

GEORGIA — State Laws by Topic

➤ AGE ◀

Under the Georgia Age Discrimination Act, no person, firm, association, or corporation carrying on or conducting business within Georgia that requires the employment of labor shall refuse to hire, employ, or license; bar from employment; or terminate any individual between the ages of 40 and 70 years, based solely on age, unless the reasonable demands of the position in question require an age distinction.

➤ AIDS ◀

No provisions specified in the general employment context.

➤ ARRESTS/CONVICTIONS ◀

Private and public employers are prohibited from collecting or using criminal records of individuals protected under the First Offenders Act. Otherwise employers can obtain arrest and conviction information. If an adverse employment action is taken based on such information requested from the state, an employer must inform the affected individual of the information used to make the employment decision. This disclosure must include: 1) the fact that a record was obtained; 2) the contents of the record; and 3) the effect the record had on the decision.

➤ BREAKS ◀

No provision.

➤ BREAST-FEEDING ◀

An employer shall: 1) provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child, 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 the employee can express milk in private. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time if to do so would unduly disrupt the operations of the employer.

➤ CHILD LABOR ◀

Click on the following link www.dol.state.ga.us/em/child_labor.htm to access Georgia's Department of Labor home page for child labor information.

➤ 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 two business days of payday. Notify the custodial parent or the state agency promptly if the employee-obligor terminates.

➤ COURT ATTENDANCE ◀

Employers cannot discharge, discipline, or otherwise penalize employees because of absences for attending court proceedings to answer subpoenas, summonses for jury duty, or other court orders. This protection does not apply to employees charged with crimes.

Employers may require reasonable notice of the expected absence or delay in reporting to work because of court attendance. Employees are entitled to salary while attending court.

➤ DISABILITIES ◀

Public employers are prohibited from refusing to hire; limiting, segregating, or classifying; denying training opportunities to; discharging; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on disability.

It is an unlawful employment practice for an employer to print or publish a notice or advertisement relating to employment that indicates any preference, limitation, specification, or discrimination based on disability, unless the limitation or specification is job-related.

State law does not prevent or otherwise make illegal any employment decision affecting any person if the decision is based on an employer's good-faith reliance on a professional opinion given by a licensed physician, rehabilitation specialist, psychologist, physical therapist, dentist, or other similarly licensed health care professional.

A disability is defined to include a physical or mental impairment that substantially limits one or more of an individual's major life activities, unless an employer can demonstrate that it is unable to reasonably accommodate such an individual without creating an undue hardship. An employer is defined as a person or governmental unit or officer in Georgia that employs 15 or more employees, or any agent of such an employer.

➤ DRUG TESTING ◀

Georgia's general drug testing law is only applicable to public employers and states that public employees working in high-risk jobs are subject to random testing for evidence of illegal drug use.

The state recognizes the use of small amounts of medical marijuana for certain medical conditions. However, while no general drug testing law is on the books for private employers, Georgia does have a drug-free workplace law, which continues to apply, regardless of the medical marijuana law. Under this law, all employees and applicants must be informed — one time only, prior to

testing — of an employer's policy of testing for substance abuse. In addition, all employees must be given a written policy statement that contains the following.

1. A statement of the company's substance abuse policy.
2. A reference to Georgia's drug-free workplace law.
3. A confidentiality statement.
4. The consequences of refusing to submit to a drug test.
5. A statement advising of the company's employee assistance program or other assistance resources.
6. An explanation of the right to contest or explain a positive test result within five working days after written notification of the positive test result is received.
7. A statement explaining the provisions of the federal Drug-Free Workplace Act, and, if applicable, the Drug-Free Public Work Force Act.

Employers may conduct substance abuse testing under the following circumstances.

Note: Employers are required to conduct these types of tests in order to qualify for the Workers' Compensation insurance premium discounts provided under state regulations.

- After extending an offer of employment.
- Upon reasonable suspicion of substance abuse.
- As part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
- Upon completion of an employee assistance program or a rehabilitation program. However, if an employee voluntarily entered the program, follow-up testing is not required. If follow-up testing is conducted, the frequency of such testing shall be at least once a year for a two-year period after completion of the program, and advance notice of the testing date shall not be given to the employee.
- Following an on-the-job injury that results in loss of work time.

Urinalysis conducted by laboratories, testing at the employer worksite using on-site testing kits, or use of oral testing, all of which satisfy the law's testing criteria, are suitable and acceptable forms of substance abuse testing. Nothing in the law prevents private employers from conducting random substance abuse testing or other lawful testing of employees.

Notification: An employer that did not have a substance abuse testing program in effect on July 1, 1993, must ensure that at least 60 days elapse between a general one-time notice to all employees that a substance abuse testing program is being implemented and the beginning of actual testing.

Employers must also include notice of their substance abuse testing policies on vacancy announcements for those positions for which testing is required. In addition, notice of the employer's substance abuse testing policy must be posted in a conspicuous location on the employer's premises.

➤ **FAMILIAL/MARITAL STATUS** ◀

No provisions specified in the general employment context.

➤ **FAMILY/MEDICAL LEAVE** ◀

Coverage: State employers.

Employee eligibility: An employee with 1,250 hours of service during the 12 months preceding the commencement of the leave.

Length of leave: Twelve workweeks in any 12-month period is the maximum leave permitted.

Reasons for leave: 1) the birth or adoption of a child, or 2) the serious health condition of the employee's child, parent, spouse, or spouse's parent.

Reinstatement: The employee is required to be reinstated to either the same position or a position of equal grade.

Voluntary paid leave: Employers with at least 25 employees that provide paid sick leave to employees must allow employees to take up to five days off to care for an immediate family member. Employees qualify for this benefit if they work at least 30 hours a week. Employers that offer employees a tax-qualified employee stock ownership plan are excluded from this requirement. This provision will expire on July 1, 2020.

See also military leave.

➤ **GENETIC TESTING** ◀

No provisions specified in the general employment context.

➤ **HEALTH CARE CONTINUATION COVERAGE** ◀

Continuation coverage requirements apply to employers with fewer than 20 employees. Eligible employees have the right to continue coverage for up to nine months.

Click on <http://ga.elaws.us/law/section33-24-21.1> for more information.

➤ **JURY DUTY** ◀

See court attendance.

➤ **LIFESTYLE DISCRIMINATION** ◀

No provision.

➤ MASS LAYOFF NOTIFICATION ◀

No state-specific notification provision.

➤ MEDICAL DONATION LEAVE ◀

State employers must afford employees up to 30 days of paid leave to serve as an organ donor and up to seven days of paid leave to serve as a bone marrow donor. To qualify for leave, employees must provide a statement from the physician slated to perform the procedure verifying that the employee is, indeed, serving as a donor. Medical donation leave shall not be charged against or deducted from any annual or sick leave bank.

In addition, employers must afford employees up to eight hours per calendar year to donate blood.

➤ MILITARY LEAVE ◀

To be eligible for military leave, employees must be employed in non-temporary positions.

Reinstatement: Employees must be restored to their positions or similar positions of like seniority, status, and pay provided they: 1) apply for reinstatement within 90 days of leaving military service; 2) are qualified to perform the job; and 3) possess a certificate of completion. Reemployment, however, may be denied if the employer's circumstances have so changed as to make it impossible or unreasonable to reemploy the employee. This job protection is applicable for annual training duties and for six months in any four-year period to attend service school.

If a member of the military is discharged or suspended because of membership in the military, he/she must be reemployed if he/she is still qualified to perform the job and if he/she applies for reemployment within 10 days after discharge or suspension or 10 days after military duty is completed. Restored employees must be reinstated without loss of seniority and are entitled to participate in insurance or other benefits offered by the employer. The individual may not be discharged without cause for one year after reinstatement.

Family military leave: Provisions apply to public employers only.

➤ MINIMUM WAGE ◀

Minimum hourly wage/overtime rate: \$5.15/\$7.73.

Basis for overtime: Over 40 hours/week.

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

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

➤ **NATIONAL ORIGIN** ◀

The Georgia Fair Employment Practices Act of 1978 prohibits public employers from refusing to hire, discharging, or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on national origin, unless a *bona fide* occupational qualification exists.

An employer is defined as any department, board, bureau, commission, authority, or other agency of the state that employs 15 or more employees within Georgia for each working day in each of 20 or more calendar weeks in current or preceding calendar years.

➤ **NEW-HIRE REPORTING** ◀

Data to be reported: Employee's name, address, SSN, date of birth, date of hire, state of hire; employer's name, address, federal EIN, and state UC or unified business identifier number.

Reporting deadline/form: Within 10 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: No provision.

➤ **PERSONNEL FILES** ◀

Public employers only. When an employee of the state or of a county, municipality, or school district is terminated and, as a condition of a settlement agreement, the personnel file of the employee is to be partially or totally purged, the former employee's personnel records, including both the personnel file and any associated work-history records, must be clearly designated with a notation that such records have been purged as a condition of a settlement agreement. The notation must be disclosed to any subsequent governmental entity seeking information as to a former employee's work history for the sole purpose of making a hiring decision. In addition, if a physical examination is required as a condition of public employment, such medical information must be retained in a separate, confidential file and not part of the personnel file.

Georgia has amended its public disclosure law to provide that records that reveal the home address, home telephone number, or Social Security number of, or insurance or medical information about, public employees or teachers and employees of a public school are exempt from disclosure.

➤ POLYGRAPH TESTING ◀

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ◀

Unemployment Insurance (English & Spanish) — All employers

Official Notices — One of the three Official Notices required for all employers that relates to your Workers' Compensation coverage

1. Workers' Compensation Notice (English & Spanish)
2. Workers' Compensation Notice — *Conformed Panel of Physicians* (English & Spanish)
3. Workers' Compensation Notice — *WC/MCO Panel* (English & Spanish)

Note: The Georgia State Board of Workers' Compensation Administration requires its posters to be printed on pink paper and to be 8 1/2" × 14" (legal size).

Equal Pay for Equal Work (English & Spanish) — All employers

Vacation Unemployment Insurance (English & Spanish) — All employers

Workers' Compensation Bill of Rights (English & Spanish) — All employers

Note: The Georgia State Board of Workers' Compensation Administration requires its posters to be printed on pink paper and to be 8 1/2" × 14" (legal size).

Child Labor Summary Sheet (English & Spanish) — Recommended for all employers that employ youths under 18

No smoking — All employers

Note: Post at all building entrances.

➤ PREGNANCY ◀

See family/medical leave.

➤ RACE ◀

The Georgia Fair Employment Practices Act of 1978 prohibits public employers from refusing to hire, discharging, or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on race or color.

An employer is defined as any department, board, bureau, commission, authority, or other agency of the state that employs 15 or more employees within Georgia for each working day in each of 20 or more calendar weeks in current or preceding calendar years.

➤ **REFERENCES** ◀

References: An employer may disclose information about a current or former employee's job performance, any act committed by the employee that would violate state law, or the employee's ability to carry out the duties of his/her employment, to a prospective employer or the employee.

Lack of good faith may be shown if the employer disclosed information in violation of a non-disclosure agreement or that is otherwise considered confidential by law.

➤ **RELIGION** ◀

The Georgia Fair Employment Practices Act of 1978 prohibits public employers from refusing to hire, discharging, or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on religion, unless a *bona fide* occupational qualification exists.

For purposes of state law, religion is defined to mean all aspects of religious observance and practice, as well as belief. An employer is defined as any department, board, bureau, commission, authority, or other agency of the state that employs 15 or more employees within Georgia for each working day in each of 20 or more calendar weeks in current or preceding calendar years.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

There is no OSHA-monitored state plan. For general information about workers' compensation, click on <http://sbwc.georgia.gov/>.

➤ **SCHOOL VISITATION LEAVE** ◀

No provision.

➤ **SEX DISCRIMINATION** ◀

The Georgia Fair Employment Practices Act of 1978 prohibits public employers from refusing to hire, discharging, or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on sex.

An employer is defined as any department, board, bureau, commission, authority, or other agency of the state that employs 15 or more employees within Georgia 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** ◀

No provision.

➤ **SMOKING** ◀

The Georgia Smokefree Air Act bans smoking in all enclosed public places and all enclosed areas within places of employment.

There are several exemptions, including: 1) a smoking area designated by an employer, which is located in a non-work area where no employee is required to enter, has an independent air handling system, is exhausted outside, and is for the use of employees only, and 2) common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the public by appointment only. To qualify for an exemption to the Act, a sign indicating that smoking is permitted must be posted conspicuously at every entrance to the area in which smoking is permitted.

Employers, defined as those individuals and businesses with one or more employees, are responsible for communicating the prohibition to all current employees and to each prospective employee upon application for employment.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Social Security numbers may not be made available to the general public; 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.

➤ **UNEMPLOYMENT INSURANCE** ◀

Click on www.dol.state.ga.us/em/unemployment_taxes_and_benefits.htm to access the Georgia Department of Labor unemployment taxes and benefits home page for employers. To view an unemployment insurance handbook for employers in PDF format, click on www.dol.state.ga.us/pdf/forms/dol224.pdf.

➤ **VACATION PAY UPON TERMINATION** ◀

No provision.

➤ VIOLENCE ◀

Any employer of an employee who has been the victim of unlawful violence or a credible threat of violence reasonably construed to have happened in the employer's workplace may seek a temporary restraining order and injunction to prohibit further unlawful violence or threats of violence in the employer's workplace or while the employee is acting within the course and scope of employment.

To obtain a temporary restraining order, an employer must file an affidavit showing: 1) reasonable proof that the employee suffered unlawful violence or a credible threat of violence; 2) great or irreparable harm will result to the employee if an injunction is not granted; and 3) the employer conducted a reasonable investigation.

Concealed weapons: According to the Business Security and Employee Privacy Act, employers are prohibited from maintaining or enforcing a policy that bans concealed weapons from company property, and from searching an employee's or invited guest's private vehicle on the employer's parking lot. Employers do have the right to prohibit employees who have a disciplinary action pending or completed from bringing a concealed weapon onto company property. Also, an employer may search the locked vehicle of an employee in instances where a reasonable person would believe that the search might prevent an immediate threat to human health, life, or safety.

Any employer that owns the property on which employees park their vehicles is exempt from this Act. Also exempt: employers in certain sensitive industries.

➤ VOTING ◀

Employers are required to permit employees to take up to two hours off to vote. Employees are not entitled to time off if the workday begins at least two hours after the polls open or ends at least two hours before they close. Employers may specify the hours employees may be absent to vote.

Notification: Employees must give reasonable notice of the need to take time off to vote.

➤ WAGE DEDUCTIONS ◀

Deductions from employee wages for union dues, fees, and assessments may only be made if authorized by the employee and they are not irrevocable for a period of more than one year.

➤ WAGE GARNISHMENT ◀

The amount subject to garnishment is controlled by federal law. The amount subject to a creditor garnishment is the lesser of \$217.50 or the amount by which the employee's disposable earnings exceed the proportionate fraction or multiple of 30 hours a week, at \$7.25 an hour.

The garnishment period for a creditor garnishment begins on the day employers are served with the garnishment summons and continues for the next 179 days.

Employers must honor multiple creditor garnishments on a first-in-time-first-in-right basis. Employees can't be discharged because their wages are subject to a creditor garnishment.

➤ WAGE PAYMENT ON TERMINATION ◀

Employee who quits: No regulations. Final wages should be paid according to regular payday rules.

Employee who's fired: No regulations. Final wages should be paid according to regular payday rules.

➤ WAGE PAYMENTS ◀

Payday requirements: At least twice a month at even intervals.

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

➤ WHISTLEBLOWING ◀

Public employers may not take or threaten to take any action against an employee for making a complaint or disclosing information, unless the complaint was made or the information was disclosed with the knowledge that it was false, or with willful disregard for its truth or falsity.

➤ WORK AUTHORIZATION ◀

Under the Georgia Security and Immigration Compliance Act, every public employer must verify the employment eligibility of all new hires, without regard to race, religion, gender, ethnicity, or national origin. Verification of citizenship through E-Verify, the means required by federal law, shall satisfy this requirement. Public employers must certify their participation in E-Verify by transmitting a copy of all documents required for the employer's registration and participation in the program, including the Memorandum of Understanding and the User Identification Number, to the public employer's agency head.

Public employers must permanently post their user identification number and date of authorization on their website.

Public employers must also designate an individual to monitor new employee work verification and maintain written records reflecting compliance. Public employers may implement additional compliance measures they deem appropriate.

Public contracts: Public employers are not allowed to contract for services unless service providers, including subcontractors, also register and participate in E-Verify. This provision applies to all public employers, contractors, and subcontractors, regardless of size.

Public employers that enter into contracts for the performance of physical services must include in their contracts a statement that compliance with these requirements is a condition of the contract. Contractors must sign affidavits agreeing to the verification requirements and also agreeing to pass the responsibility along to any subcontractors.

Public employers, and their contractors and subcontractors, are subject to random audits by the state to determine compliance with the law. In the event that a failure to comply is discovered,

the public employer, its contractor and subcontractor, and the U.S. Department of Homeland Security shall be notified in writing.

Note: Employers shall be given a safe harbor from lawsuits or liability arising from any act to comply with these requirements.

Private employers. Employers that seek business licenses, occupational tax certificates, or other documents, and that employ at least 500 employees must complete affidavits to prove that they use E-Verify to check the work status of new hires.

On July 1, 2012, the threshold will drop to employers that employ at least 100 employees; on July 1, 2013, the threshold will drop to employers with 11 or more employees.

Employers that employ fewer than 11 employees must sign affidavits proving that they're excluded from these provisions. The size of employers' workforces will be determined annually on January 1.

➤ WORKERS' COMPENSATION ◀

Click on the following link <https://sbwc.georgia.gov> to access Georgia's State Board of Workers' Compensation home page.