COLORADO — State Laws by Topic

➤ AGE

Employers with one or more employees may not discriminate against employees or applicants based on age. Harassment during the course of employment is also prohibited and is defined as the creation of an intimidating, hostile, or offensive work environment based on an individual's age.

It is also unlawful for employers to use help-wanted ads that contain terms and phrases that use the age of the applicant as a qualifying factor, including but not limited to: "age 25 to 35," "young," "recent college grad," and "retired person." Plus, it is unlawful to discriminate by giving preference because of age between individuals within the protected age group.

For purposes of state law, age is defined to mean a chronological age of at least 40 years.

➤ AIDS

*Discrimination:* Employers are expressly prohibited from taking discriminatory employment actions against:

1. individuals who have AIDS;
2. individuals presumed to have the HIV infection; and
3. individuals undergoing HIV/AIDS testing.

*Testing:* Informed consent must be obtained before an individual is tested for HIV, except where the health of a health care worker or correctional officer might be immediately threatened by exposure to blood or bodily fluids.

➤ ARRESTS/CONVICTIONS

No general provision prohibiting an employer’s collection and use of arrest or conviction records. However, employers cannot require an applicant to disclose any arrest or conviction information that has been sealed. In addition, the Colorado Pre-Employment Inquiry Guide states that an inquiry into arrests may be discriminatory, as well as an inquiry into convictions, unless the conviction is substantially related to the applicant’s ability to carry out the job duties of the position in question.

➤ BREAKS

A 30-minute meal break must be provided to employees who work longer than five hours. In addition, 10-minute rest breaks for each four-hour period employees work must be provided. Rest breaks should come in the middle of employees’ shifts.
BREAST-FEEDING

The Workplace Accommodations for Nursing Mothers Act requires an employer to: 1) provide reasonable unpaid break time to an employee who needs to express breast milk for her child for up to two years following childbirth, or allow the employee to use paid break time, meal time, or both to express breast milk, and 2) make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee can express milk in private.

In addition, a woman may breast-feed her child any place she is authorized to be present.

CHILD LABOR

Click on the following link http://www.colorado.gov/cdle/youthlaw to access Colorado’s Department of Labor and Enforcement, Division of Labor home page for youth employment.

CHILD SUPPORT

Employers served with a child support order must begin withholding with the first pay period occurring after 14 days after the order is mailed. Amounts are remitted within seven days of payday. Notify the support registry promptly if employee-obligor terminates employment.

COURT ATTENDANCE

Employers may not discharge employees for taking leave to be a witness, if the employee is a crime victim or a member of the employee’s immediate family is a victim.

See also violence.

DISABILITIES

It is a discriminatory employment practice for an employer to refuse to hire or promote, terminate, deny training opportunities to, demote, harass during the course of employment, or discriminate with respect to compensation, terms, conditions, or privileges of employment against a qualified person because of a disability. However, it is not a discriminatory practice for an employer to take the majority of these actions if there is no reasonable accommodation available, the disability actually disqualifies the individual from the job, or the disability has a significant impact on the job.

Employers also are prohibited from printing, circulating, or causing to be printed or circulated any statement, advertisement, or publication that expresses any limitation, specification, or discrimination as to disability, unless based on a bona fide occupational qualification or governmental security reason.

For purposes of state law, an employer is defined as any individual employing one or more persons in the state.
DRUG TESTING

No statutory provisions.

Voters have approved the recreational use of marijuana. However, employers may enforce their drug-testing policies, and may terminate employees who test positive.

FAMILIAL/MARITAL STATUS

Employers with 25 or more employees may not discharge an employee or refuse to hire a person solely on the basis that the employee or person is married to or plans to marry another employee of the employer, absent limited exceptions.

The state recognizes same-sex marriage.

FAMILY/MEDICAL LEAVE

Coverage: All employers that provide paid sick leave to employees.

Employee eligibility: Employees with accrued leave may use sick leave to attend to an ill child, parent, or spouse. In addition, employees who enter into civil unions, registered domestic partnerships, or employer-recognized partnerships may use state FMLA leave to care for their partners who develop serious health conditions. Employees who use 12 weeks of leave under the federal FMLA cannot also take expanded state leave within the same 12-month period.

Length of leave: Maximum leave is as follows: either one-half of the employee’s accrued unused sick leave or one-half of the sick leave that would be accrued during a six-month period.

See also military leave.

GENETIC TESTING

State insurance laws have been modified to comply with federal GINA. Entities that provide health care insurance may not request or require an individual to undergo a genetic test unless otherwise authorized by state or federal law. In addition, entities that receive genetic information must treat such information as confidential and privileged.

HEALTH CARE CONTINUATION COVERAGE

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 18 months.

Click on the following link http://www.dora.state.co.us/insurance/consumer/SupportingDocuments/consCobraVsColorado011812.pdf for a comparison of federal COBRA to Colorado’s continuation law.
**JURY DUTY**

Employers may not harass, threaten, or coerce employees who receive or respond to a jury summons, or serve on a jury. All employed jurors are paid regular wages, up to $50 per day, up to the first three days of jury service, unless the employer and employee have a mutual agreement. To be compensated, an employee must present an employer a copy of a juror’s certificate. Employers may be excused from paying compensation if there is financial hardship.

An employee’s jury service may be postponed and rescheduled if: he/she is regularly employed by an employer with five or fewer full-time employees; and during the same period, another employee has been summoned for jury service.

**LIFESTYLE DISCRIMINATION**

It is unlawful for an employer to discriminate against employees because they engage in legal activities outside of the workplace during non-working hours, unless the employment action is based on a *bona fide* occupational qualification.

**MASS LAYOFF NOTIFICATION**

No state-specific notification provision.

**MEDICAL DONATION LEAVE**

State employers shall provide no more than two days of paid leave per fiscal year for organ, tissue, or bone marrow donation.

**MILITARY LEAVE**

Qualified members of the Colorado National Guard or the U.S. reserve forces in non-temporary positions may take up to 15 days of unpaid leave each year for military training. An employee’s absence for military training will not affect his/her right to normal vacation, sick leave, bonus, advancement, and other advantages of employment.

Qualified members of the state National Guard may request an unlimited leave of absence to engage in active service for the state, and are entitled to the same reemployment rights and employee benefits as individuals who take leave for military training.

**Note:** An employer is prohibited from discriminating against or terminating any member of the civil air patrol because of such membership, or hindering or preventing a member from performing during any civil air patrol mission for which a member is entitled to leave.

**Reinstatement:** Qualified members of the state National Guard or the U.S. reserve forces who leave non-temporary positions for no more than 15 days each year for military training must be
restored to their previous positions or similar positions with the same status, pay, and seniority, provided they are still qualified to perform the duties of the positions and demonstrate satisfactory completion of training.

*Family military leave:* Provisions apply to state employers only.

➤ **MINIMUM WAGE**

*Minimum hourly wage/overtime rate:* $9.30/$13.95; $10.20/$15.30, eff. 1-1-18; $11.10/$16.65, eff. 1-1-19; $12/$18, eff. 1-1-20.

*Basis for overtime:* Over 40 hours/week or over 12/day.

*Opportunity wage for under 20-year-olds:* None.

*Note:* Employers may pay a lower state minimum wage only if they’re not covered by interstate commerce.

➤ **NATIONAL ORIGIN**

Employers having one or more employees may not discriminate against employees or applicants based on national origin or ancestry. Harassment during the course of employment is also prohibited and is defined as the creation of an intimidating, hostile, or offensive work environment based on an individual’s national origin or ancestry.

➤ **NEW-HIRE REPORTING**

*Data to be reported:* Employee’s name, address, SSN, first day of work; employer’s name, address, federal EIN. Employers must report as new hires employees who have been off the payroll for at least 60 consecutive days.

*Reporting deadline/form:* Within 20 days of hire or reinstatement; on W-4s.

➤ **OVERTIME**

*Basis for overtime:* Over 40 hours in a week, or over 12 hours in a day.

➤ **PAY STATEMENTS**

*Information required:* Employee’s name, Social Security number; employer’s name, address; pay period; gross/net pay; withholdings; deductions.
➤ PERSONNEL FILES ➤

Public employers: The state public records law requires personnel records be made available to employees and their supervisors. Employees may also examine their graded promotion exams.

Private employers: At least annually, employers that create personnel files must allow current or former employees to inspect and obtain a copy of their personnel files. Reviews occur at employers’ offices at a time convenient to both parties. Former employees may make one inspection of their personnel files after termination of employment. Employers may restrict access to files only in the presence of a person responsible for managing personnel data, and may require that employees pay the reasonable costs for any duplication of documents. The following documents are excluded from the definition of personnel file:

- records required to be placed in a separate file by federal or state law or rule;
- records pertaining to confidential reports from previous employers of the employee;
- records relating to an active disciplinary investigation by the employer or a regulatory agency, or an active criminal investigation; and
- any information in a document or record that identifies any person who made a confidential accusation, as defined by the employer, against the employee.

Employers aren’t required to retain any documents that are or were in a personnel file for a specific period of time.

The law doesn’t apply to employers that are covered by the Colorado Open Records Act or a financial institutions chartered and supervised under state or federal law.

➤ POLYGRAPH TESTING ➤

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ➤

Unemployment Insurance — All employers new revision date 09/2009
Workers’ Compensation — All employers
Minimum Wage & Overtime — All employers
Discrimination — All employers

Note: The Civil Rights Commission requires that the anti-discrimination poster be printed on bright yellow paper.

Notice of Injury — All employers
Pay Day Notice — All employers
Reasonable Accommodations for Pregnant Workers— All employers
**PREGNANCY**

_Reasonable accommodations:_ Unless it would cause an undue hardship, employers must engage in a timely, good-faith, interactive process when an employee or job applicant requests reasonable accommodations related to pregnancy or physical recovery from childbirth. Reasonable accommodations may include more frequent or longer break periods; more frequent bathroom, food, or water breaks; acquisition or modification of equipment or seating; limitations on lifting; temporary transfer to a less strenuous or hazardous position or light duty, if available; assistance with manual labor; or modified work schedules.

In response to a request or need for reasonable accommodations related to pregnancy or childbirth, an employer may not:

- take adverse actions against an employee;
- deny employment opportunities to an applicant or employee; require an applicant or employee to accept an accommodation that the applicant or employee has not requested or is unnecessary; or
- require an employee to take leave if the employer can provide another reasonable accommodation.

Undue hardship is an action requiring significant difficulty or expense to the employer; it can include consideration of the following factors:

- the nature and cost of the accommodations;
- the overall financial resources of the employer or overall size of the business; and
- the accommodation’s effect on expenses, resources, or operations.

Employers must provide written notice of the right to be free from discriminatory or unfair employment practices related to these requirements to new employees and existing employees, and they must post the notice in a conspicuous place.

**RACE**

Employers having one or more employees may not discriminate against employees or applicants based on race or color. Harassment during the course of employment is also prohibited and is defined as the creation of an intimidating, hostile, or offensive work environment based on an individual’s race or color.

**REFERENCES**

_Blacklisting:_ Employers cannot blacklist employees, publish their names, or conspire or contrive, by correspondence or otherwise, to prevent them from securing other employment. However, the blacklisting law does not prevent a former employer from imparting a fair and unbiased opinion of an employee’s qualifications when solicited by a later or prospective employer.
It is not considered blacklisting for health care employers to disclose in good faith to a prospective employer a former employee’s involvement in crimes of violence, diverting or tampering with drugs, patient abuse, or violating the employer’s drug or alcohol policies.

**Fingerprints:** For all new hires, child care facilities must conduct criminal history background checks, including fingerprint checks with the state bureau of investigation and the FBI.

**References:** Any employer who, upon request by a prospective employer or a current/former employee, provides fair and unbiased information about the employee’s job performance, is presumed to be acting in good faith and is immune from civil liability for the disclosure and the consequences of the disclosure. Immunity is lost if the disclosed information was knowingly false, deliberately misleading, disclosed for a malicious purpose, or violated the employee’s civil rights.

If an employer provides written information to a prospective employer about a current/former employee, it must send a copy of the provided information to the employee’s last known address. Further, anyone who is the subject of an employment reference may obtain a copy of the reference information by appearing at the employer’s place of business during normal working hours.

Banks, savings and loan associations, credit card or travel and entertainment companies, industrial banks, trust companies, credit unions, and other state or federally chartered lending institutions are permitted to provide written references advising another such entity of an employee’s involvement in theft, embezzlement, misappropriation, or other defalcation. The entity is immune from liability for providing such an employment reference if: 1) the information is true; 2) a reference is requested; 3) a copy of the reference is sent to the employee’s last known address; and 4) the employee may obtain a copy without charge by appearing in person at the employer providing the reference.

**Consumer credit references:** Employers, other than state or local law enforcement agencies, may not request prospective or current employees’ credit information or use their consumer credit information to evaluate them unless they are currently, or will be, in management positions related to financial information or contracts involving national security. Employers using consumer credit information to evaluate prospective or current employees must offer them an opportunity to explain adverse credit information; employers that take adverse actions on the basis of this information must disclose this use.

**Social media:** Employers cannot require, request, suggest, or cause current employees or job candidates to disclose their usernames and passwords to their personal social media accounts; add an employee, supervisor, or administrator to their contact lists; or change their privacy settings. Further, employers cannot take any action against, threaten to discharge, discipline, or otherwise penalize employees or job candidates for exercising these rights. **Excluded:** Employers can require these actions from social media accounts opened by employees at their request or when employees are provided with company e-mail accounts or other software programs owned and operated by their employers. Employers must continue to comply with federal, state, and local laws and regulations requiring certain disclosures.
➢ RELIGION ➢

It is an unfair employment practice for an employer having one or more employees to refuse to hire or promote, demote, harass during the course of employment, or discriminate with respect to compensation, terms, conditions, or privileges of employment against an otherwise qualified individual based on that individual’s religion or creed.

➢ REPORTING PAY ➢

Compensable working time includes the time during which employees are subject to the employer’s control, including time they’re suffered or permitted to work, regardless of whether they actually work. Requiring or permitting employees to remain on the premises while awaiting a decision on job assignments, or when to begin work or to perform clean up or other duties off the clock, is compensable working time.

➢ SAFETY ➢

There is no OSHA-monitored state plan. Click on the following link http://www.colorado.gov/cs/Satellite/CDLE-Main/CDLE/1240336821467 to access Colorado’s Department of Labor & Employment, which contains links to safety-related information.

➢ SCHOOL VISITATION LEAVE ➢

Employers with 50 or more employees must provide non-supervisory employees with up to six hours of unpaid leave per month (but not to exceed 18 hours in any academic year) to attend an academic activity for or with their child. Employees who work less than a full-time schedule are eligible for a pro-rated portion of this leave.

Employees or employers may elect to substitute accrued paid leave for the unpaid leave. Alternatively, the employer and employee may agree to an arrangement allowing the employee to make up the leave time within the same workweek.

Except in cases of emergency, employees must provide notice of their need for leave at least one week in advance and make a reasonable attempt to schedule academic activities outside of regular work hours.

Employers may require that the leave be taken in no longer than three-hour increments and that the employee provide written verification from the school or school district of the need for leave.

➢ SEX DISCRIMINATION ➢

Employers having one or more employees may not discriminate against employees or applicants based on sex.
SEXUAL HARASSMENT

The Workplace Harassment Rule makes harassment based on sex an unfair employment practice. Harassment is said to occur if an intimidating, hostile, or offensive working environment is created based upon one’s sex.

Employers are responsible for acts of sexual harassment by supervisors if the affected employee complains to the appropriate company authority and that authority fails to investigate the complaint and take prompt remedial action. Employers are responsible for acts of sexual harassment by co-workers and non-employees if they knew or should have known of the harassment and failed to take immediate remedial action.

SEXUAL ORIENTATION DISCRIMINATION

It is an unlawful employment practice for an employer to refuse to hire or promote, discharge, demote, refuse to select for a training program, harass, or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on sexual orientation.

Employers are also prohibited from printing, circulating, or causing to be printed or circulated any statement, advertisement, or publication, or using any form of application for employment or making any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination based on sexual orientation.

If an employer has a reasonable gender-specific dress code, the employer should permit employees to comply with the dress code provisions in an appropriate manner that is consistent with employees’ gender identity. Dress codes must be enforced consistently to all employees.

Sexual orientation is defined as a person’s actual or perceived orientation toward heterosexuality, homosexuality, bisexuality, or transgender status. An employer is defined as having one or more employees within the state.

SMOKING

The state’s Clean Indoor Air Act prohibits smoking in enclosed areas, including places of employment, with limited exceptions. Smoking prohibitions do not apply to enclosed offices occupied exclusively by smokers, even when non-smokers visit such offices.

Places where smoking is prohibited must contain conspicuously posted “no smoking” signs.

See also lifestyle discrimination.

SOCIAL SECURITY NUMBER PRIVACY

Social Security numbers may not be made available to the general public; printed on any card required to access products or services provided by the employer; transmitted over unsecured
Internet connections; or used to access an Internet site unless accompanied by an authentication device (a unique password or personal identification number, for example). In addition, Social Security numbers should not be printed on any materials that are mailed to an individual, with limited exceptions.

Employers that maintain computerized data that includes personal information (e.g., Social Security numbers) must report a security breach “in the most expedient time possible and without unreasonable delay” to anyone whose personal information might have been compromised.

▶ UNEMPLOYMENT INSURANCE ◀

Click on the following link http://www.colorado.gov/cs/Satellite/CDLE-UnempBenefits/CDLE/1240336898069 to access the Colorado Department of Labor and Employment unemployment insurance home page. To access an employer’s handbook on unemployment insurance, click on http://www.colorado.gov/cs/Satellite/CDLE-UnempBenefits/CDLE/1248095315478.

▶ VACATION PAY UPON TERMINATION ◀

Employers may have use-it-or-lose-it vacation policies, but use-it-or-lose-it vacation policies can’t operate to deprive employees of their earned vacation time, and vacation pay that’s earned and determinable must be paid to employees when they terminate their employment.

▶ VIOLENCE ◀

Employers may obtain a restraining order, in the name of their business, to protect employees or clients from an imminent danger.

Note: All state government workplaces must abide by the universal policy addressing workplace violence, including domestic violence, created by the Colorado Department of Personnel Administration, which states that violence and threatening behavior will not be tolerated.

Domestic violence: Employers of 50 or more employees must grant an individual’s request to take up to three work days of leave, with or without pay, in any 12-month period, if he/she is a victim of domestic abuse, stalking, or other domestic violence in order to:

• seek a civil protection order to prevent domestic abuse;
• obtain medical care or mental health counseling or both for him/herself or for his/her child to address physical or psychological injuries resulting from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence;
• make his/her home secure from the perpetrator of the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence, or seek new housing to escape such perpetrator; or
• seek legal assistance to address issues arising from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence, and attend and prepare for court-related proceedings arising from such act or crime.

Employees must exhaust accrued annual, vacation, personal, and sick leave unless the employer waives this requirement.

Except in cases of imminent danger to the health or safety of the employee, an employee seeking leave must provide his/her employer with the appropriate advance notice and documentation as may be required by policy.

➤ VOTING ◂

Employees may take up to two hours off from work to vote. Time off does not have to be granted if an employee has three non-work hours on Election Day between the opening and closing of polls. Employers designate the hours that employees may take off to vote, but the designated hours must be at the beginning or ending of a shift, if employees so request.

Wages: Leave will be paid.

Notification: Employees must apply for leave prior to Election Day.

➤ WAGE DEDUCTIONS ◂

Lawful deductions include deductions mandated by local, state, or federal law, including: deductions for taxes, garnishments, and other court-ordered deductions; deductions for loans, advances, goods or services, and equipment or property provided by the employer pursuant to a written agreement between the employer and the employee; deductions to compensate for the employee’s theft, if a police report has been filed and is pending adjudication; deductions for money or the value of property the employee fails to return on termination; and any other deduction authorized by the employee, if the deductions are recoverable, including deductions for hospitalization and medical insurance, savings plans, stock purchases, charities, etc.

Regardless of whether a 401(k) plan or other defined contribution plan is subject to ERISA, employees may be automatically enrolled into the plan and have contributions automatically withheld from their pay. For this purpose, auto-enrollment plans are the same as authorized under the 2006 federal Pension Protection Act.

Employers with auto-enrollment plans will not be liable to participants for the default investments. Conditions for relief: At least quarterly, participants must be allowed to select their investments. In addition, participants must be provided with a notice of their employer’s investment decisions, a description of all of the investment alternatives, and a brief description of the procedures for changing investment options. At least annually, participants must receive notice of the default investments made on their behalf.
➤ WAGE GARNISHMENT

The lesser of 25% of disposable weekly pay, or the amount by which disposable weekly pay exceeds 30 times the federal minimum wage in effect during the week the garnishment is to occur, may be withheld. Employers may not terminate an employee because his/her disposable pay is subject to a creditor garnishment.

Creditor garnishments are continuous, until the debt is paid. In addition, payments made to independent contractors are subject to garnishment.

➤ WAGE PAYMENT ON TERMINATION

Employee who quits: Next payday.

Employee who’s fired: At once.

Employers have 14 days to honor a terminated employee’s demand for payment of final wages. Employers that fail to honor such a demand will be liable to the employee for the unpaid wages, and penalty wages equal to the greater of the amount of unpaid wages, or up to 10 days’ worth of the employee’s average daily wages. The daily earnings penalty doesn’t begin to accrue until employers receive the employee’s written demand. Final payment may be made by check or direct deposit, provided the employee hasn’t revoked his or her direct deposit authorization. Employers may, but aren’t required to, pay by direct deposit to the account specified in the employee’s demand, even if the employee hasn’t previously authorized direct deposit.

➤ WAGE PAYMENTS

Payday requirements: The longer of monthly or every 30 days.

Direct deposit: Employers may not require employees to be paid electronically. Employee chooses bank.

➤ WHISTLEBLOWING

Employers are prohibited from taking negative employment actions against an employee because the employee has: 1) opposed discriminatory or unfair employment practices; 2) filed a charge with the Colorado Civil Rights Commission; or 3) testified or participated in any way in an investigation into unfair employment practices.

➤ WORK AUTHORIZATION

State laws that require employers to perform separate work authorization checks on new hires have been repealed. Employers may rely on the federal Form I-9 process, instead.
Click on the following link http://www.coworkforce.com/DWC/ to access the Colorado Department of Labor & Employment, Division of Workers' Compensation home page. For the answers to frequently-asked Workers' Compensation questions by employers, click on http://www.coworkforce.com/DWC/FAQs/Employers.asp.