

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

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STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

What's New

111506 – Employers may provide unpaid breaks to nursing mothers to express breast milk and a private place to do so, unless doing so would create an undue hardship for the employer.

072407 – Oklahoma minimum wage follows the federal minimum which was raised to \$5.85 as of July 24, 2007.

072408 – Oklahoma minimum wage follows the federal minimum which was raised to \$6.55 as of July 24, 2008.

072409 – Oklahoma minimum wage follows the federal minimum which was raised to \$7.25 as of July 24, 2009.

011613 - Changes were made to the following sections: Discrimination, Jury Duty, Military Leave, Payment of Wages and Family Leave. The following sections were added: New Hire Reporting, Job Reference Liability, Smoking and Breastfeeding.

041013 - Changes were made to the following section: Continuation of Benefits.

072213 - Changes were made to the following section: Discrimination.

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

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 Oklahoma. 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 Oklahoma 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 OKLAHOMA

Topic	Oklahoma Regulation
Minimum Wage	<ul style="list-style-type: none"> • \$7.25 / hour • Maximum tipped employee credit is 50% of wages
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"> • Non-exempt employees must be paid at least semi-monthly, exempt employees may be paid monthly. • Paydays may be no more than 11 days after the close of the period. • Final paychecks must include any accrued vacation and must be delivered no later than the following payday
Work Hours and Breaks	<ul style="list-style-type: none"> • Oklahoma has no break time rules, except for minors.
Child Labor	<ul style="list-style-type: none"> • Employers employing minors under 16 must keep an employment certificate on file (issued by Superintendent of Schools and signed by parent) • Required 1-hour cumulative break time for 8 hours worked, including a 30-minute break after 5 hours worked • Federal and Oklahoma law prohibit minors in certain occupations. See the U.S. Department of Labor and the Oklahoma Department of Labor for information on these prohibitions (contact information is in the reference section). • See the details section below for restrictions on hours minors may work
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 • 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 injury/illness 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

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

Jury Duty	<ul style="list-style-type: none"> • Leave is required, 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 (although employees may choose to do so) • Employees of a small company (5 or fewer employees) may get an automatic postponement of jury service if another employee is already out for jury service
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 • Oklahoma provides leave protection for members of the U.S. Armed forces, national reserves and the National Guard.
Voting Time	<ul style="list-style-type: none"> • 2 hours for any election where employee is qualified to vote • Request must be made prior to Election Day • Employer can specify times for leave • Pay may not be deducted, provided employee voted
New Hire Reporting	<ul style="list-style-type: none"> • Employers must report information about new hires/rehires within 20 days of hire.
Breastfeeding	<ul style="list-style-type: none"> • An employer may provide reasonable unpaid break time each to an employee who needs to express breast milk or breast feed her child.
Job Reference Liability	<ul style="list-style-type: none"> • An employer is generally immune from liability for providing truthful information in good faith.
Smoking	<ul style="list-style-type: none"> • Smoking is prohibited in indoor workplaces. • Posting requirements apply.
Discrimination and Harassment	<ul style="list-style-type: none"> • Oklahoma prohibits employers from discriminating based on national origin, race or color, national origin, religion, age (over 40), physical or mental disability, military service, genetic testing results/genetic information, or sex (including sexual harassment) • Prohibited based on legal conduct during non-working hours

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

Continuation of Benefits	<ul style="list-style-type: none">• Employers who offer health coverage must offer a 30-day continuation of health care benefits to their employees and their dependents• Employers with fewer than 20 employees also must offer the following continuation option:<ul style="list-style-type: none">○ Employees who have on-going condition may qualify for 3-month extension (basic medical needs) or a 6-month extension (Major Medical needs). Condition must have been being treated while on the employer plan and employees must have been covered for 6 months prior to termination for these extensions○ Up to 30 days (or 3 or 6 months) of continuation available as long as premiums paid in a timely fashion
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STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

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

Oklahoma minimum wage is \$7.25 per hour. Also, employers may apply a credit of up to 50% of the minimum for tipped employees, provided that the total wages plus tips come to at least the minimum of \$7.25 per hour.

Oklahoma exempts from its minimum wage rules agricultural workers, domestic help, executive, administrative, professional, outside salespeople, volunteers of charitable or religious organizations, part-time employees working less than 25 hours per week and students of educational institutions.

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

Overtime

Oklahoma 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 Oklahoma 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). Oklahoma also permits exemptions for certain small employers not involved in interstate commerce. See the Oklahoma Department of Labor web site for a list of these exemptions.

Payment of Wages

Oklahoma law requires that non-exempt employees be paid at least semi-monthly and exempt employees be paid at least monthly. Payment of wages must be made no more than 11 days after the close of the pay period. These regular pay periods must be established and published for all employees.

Oklahoma requires that a terminating employee be paid for any accrued vacation in addition to all wages earned if agreed upon between employer and employee or if provided for in employer policies. Final paychecks must be delivered no later than the 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

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

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

Child Labor

The Oklahoma Child Labor Law requires all employers employing minors under the age of 16 to have employment certificates on file (issued by a city or county superintendent of schools and signed by the parents or guardian).

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:

1. Between the Tuesday after Labor Day and May 31 of the following year, children 14 or 15 years of age may work:
 - During non-school hours;
 - Up to 3 hours per day
 - Up to 18 hours per week, and
 - Between 7:00 AM and 7:00 PM
2. Between June 1st and Labor Day, children under the age of 16 may work.
 - Up to 8 hours per day
 - Up to 40 hours per week, and
 - Between 7:00 AM and 9:00 PM

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

Oklahoma law also requires that any minor working 8 or more continuous hours in a day be given one hour of cumulative break time, including at least a 30-minute break after 5 hours of contiguous work.

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 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.

Jury Duty

Employers must provide leave for jury duty, but need not pay for the leave. Employees may not be required to use any accrued sick or vacation time while on jury duty, although employees may choose to do so. An employee of a company with five or fewer full-time employees may be excused from jury duty if another employee has already been summoned for jury duty. 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 full wage (minus jury duty stipend) or risk losing their exemption status.

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

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.

Employees who are members of the U.S. Armed forces, the national reserves or the National Guard are entitled to leave for authorized and ordered active or inactive duty or service without losing status or seniority. Employees who are members of the reserves, when ordered to duty, are entitled to a leave of absence for the period of military service without loss of status or seniority.

Voting Time

Employees must be granted at least two hours off for any election in which they are eligible to vote, provided a request is made prior to Election Day (normally two hours unless the employee votes in a location where the distance would make it difficult to vote and still get to work). The employer may specify the hours during which an employee may vote. This time off may not be deducted from pay for non-exempt employees provided the employee shows proof that they actually voted.

Other Employment Regulations

New Hire Reporting

Employers are required to report to the state, within 20 days of hire/rehire, the employee's name, address, SSN, date of hire, work state and the employer's name, address and FEIN. The reports can be made on form W-4 or through the state's website.

Breastfeeding

An employer may provide reasonable unpaid break time each day to an employee who needs to breastfeed or express breast milk for her child and make a reasonable effort to provide a private, secure and sanitary room or other location, in close proximity to the work area, other than a toilet stall, where an employee can breast feed her child or express breast milk. The break time, if possible, shall run concurrently with any break time, paid or unpaid, already provided to the employee.

Job Reference Liability

Employers cannot blacklist or require a letter of relinquishment from an employee who is discharged or voluntarily leaves employment. An employer may disclose information about a current/former employee's job performance to a prospective employer by their request, with the consent or request of the current/former employee. The employer is presumed to be acting in good faith unless the employer knowingly discloses false information, acts with malice or recklessly disregards the truth.

Smoking

Oklahoma prohibits smoking in any indoor place used by or open to the public, including any indoor workplace with limited exceptions. No smoking signs must be posted indicating that the building is smoke-free.

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

Discrimination and Harassment

Oklahoma prohibits discrimination or harassment based on:

- National origin
- Race or color
- National Origin
- Religion
- Age (over 40)
- Mental or physical disability
- Military Service
- Genetic testing results/genetic information
- Sex (including sexual harassment, pregnancy and related conditions), or
- Use of lawful products during non-working hours

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

Oklahoma has employment poster requirements; those posters can be obtained from state agencies. English and Spanish versions of the state's employment discrimination poster are available from the Attorney General Office of Civil Rights.

Informed consent must be obtained before an individual is tested for AIDS. All information or records identifying a person as being HIV-positive shall remain confidential, except as provided by law.

State Continuation of Benefits

Benefits change frequently. Currently continuation coverage apply to employers that provide group health insurance coverage to employees. Group plans are required to provide continuation coverage for a period of thirty (30) days and up to four (4) months if they meet certain requirements.

The following link will provide access to the current state law:

[www.ok.gov/home/Consumers Insurance Basics/](http://www.ok.gov/home/Consumers%20Insurance%20Basics/)

Resources/Posters

Oklahoma Department of Labor

<http://www.ok.gov/odol/>

United States Department of Labor

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

Oklahoma New Hire Reporting

www.ok.gov/oesc/

Attorney General Office of Civil Rights Enforcement

www.oag.ok.gov/

STATE EMPLOYMENT REGULATIONS FOR OKLAHOMA

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

COBRA Continuation Coverage Policy

General Notice of COBRA Continuation Coverage Rights

COBRA Continuation Coverage Election Information: Notice And Form

New Hire Reporting for Oklahoma