

## ARIZONA — State Laws by Topic

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### ➤ AGE ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; or otherwise discriminate against an individual based on age.

It is not unlawful for an employer to observe the terms of a *bona fide* seniority system or employee benefit plan, such as a retirement, pension, deferred compensation, or insurance plan, as long as the plan is not a ploy to evade the purposes of the state's age discrimination provisions.

For purposes of state law, age discrimination prohibitions apply to those individuals who are at least 40 years of age but less than 70 years of age, and an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

### ➤ AIDS ◀

*Discrimination:* Under the Arizona Civil Rights Act, AIDS is a protected disability.

*Testing:* Written, informed voluntary consent must be obtained before an individual is tested for HIV.

### ➤ ARRESTS/CONVICTIONS ◀

*Arrests:* No general provision prohibiting an employer's collection and use of arrest records. The Arizona Civil Rights Division's Guide to Pre-Employment Inquiries states inquiries into arrest records are improper, unless a compelling business reason for such information exists.

*Convictions:* No general provision prohibiting an employer's collection and use of conviction records. The Guide finds inquiries into convictions permissible, but warns employers to include a disclaimer that a conviction for a crime will not be an absolute bar to employment.

### ➤ BREAKS ◀

No provision.

### ➤ BREAST-FEEDING ◀

A woman is entitled to breast-feed in any area of a public place or a place of public accommodation where she is authorized to be present.

➤ **CHILD LABOR** ◀

Click on the following link [www.ica.state.az.us/Labor/Labor\\_YouthE\\_main.aspx](http://www.ica.state.az.us/Labor/Labor_YouthE_main.aspx) to access the Industrial Commission of Arizona home page for youth employment, which includes a link to frequently-asked questions.

➤ **CHILD SUPPORT** ◀

Employers served with a child support order must begin withholding 14 days after receipt of the order. Amounts are remitted within two business days of payday. Notify the payment clearinghouse promptly if employee-obligor terminates employment.

➤ **COURT ATTENDANCE** ◀

Employers with 50 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year must allow employees who are crime victims to leave work to be present at a court proceeding, or to obtain or attempt to obtain an order of protection, an injunction against harassment, or any other injunctive relief. An employer cannot discharge or otherwise discriminate against an employee in compensation or other terms, conditions, or privileges of employment for taking crime victim leave.

An employee must provide his/her employer with a copy of the form provided to him/her by the appropriate law enforcement agency, the information the law enforcement agency gives to the employee, a court order the employee is subject to, or any other proper documentation.

Employers do not have to compensate employees who take leave, and may require employees to use accrued vacation, personal, or sick leave. Employees may not lose seniority while absent from employment.

Employers may limit the amount of leave if it creates an undue hardship on the employer's business.

➤ **DISABILITIES** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; fail or refuse to reasonably accommodate; terminate; deny training opportunities to; limit, segregate, or classify; or otherwise discriminate against an individual based on disability.

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 disability.

For purposes of state law, an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

## ➤ DRUG TESTING ◀

Employers can require drug or alcohol testing for any job-related purpose as long as it is consistent with business necessity and the terms of company policy. Employers can only test for drugs or alcohol if they have adopted a written testing policy and informed employees of that policy. At a minimum, the written policy must include the following.

1. A statement of the company's drug and alcohol policy.
2. A description of those applicants and employees subject to testing.
3. The circumstances under which testing is required.
4. The substances that may be tested for.
5. A description of testing procedures.
6. The consequences of a refusal to be tested.
7. The consequences of positive test results.
8. The right to obtain results.
9. The right to explain a positive test result.
10. A confidentiality statement.

**Note:** Under the Arizona Private Sector Workplace Drug Testing and Alcohol Impairment Act, no cause of action may be brought against an employer for adverse employment actions taken in good faith on the basis of a positive drug test.

*Notification:* A written drug and alcohol testing policy must be either distributed to every employee subject to testing or made available to employees in the same manner used to inform them of other personnel policies. Applicants must be informed that they may be asked to undergo drug testing as employees.

Employers that believe in good faith that an employee who works in a safety-sensitive position is impaired at work due to prescribed, illegal, or synthetic drug use may take action against the employee, including reassigning the employee or placing the employee on paid or unpaid leave. An employer will have a good-faith belief if it observed the employee's conduct, behavior, or appearance; if information was reported by a person the employer believes to be reliable; if it acquires written, electronic, or verbal statements; or if the employee's impairment is revealed through lawful video surveillance, government records, drug or alcohol tests, or other information reasonably believed to be reliable or accurate.

Employers may also use the medical marijuana verification system to verify that a registry identification card has been provided to the employer by an employee or job applicant who has received a conditional offer of employment.

## ➤ FAMILIAL/MARITAL STATUS ◀

The state recognizes same-sex marriage.

➤ **FAMILY/MEDICAL LEAVE** ◀

*Coverage:* State employers.

*General rule:* State employers are required to provide up to 180 days off without pay to permanent status employees under the following conditions.

- An employee is unable to work due to a non-job-related and seriously incapacitating extended illness or injury.
- The serious, extensive, and incapacitating illness or injury is documented by an employee-selected physician, who is subject to the confirmation of an agency-selected physician (at the agency's expense) and whose opinion will be used to determine whether medical leave without pay should be granted.
- An employee has exhausted all leave balances, including any leave donated to him/her.

*Reinstatement:* An employee's status upon returning to work from medical leave will be determined generally in the same manner as an employee who returns to work without pay.

*Paid sick leave:* Beginning July 1, 2017, employers with 15 or more employees must allow employees to accrue one hour of paid sick leave for every 30 hours they work, up to 40 hours per year. Employers with fewer than 15 employees must allow employees to accrue one hour of paid sick leave for every 30 hours they work, up to 24 hours per year. Employers may set higher accrual rates, and employers with conforming paid leave policies don't have to offer additional leave. Employers may advance employees leave, if they choose.

An employer has 15 or more employees if it maintained 15 or more employees on the payroll for some portion of a day in each of 20 different calendar weeks (the weeks don't have to be consecutive) during the current or preceding year.

Employees begin accruing time on their first day of work. Current employees can use their leave immediately; employees hired after July 1, 2017, may be required to wait 90 days before using their leave. Employees may use their leave in either hourly increments or the smallest increment that their employer's payroll system uses to account for other absences, whichever is smaller. Employees may carry over unused, accrued leave into the next year, unless their employers cash them out. Employers don't have to cash out a terminating employee's accrued leave, but employees who are rehired within nine months must have their accrued leave immediately reinstated.

Employers can have written policies requiring employees to provide notice of their need for paid leave. If the need for leave is foreseeable, employees must make a good faith effort to provide notice of their leave and should schedule leave in a manner that doesn't unduly disrupt their employer's operations. Employers can require reasonable documentation of an employee's need for leave if the employee is absent for at least three consecutive days.

Notice posting requirements also apply.

➤ **GENETIC TESTING** ◀

Employers may not consider any genetic testing results they receive when making employment-related decisions. It is an unlawful employment practice for employers to refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on genetic information as revealed in tests.

➤ **HEALTH CARE CONTINUATION COVERAGE** ◀

No general health care continuation coverage provision.

➤ **JURY DUTY** ◀

Employers must allow employees to be absent for jury duty. Absences from employment for jury duty must not affect employees' rights to vacation time, seniority, or precedence. Employees who return from jury duty must be returned to their previous positions, or to higher positions commensurate with their ability and experience and in accordance with seniority or precedence.

State law established the Lengthy Trial Fund, which compensates jurors for full or partial earnings replacement on trials lasting 10 or more days. In order to benefit from the Lengthy Trial Fund, employees must:

1. disclose the amount of their regular earnings and the amount the employer pays during the term of jury service beginning on the 11th day and thereafter; and
2. submit verification of the amount that the employer will pay during the term of jury service, by providing the most recent earnings statement or a similar document.

➤ **LIFESTYLE DISCRIMINATION** ◀

State employers are prohibited from discriminating against an employee or other individual based on the use or non-use of tobacco products.

➤ **MASS LAYOFF NOTIFICATION** ◀

No state-specific notification provision.

➤ **MEDICAL DONATION LEAVE** ◀

State employees are entitled to leave of up to five workdays to serve as a bone marrow donor and up to 30 workdays to serve as an organ donor. To qualify for leave, employees must provide written verification that the employee is, indeed, serving as a donor. Employees granted leave are entitled to receive their base pay without interruption during the period of leave. For the purpose of determining seniority, pay or pay advancement, and performance awards, the employee's service is considered uninterrupted by the leave of absence.

➤ **MILITARY LEAVE** ◀

Employers must allow members of any state's National Guard or the U.S. Armed Forces reserves to take leaves of absences for active duty or to attend maneuvers and the like without affecting employees' vacation rights, except that leave time is not considered as work time for vacation eligibility.

*Reinstatement:* Employees of any state's National Guard must be returned to their previous position, or to a higher position, without loss of seniority, commensurate with their ability, experience, and seniority rights.

➤ **MINIMUM WAGE** ◀

*Minimum hourly wage/overtime rate:* \$11/\$16.50; \$12/\$18, eff. 1-1-20.

*Basis for overtime:* Over 40 hours/week.

*Opportunity wage for under 20-year-olds:* \$4.25.

**Note:** State inflation adjusts its minimum wage annually.

➤ **NATIONAL ORIGIN** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; or otherwise discriminate against an individual based on national origin.

For purposes of state law, an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

➤ **NEW-HIRE REPORTING** ◀

*Data to be reported:* Employee's name, address, SSN, first day of work, employer's name, address, federal EIN.

*Reporting deadline/form:* Within 20 days of hire or rehire; on W-4s or through the state's website.

➤ **OVERTIME** ◀

*Basis for overtime:* Over 40 hours in a workweek.

➤ **PAY STATEMENTS** ◀

*Information required:* Statement of earnings/deductions.

Employers may furnish employees whose receive their pay electronically with electronic pay statements.

➤ PERSONNEL FILES ◀

Employers must allow an employee or his/her designated representative to inspect and copy payroll records pertaining to that employee.

➤ POLYGRAPH TESTING ◀

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ◀

Unemployment Insurance — All employers

Workers' Compensation — All employers

Safety & Health Protection on the Job (English & Spanish) — All employers

**Note:** The Arizona Industrial Commission requires the Safety & Health Protection on the Job poster to be 8 1/2" x 14" (legal size).

Discrimination — All employers

Work Exposure to Bodily Fluids (English & Spanish) — All employers

Constructive Discharge (English & Spanish) — All employers

Minimum Wage (English & Spanish) — All employers

No Smoking (English & Spanish) — All employers except those exempted by law

**Note:** The Arizona Department of Health Services requires the No Smoking poster to be posted at all building entrances.

E-Verify (English & Spanish) — All employers

Right to Work (English & Spanish) — All employers

Work Exposure to MRSA, Spinal Meningitis, or TB — Required for all employers whose employees may receive significant exposure to methicillin-resistant staphylococcus aureus, spinal meningitis, or tuberculosis in their regular course of employment. Examples of possible employees who would meet this qualification are, but not limited to: firefighters, law enforcement officers, corrections officers, probation officers, emergency medical technicians, and paramedics.

Prohibition of Discrimination — All employers

Paid sick leave — Employers of 15 or more

➤ PREGNANCY ◀

Coverage applies to state government employers.

➤ **RACE** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; or otherwise discriminate against an individual based on race or color.

For purposes of state law, an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

➤ **REFERENCES** ◀

*Blacklisting:* It is unlawful to exchange, solicit, or give out blacklists.

*References:* An employer is immune from liability if it provides a prospective employer with information about an employee's education, training, experience, qualifications, and job performance. The employer providing the information must send a copy of any written communication about employment to the former employee's last known address.

Employers with fewer than 100 workers are immune from liability if the information provided is about the reason for termination or about the performance, conduct, or evaluation of an employee. Employers with 100 or more workers are immune from liability if they regularly provide information requested by a prospective employer about the reason for the termination of a former employee or about the job performance, professional conduct, or evaluation of a current/former employee in the state.

➤ **RELIGION** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; or otherwise discriminate against an individual based on religion.

For purposes of state law, an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

Click on the following link <https://www.azica.gov/adosh-safety-and-health-compliance> to access Arizona's Division of Occupational Safety and Health home page, which includes frequently asked questions about occupational safety and health.

➤ **SCHOOL VISITATION LEAVE** ◀

No provision.



➤ **SEX DISCRIMINATION** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; or otherwise discriminate against an individual based on sex.

For purposes of state law, an employer is defined as an individual who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

➤ **SEXUAL HARASSMENT** ◀

No general provision.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

An executive order prohibits state employers from discriminating against individuals based on sexual orientation.

➤ **SMOKING** ◀

The Smoke-Free Arizona Act bans smoking in all enclosed public places and places of employment, with limited exceptions. A place of employment is defined as just about any enclosed area associated with the workplace, including vehicles (if owned and operated by the employer during business hours and containing more than one person). A public place includes a reasonable distance from any entrances, windows, and ventilation systems so that persons entering or leaving the building or facility won't be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems, or any other means.

Employers must post signs at the entrance to any area where smoking is prohibited. The signs must either explicitly state "no smoking" or contain the international "no smoking" symbol, identify the area where smoking is prohibited, and inform individuals as to where they can register complaints concerning violations of the Act.

See also lifestyle discrimination.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Social Security numbers or a portion thereof containing more than five digits 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 or a portion thereof containing more than five digits 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.

For purposes of the state's breach notification law, the definition of personal information is expanded to include any individual's first and last name, combined with any of the specified data elements, such as Social Security numbers, drivers' license numbers, and financial account numbers, as well any individual's user name and password, or other data that allows access to the individual's online accounts.

A breach is an unauthorized acquisition of, and unauthorized access to, unencrypted or unredacted data that materially compromises the security or confidentiality of personal information maintained by a person as part of a database of personal information or that causes or will cause substantial economic loss to an individual.

Employers must notify the appropriate authorities within 45 days after an investigation has determined there was a breach. The written notice must include the date of the breach, the personal information included, toll-free numbers and addresses for reporting agencies, and the toll-free number, address, and website for the Federal Trade Commission or any federal agency that assists consumers with identity theft matters.

Notification may be delayed if law enforcement determines it will compromise a criminal investigation. Notification must be given through written notice, electronic notice, by phone or substitute notice. A substitute notification must consist of email, if addresses are available; conspicuous posting on a maintained website; and a notification to all major statewide media.

### ➤ UNEMPLOYMENT INSURANCE ◀

Click on the following link <https://des.az.gov/> to access the Arizona Department of Economic Security home page, with information on unemployment benefits.

### ➤ VACATION PAY UPON TERMINATION ◀

Final wages include vacation pay, when vacation pay is promised under a company policy or practice.

### ➤ VIOLENCE ◀

An employer may petition a court for an injunction prohibiting workplace harassment, which is defined as a single threat or act of physical harm or damage, or a series of acts over any period of time, that would cause a reasonable person to be seriously alarmed or annoyed. The petition must provide the employer's name and the name and the address (if known) of the alleged harasser. It must also include a specific statement showing the event(s) and date(s) of an act or acts that constituted harassment of the employer, any person entering the employer's premises, or any person performing official job duties.

When an employer has knowledge that a specific employee is the target of harassment, it must make a good-faith effort to give notice to the employee that it intends to request an injunction.

*Concealed weapons:* No property owner, tenant, or private or public employer or business entity may establish or enforce a policy that prohibits a person from lawfully transporting or

storing a firearm that is locked inside a privately owned motor vehicle or in a locked compartment of a privately owned motorcycle and is not visible from the outside.

**Note:** A new law allowing U.S. citizens 21 and older to carry concealed weapons without a permit does not trump employers' policies prohibiting weapons in the workplace.

### ➤ VOTING ◀

Employers must provide employees a leave of absence of up to three consecutive hours to vote if they have less than three consecutive hours before or after work when polls are open. If employees have more than three consecutive hours before or after work when polls are open, employers do not have to grant time off to vote.

*Wages:* Employers may not deduct wages or otherwise penalize employees for taking time off to vote.

*Notification:* Employees must apply for time off to vote prior to Election Day.

### ➤ WAGE DEDUCTIONS ◀

No deductions from wages are permitted unless: 1) the employer is required or authorized to do so by state or federal law; 2) there is prior written authorization from the employee; or 3) there is a reasonable good-faith dispute as to the amount of wages due, including counterclaims or set-offs asserted by the employer against the employee.

Unless withholding is to satisfy a debt, employers cannot withhold wages under an employee's written authorization past the date specified in the agreement.

Public and private employers cannot make recurring deductions from employees' pay for political or nonpolitical purposes without their written or electronic consent. *Employees excluded:* Public safety employees, including peace officers, fire fighters, corrections officers, probation officers, and surveillance officers who are employed by the state or a political subdivision of the state.

Employees must renew their consent annually. If employees have multiple deductions made from their checks, employers must obtain statements from recipients indicating that the payments aren't used for political purposes or statements showing the maximum percentage that's used for political purposes. The attorney general provides model employee authorization forms. Employees who resign membership in the organization for which deductions were authorized must notify their employers of the resignation; authorization for the deductions will then be considered rescinded. Employers have one pay period to process the rescission.

### ➤ 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. Employees who can show extreme hardship can lower the amount to 15%.

Employers may not terminate an employee because his/her disposable pay is subject to a creditor garnishment.

➤ **WAGE PAYMENT ON TERMINATION** ◀

*Employee who quits:* Next payday.

*Employee who's fired:* Beginning September 21, 2012, earlier of next payday or within seven working days.

➤ **WAGE PAYMENTS** ◀

*Payday requirements:* Two or more times a month, not more than 16 days apart.

Employees must be paid within five business days after the end of the pay period.

*Direct deposit:* Employers may not require employees to be paid electronically. Employee consents in writing, chooses bank, one free withdrawal.

➤ **WHISTLEBLOWING** ◀

Provisions apply to state employees only.

➤ **WORK AUTHORIZATION** ◀

Under the Legal Arizona Workers Act of 2007 (LAWA), an employer shall not intentionally or knowingly employ an unauthorized alien. An employer is defined as any individual or type of organization that transacts business in the state, has a license issued by an agency in the state, and employs one or more individuals who perform employment services in the state. Employer is also defined to include the state, any political subdivision of the state, and self-employed persons.

In addition, every employer must verify the employment eligibility of all employees hired on or after January 1, 2008, by using the E-Verify program. Employers must keep a record of this verification for the duration of the employee's employment or three years, whichever is longer.

The Support Our Law Enforcement and Safe Neighborhoods Act amends the LAWA and stipulates that it is unlawful for a person who is unlawfully present in the U.S. and who is an unauthorized alien to knowingly apply for work, solicit work in a public place, or perform work as an employee or independent contractor in Arizona. **Note:** This provision has been enjoined by an order from the U.S. District Court for the District of Arizona. At press time, the case is pending before the 9th U.S. Circuit Court of Appeals.

It is also unlawful for anyone in a stopped motor vehicle to attempt to hire or hire and pick up passengers for work at a different location.

For a first violation, an employer may be subject to a three-year probationary period during which the employer must file quarterly reports with the County Attorney of each new employee

who is hired by the employer at the specific location where the unauthorized alien performed work. The employer's business licenses may also be suspended.

A second violation that occurs while an employer is on probation for a first violation may result in the permanent revocation of the employer's licenses to do business in the state.

In addition, employers enrolling in Arizona's Voluntary Employer Enhanced Compliance Program and complying with its provisions are not liable for knowingly or intentionally employing an undocumented worker. To enroll in the Program, an employer must file an affidavit with the Attorney General, agreeing to perform the following in good faith:

- confirm the work authorization of every new hire using E-Verify;
- within 30 days after enrolling in the program, use the Social Security Number Verification Service (SSNVS) to verify, for wage-reporting purposes, the Social Security number (SSN) of every employee not otherwise confirmed using E-Verify;
- after receiving a failed verification result from SSNVS, instruct the employee to resolve the discrepancy with the Social Security Administration (SSA) within 90 days;
- coordinate with the employee to resolve any failed verification result within 90 days;
- if requested, provide the Attorney General or County Attorney with documentation demonstrating the employer confirmed a particular employee's work eligibility using E-Verify or the accuracy of the employee's SSN for wage-reporting purposes using SSNVS.

*Public contracts:* State government entities are prohibited from awarding contracts to contractors or subcontractors who do not use E-Verify. All contracts must warrant compliance with federal immigration law and the E-Verify requirement. The contract is subject to termination if this warranty is breached.

### ➤ **WORKERS' COMPENSATION** ◀

Click on the following link [www.ica.state.az.us/Claims/Claims\\_main.aspx](http://www.ica.state.az.us/Claims/Claims_main.aspx) to access the Industrial Commission of Arizona Workers' Compensation home page, which includes links to employer forms and frequently-asked questions.