hours. • Employer can specify times for leave exclusive of meal times
Breastfeeding Rights	<ul style="list-style-type: none"> • Mothers must be allowed to breastfeed their child in any place that they otherwise are allowed to be. Employers are not specifically mentioned in the Wyoming law.
Smoking in the Workplace	<ul style="list-style-type: none"> • Employer cannot require as a condition of employment that an employee or prospective employee use or refrain from using tobacco products outside the course of his/her employment.
New Hire Reporting	<ul style="list-style-type: none"> • Employers must report to the state information about new hires/rehires within 20 days.
Job Reference Liability	<ul style="list-style-type: none"> • Employers who give out information about current or former employees, limited to information on job performance, are generally immune from civil liability for the disclosures and their consequences unless the information given is knowingly false or misleading.
Drug Testing	<ul style="list-style-type: none"> • Employees who implement safety and drug-free workplace programs conforming to state law may qualify for discounts of 10% and 5% respectively.

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Discrimination and Harassment	<ul style="list-style-type: none">Wyoming prohibits employers (generally those employing 2 or more persons) from discriminating based on ancestry or national origin, race or color, religion, age (over 40), physical or mental disability, sex (including, pregnancy, childbirth, and other pregnancy-related conditions), military service or the use of tobacco off-site during non-working hours. Wyoming law also provides for confidentiality of records pertaining to testing of sexually transmitted diseases. Although Wyoming does not have a state genetic discrimination law, employers with 15 or more employees are covered by the federal genetic information nondiscrimination act (GINA) which prohibits discrimination based on genetic testing information.
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

Most employers are subject to the federal minimum wage of \$7.25 per hour. Employers may pay tipped employees a minimum of \$2.13 per hour, provided that the total wages plus tips come to at least the applicable minimum wage. Employers may pay "learner employees", who have not attained the age of 20 years of age a wage that is not less than \$4.25 per hour during the first 90 consecutive days after hire, with some prohibitions attached.

Finally, both federal and Wyoming 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 Wyoming Department of Workforce Services for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

Overtime

Wyoming 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, Wyoming exempts certain employees from minimum wage and 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). Wyoming also permits exemptions for certain small employers not involved in interstate commerce. See the Wyoming Department of Workforce Services web site for a list of these exemptions.

Payment of Wages

Employers must establish regular paydays as follows: Paydays must be on or before the first day of each month for wages earned the first half of the preceding month, and on or before the fifteenth day of each month for wages earned the last half of the preceding month.

Wyoming requires that a terminating employee be paid for any accrued vacation in addition to all wages earned if there exists an agreement between the employer and employee that provides for vacation pay. Final paychecks must be delivered no later than 5 working days after date of termination. Certain rights of offset apply.

Effective July 1, 2013, for claims of unpaid wages due, "wages" do not include the value of vacation leave accrued at the date of termination if the employer's written policies provide that accrued vacation is forfeited upon termination of employment and the employee has acknowledged such policy in writing.

Work Hours and Breaks

Wyoming has no break time rules.

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Child Labor

It is unlawful for any employer to employ any child under 14 to work at any gainful occupation, except farm, domestic or lawn and yard service.

Wyoming child labor law requires all employers employing minors under the age of 16 to keep proof of age on file.

1. Children under the age of 16 may not be employed in any of the following occupations or work, except for the purpose of instruction in the public schools:
 - The operation of or working on heavy construction equipment;
 - Employment requiring contact with or exposure to explosives or dangerous chemicals; or
 - Any other occupation declared by Department of Workforce Services as hazardous.
2. It is further unlawful for any person having the care, custody or control of any child under the age of 16 to:
 - Exhibit, use or employ a child as an actor or performer in any concert hall or room where alcoholic and malt beverages are sold or given away;
 - For any illegal or immoral purpose;
 - For any business or in any place, situation, exhibition or vocation injurious to the morals, health and safety of the child; or
 - Cause, procure or encourage a child to engage in any practice specified above.

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

Except for domestic or farm work, children under the age of 16 may NOT work:

- More than 8 hours in a 12-hour period; and
- Daily hours of work may not be before 5:00 AM or after 10:00 PM on nights followed by a school day except on days not followed by a school day when working hours may be extended to 12:00 midnight.
- Children between the ages of 14 and 16 who are not enrolled in school may be employed at any gainful occupation for an 8-hour period between the hours of 5:00 AM and 12:00 midnight of any 1 day.
- No child under the age of 16 who is enrolled in any private or public school may be employed at any occupation during the time that classes are in session.

Persons under the age of 21 are prohibited from being in possession of alcoholic or malt beverages except when making deliveries as part of employment and except for serving such beverages while employed in a restaurant licensed to serve such beverages and provided the person is at least 18 years of age. Persons under the age of 21 are prohibited from mixing or dispensing alcoholic beverages.

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

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Leaves of Absence

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 serious injury or illness of covered service member for military family 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.

Military Leave

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.

Wyoming provides that employees, at their option, may use any amount of combination of their accrued annual leave, paid military leave, vacation or compensatory leave during the period of military service. They will continue to accrue such leave on the same basis as they would have accrued such leave.

Jury Duty

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.

Employees who are covered by FLSA exemptions must be paid their normal wage (less jury duty stipend) or risk losing their exemption status.

Voting Time

One hour paid leave for any election where employee is qualified to vote, and casts a vote, unless polls are open for 3 or more consecutive non-working hours.

Employer can specify times for leave exclusive of meal times.

Other Employment Regulations

Breastfeeding Rights

Under Wyoming law mothers may not be prohibited from breastfeeding their child in any location where they are otherwise authorized to be. Employer are not specifically mentioned regarding the requirement to provide any special time off or place for breastfeeding or expressing of breast milk.

Job Reference Liability

Employers who give out information about current or former employees, limited to information on job performance, are generally immune from civil liability for the disclosures and their consequence, unless the information can be shown to be false, intentionally misleading or given with malicious intent.

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Smoking in the Workplace

In Wyoming it is a discriminatory or unfair employment practice for an employer to require as a condition of employment that any employee or prospective employee use or refrain from using tobacco products outside the course of his/her employment, or otherwise to discriminate against any person in matters of compensation or the terms, conditions or privileges of employment on the basis of use or nonuse of tobacco products outside the course of his/her employment unless such restriction is a bona fide occupational qualification.

New Hire Reporting

Employers are required to report, within 20 days of hire/rehire, the following information: the employee's name, address, SSN, dates of birth and hire as well as the employer's name, address and FEIN as well as the date services for remuneration were first performed. The reports may be made on form W-4 or through the state's website.

Drug Testing

Employers who implement safety and drug-free workplace programs conforming to state law may qualify for a discount not to exceed 10% of the base rate for the employment classification of any employer if the employer complies with a safety program approved by the division. A discount not to exceed 5% on their workers' compensation insurance policy may be granted if the employer complies with a drug and alcohol testing program approved by the division.

Discrimination and Harassment

Wyoming prohibits discrimination or harassment based on:

- Ancestry or national origin
- Race or color
- Religion
- Age (over 40)
- Military Service
- Mental or physical disability
- Sex (including, pregnancy, childbirth, and other pregnancy-related conditions) and
- Use of tobacco off-site during non-working hours;

Although Wyoming state law does not specifically cover sexual harassment, Title VII of the Civil Rights Act of 1964, as amended, applies to employees with more than 15 employees as does the Genetic Information Nondiscrimination Act which prohibits discrimination based on genetic testing information.

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

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State Continuation of Benefits

Continuation coverage requirements apply to employer-sponsored group health plans that do not meet federal COBRA requirements. Eligible employees have the right to continue coverage for up to twelve (12) months.

The following link will provide further information about state requirements:

www.cobrahealthinsurance.com/.../Wyoming_Cobra_Health_Insurance/

Resources/Employment Posters

Wyoming Department of Workforce Services

<http://wyomingworkforce.org>

United States Department of Labor

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

Wyoming New Hire Reporting

www.wy-newhire.com

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

Guidelines on Verification of Employment and Providing References

Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement

COBRA Continuation Coverage Policy

General Notice of COBRA Continuation Coverage Rights

COBRA Continuation Coverage Election Information: Notice And Form

New Hire Reporting for Wyoming