



QUICK GUIDE TO SIGNIFICANT EMPLOYMENT LAWS

FLORIDA

(Updated March 2023)

01

RETALIATION AND DISCHARGE

Employment-At-Will: In the absence of a labor agreement or contract for employment for a specified term, employment in Florida is at-will. Employers have the right to discharge an employee at any time, for any lawful reason, or for no reason. Personnel policy statements in handbooks do not create an express or implied contract between an employer and an employee.

Florida Private Sector Whistleblower Act: The Whistleblower Act prohibits retaliation against an employee who discloses or objects to a practice of the employer that is in violation of a law, rule, or regulation. The Act covers employers with 10 or more employees. Action must be brought 2 years after discovering the alleged retaliatory personnel action, or within 4 years after the personnel action was taken, whichever is earlier.

Florida Workers' Compensation Retaliation: Employers may not discharge or threaten to discharge employees for filing or attempting to file a workers' compensation claim. Generally applies to employers with 4 or more employees, with a 4-year statute of limitations.

02

LEAVES OF ABSENCE AND TIME OFF

Family Medical Leave: Florida follows the federal Family and Medical Leave Act (FMLA).

Domestic Violence Leave: Employers with 50 or more employees are required to grant up to 3 days of unpaid leave to employees seeking protection against domestic or sexual violence. Employees who have worked for three months or longer are eligible. It is in the employer's discretion to provide paid leave.

Jury Duty: Employers are required to provide employees with unpaid leave in order to respond to a jury service summons or serve on a jury, unless local law requires payment. Florida law prohibits any employer from discharging an employee for serving on a jury or preventing a person from serving as a juror.

Vacation: Employers are not required to provide employees with vacation benefits. If an employer chooses to provide vacation, however, such benefits are considered wages under Florida law. An employer's written policy and past practice will control where when disputes arise over whether an employer must pay an employee accrued vacation leave.

03

PERSONNEL PROCEDURES AND JOB REFERENCES

Personnel Files: Florida has no state-specific regulations regarding an employee's access to his or her personnel file. As such, employers are free to set any policies restricting or limiting employee access.

Employee References: Florida employers that disclose, in good faith, a former employee's job performance in response to a request from a prospective employer or former employee are generally immune from civil liability for the disclosure's consequences.

Background Checks: Florida has no specific restrictions on background checks, but the federal Fair Credit Reporting Act applies.

Electronic Communications: Florida makes it a crime to intercept and disclose wire, oral, or electronic communications. Florida is an all-party consent state: consent must be obtained from all parties to the interception or disclosure of the communication.

04

PAY AND DEDUCTIONS

Minimum Wage: Florida's minimum wage rate is higher than the federal minimum wage. As of January 1st September 30, 20220, the minimum wage in Florida is \$11.008.56/hour, with a minimum wage of \$7.985.54/hour for tipped employees, in addition to tips. The minimum wage rate is recalculated yearly on September 30th, based on the Consumer Price Index.

Overtime: Florida does not have laws governing the payment of overtime. The overtime provisions of the federal Fair Labor Standards Act apply. So, in Florida, If you earn more than the Florida minimum wage rate, you are entitled to at least 1.5 times your regular hourly wage for all overtime worked.

Methods of Payment: Florida law does not mandate specific pay periods. There is no requirement in Florida that an employer tender a final paycheck immediately upon an employee's termination. Upon termination, the final paycheck is due on the next regular payday or day. The employer may not hold the final paycheck as "ransom" in an attempt to force the employee to sign a release or other document. The employer may make deductions from the final paycheck for monies owed to the employer, but deductions must not reduce pay below minimum wage.

Commissions: An employee is generally entitled to commissions collected post-termination, provided those commissions were "earned" during his or her employment unless a contract or policy provides that the right to commissions ceases upon an employee's termination or provides for the performance of services as an entirety (i.e., not only required to make sales but also required to service the business.)

Wage Claims: In an action for unpaid wages, the court may award to the prevailing party the costs of the action and a reasonable attorney's fee. Fla. Stat. § 448.08 only covers claims for accrued and unpaid wages. The following types of compensation constitute unpaid wages: unpaid compensation under an employment contract or at-will employment; annual leave credits; vested interest in a profit-sharing plan; commissions; vacation pay; and bonuses.

05

REST PERIODS

Meal & Rest Periods for Minors: Florida employers must grant a meal period of at least 30 minutes to employees under the age of 18 who work more than four hours continuously. Florida does not have any laws requiring an employer to provide a meal period or breaks to employees 18 years of age or older.

06

RESTRICTIVE COVENANTS

Non-Compete Agreements: Non-compete agreements that meet the requirements of Fla. Stat. 542.335 are permitted. These requirements are: the non-compete must be reasonable in time, area, and line of business; legitimate business interests must exist that justify the restrictive covenant; and the non-compete must be reasonably necessary to protect the legitimate business interests.

07

SAFETY AND HEALTH

Florida Drug-Free Workplace Act: There is no legal duty to test, but employers with drug-free workplace programs that include notice, education, and procedural requirements may qualify for workers' compensation rate discounts. Notice of the drug-free workplace policy must be posted in an appropriate, conspicuous location on the employer's property.

Florida Clear Indoor Air Act: A person may not smoke (including tobacco and vape) in an enclosed indoor workplace, with certain exceptions.

Firearms: Florida's "guns-at-work" law provides that no employer may prohibit any customer, employee, or invitee from possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and when the customer, employee, or invitee is lawfully in such area

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