

SOUTH CAROLINA — State Laws by Topic

➤ AGE ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on age.

In addition, employers cannot reduce the wage of an employee in order to comply with the provisions of this law, nor can they print, publish, or cause to be printed or published an employment notice or advertisement indicating a preference, limitation, specification, or discrimination based on age.

For the purposes of this law, age means at least 40 years old, and an employer is defined as any individual who has 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year, as well as any agent of such an individual.

➤ AIDS ◀

No provisions specified in the general employment context.

➤ ARRESTS/CONVICTIONS ◀

Arrests: Employers are prohibited from obtaining arrest records that failed to result in a conviction.

Convictions: No general provision prohibiting an employer's collection and use of conviction records.

➤ BREAKS ◀

No provision.

➤ BREAST-FEEDING ◀

A woman may breast-feed her child in any location where the woman and her child are authorized to be present.

➤ CHILD LABOR ◀

Click on the following link <http://llronline.com/Labor/index.asp?file=wages/childlabor.htm> to access South Carolina's Office of Wages/Child Labor home page.

➤ **CHILD SUPPORT** ◀

Employers served with a child support order must begin withholding with the next scheduled payday after the order is served. Amounts are remitted within seven days of payday. Notify the agency within 20 days if the employee-obligor terminates.

➤ **COURT ATTENDANCE** ◀

See jury duty.

➤ **DISABILITIES** ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on disability.

Employers are also prohibited from:

- excluding or otherwise denying equal jobs or benefits to a qualified individual because of a known disability of a person with whom the qualified individual is known to have a relationship or association;
- failing to make reasonable accommodations for an otherwise qualified individual with a disability who is an applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship;
- denying employment opportunities to an applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the employer's need to make reasonable accommodation for the disability of the employee or applicant;
- using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, unless the standard, test, or other selection criteria, as used by the employer, is shown to be related to the position in question and is consistent with business necessity; or
- failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to an applicant or employee with a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or other factors that the test is designed to measure, rather than reflecting the impaired skills of the employee or applicant, unless the skills are the factors that the test is designed to measure.

For the purposes of this law, a person with a disability is defined as one who has a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment, or is regarded as having such an impairment. An employer is defined as any individual who has 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year, as well as any agent of such an individual.

➤ **DRUG TESTING** ◀

Employers may establish workplace drug use prevention programs. The program must include:

1. a substance abuse policy statement that balances the employer's respect for individuals with the need to maintain a safe, productive, and drug-free environment. The intent of the policy shall be to help those in need, while sending a clear message that the illegal use of non-prescription controlled substances or the abuse of alcoholic beverages is incompatible with employment at the specified workplace; and

2. notification to all employees of the program and policy at the time the program is established or at the time of hiring an employee, whichever is earlier.

In addition, all test results must be kept confidential. Release of such information must be pursuant to an employee's written consent. At a minimum, a consent form must contain the following.

1. The name of the person authorized to obtain the information.
2. The purpose of the disclosure.
3. The exact information to be disclosed.
4. The duration of the consent.
5. The signature of the person authorizing release of the information, which may be the employee or his/her designee.

Note: Substance abuse test results may not be released for, used, or admissible in any criminal proceeding against an employee.

➤ **FAMILIAL/MARITAL STATUS** ◀

The state recognizes same-sex marriage.

➤ **FAMILY/MEDICAL LEAVE** ◀

Coverage: State employers.

General rule: Employees may use up to eight days of sick leave annually to care for ill members of their immediate families. In the context of family leave, immediate family means a spouse, child, mother, father, spouse's mother or father, legal ward, spouse's legal ward, or grandchild if the grandchild resides with the employee and the employee is the primary caretaker of the grandchild.

An adoptive parent who is employed by the state or its departments, agencies, or institutions may use up to six weeks of accrued sick leave to take time off for purposes of caring for the child after placement. The employer may not penalize an employee for requesting or obtaining family leave. Leave may be requested by either the custodial or non-custodial parent of a child.

See also pregnancy.

➤ **GENETIC TESTING** ◀

Discrimination in health insurance enrollment on the basis of genetic information is prohibited.

➤ **HEALTH CARE CONTINUATION COVERAGE** ◀

Continuation coverage requirements generally apply to employers that provide group health insurance coverage to employees. Eligible employees have the right to continue coverage for up to six months.

Click on the following link <http://doi.sc.gov/DocumentCenter/Home/View/2557> for a fact sheet on the state's COBRA law.

➤ **JURY DUTY** ◀

Employers may not discharge or demote employees for complying with a subpoena to testify in a court or administrative proceeding or to serve on a jury.

➤ **LIFESTYLE DISCRIMINATION** ◀

Employers cannot terminate the employment of an employee due to the employee's use of tobacco products off company premises during non-working hours, unless a *bona fide* occupational requirement exists.

➤ **MASS LAYOFF NOTIFICATION** ◀

Employers that require workers to give notice before quitting must warn employees of any proposed shutdown by posting notices in each room of the affected facility. The notices must be posted at least two weeks before the closing or at the same length of time as it requires of its employees before they quit working. The notice must state the date of the closing and the approximate duration of the shutdown.

➤ **MEDICAL DONATION LEAVE** ◀

Employees who work an average of 20 or more hours a week for an employer that employs 20 or more employees at one worksite are eligible for up to 40 hours of paid leave to serve as a bone marrow donor. Employers may require verification by a physician of the purpose and length of each leave request.

State employees who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay, time, leave, or efficiency rating for one or more periods not exceeding an aggregate of 30 regularly scheduled workdays in any one calendar year during which they may engage in the donation of their organs. Employees must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that they are the donor.

➤ **MILITARY LEAVE** ◀

Any member of the National Guard or state guard who is called to duty is entitled, upon honorable release from duty, to military leave privileges.

Reinstatement: Employees are entitled, upon honorable release from duty, to reemployment rights when application for reemployment is made within five days of release from duty or from a service-related hospitalization. Qualified employees are restored to previous positions, or equivalents, unless unreasonable by circumstances. Employees who are not qualified must be placed in another position, unless unreasonable by circumstances.

➤ **MINIMUM WAGE** ◀

Minimum hourly wage/overtime rate: \$7.25/\$10.88.

Basis for overtime: Over 40 hours/week.

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

➤ **NATIONAL ORIGIN** ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on national origin, including ancestry.

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

➤ **NEW-HIRE REPORTING** ◀

Data to be reported: Employee's name, address, SSN; 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 rehire; on W-4s or through the state's website.

➤ **OVERTIME** ◀

Basis for overtime: Over 40 hours in a workweek.

➤ **PAY STATEMENTS** ◀

Information required: Itemized deductions.

➤ PERSONNEL FILES ◀

Employers must grant employees and former employees or their representatives access to records concerning the monitoring and measuring of employee exposure to potentially toxic materials or harmful physical agents. Employees must also be granted access to records that indicate the individual employee's own exposure to toxic materials or harmful physical agents.

➤ POLYGRAPH TESTING ◀

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ◀

Unemployment Insurance (English & Spanish) — All employers

Workers' Compensation (English & Spanish) — All employers

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

Note: The South Carolina Department of Labor requires the Safety & Health Protection on the Job poster to be 8 ½" × 14" (legal size).

Payment of Wages (English & Spanish) — All employers

Employment Discrimination (English & Spanish) — All employers

Fair Housing — Businesses engaged in the sale or lease of real estate

E-Verify — Required for all employers who participate in the E-Verify program

Right to Work — Required for all employers who participate in the E-Verify program

Pregnancy accommodations — All employers

➤ PREGNANCY ◀

Coverage: Employers with 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding year.

General rule: It is an unlawful employment practice for any employer:

- to fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of a job applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business;
- to deny employment opportunities to a job applicant or employee, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or employee;

- to require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that she chooses not to accept, if she doesn't have a known limitation related to pregnancy, or if the accommodation is unnecessary for her to perform the essential duties of her job;
- to require an employee to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions; or
- to take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions.

Reasonable accommodations: Employers must extend reasonable accommodations to pregnant employees or to employees with medical needs arising from childbirth or related conditions. Reasonable accommodations can include providing more frequent or longer break periods; providing more frequent bathroom breaks; providing a private place, other than a bathroom stall for the purpose of expressing milk; modifying food or drink policy; providing seating or allowing employees to sit more frequently if employees are required to stand; providing assistance with manual labor and limiting lifting; temporarily transferring employees to less strenuous or hazardous open positions, if qualified; providing job restructuring or light duty, if available; acquiring or modifying equipment or devices necessary for performing essential job functions; and modifying work schedules.

Reasonable accommodations don't include the following, unless employers would accommodate other employees who need reasonable accommodations:

- hiring new employees who ordinarily wouldn't have been hired;
- firing employees, transferring other employees with more seniority, or promoting other employees who aren't qualified for the new job;
- creating new positions, including light duty positions, unless light duty positions would be provided to other equivalent employees; or
- paying employees for more frequent or longer break periods, unless employees use a break period for which they would otherwise be paid.

Notice and posting requirements: Employers must provide notice of the right to be free from discrimination for medical needs arising from pregnancy, childbirth, or related medical conditions to new employees at the beginning of their employment.

Employers must post a notice in a conspicuous place that's accessible by employees.

➤ **RACE** ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on race or color.

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

➤ **REFERENCES** ◀

References: Employers are immune from civil liability for disclosing a current/former employee's date of employment, pay level, and wage history to a prospective employer. Employers are also immune from disclosing to a prospective employer: 1) information about job performance, including written employee evaluations; 2) official personnel notices formally recording the reason(s) for termination; and 3) information about whether an employee was voluntarily or involuntarily terminated and the reason(s). Disclosures must be written, and, in response to a prospective employer's written request, current/former employees may have access to the information. The immunity is lost if an employer knowingly or recklessly releases or discloses false information.

➤ **RELIGION** ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on religion.

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

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

Click on the following link www.scosha.llronline.com/ to access South Carolina's Occupational Safety and Health Administration home page.

➤ **SCHOOL VISITATION LEAVE** ◀

An executive order provides for community service leave for state employees. Community service leave may be used for school involvement by parents.

➤ **SEX DISCRIMINATION** ◀

Under the South Carolina Human Affairs Law, employers are prohibited from refusing to hire; barring from employment; terminating; limiting, segregating, or classifying; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on sex.

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

➤ **SEXUAL HARASSMENT** ◀

No general provision.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

No provision.

➤ **SMOKING** ◀

The state's Clean Indoor Air Act prohibits smoking in state buildings, except in designated smoking areas with physical barriers and ventilation systems. Signs designating smoking and non-smoking areas must be posted.

See also lifestyle discrimination.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Social Security numbers or a portion thereof containing six digits or more 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; used to access an Internet site unless accompanied by an authentication device (a unique password or personal identification number, for example); or sold, leased, loaned, traded, rented, or otherwise intentionally disclosed to a third party without written consent. In addition, Social Security numbers or a portion thereof containing six digits or more should not be printed on any materials that are mailed to an individual, with limited exceptions.

Employers that maintain business records that contain personal data (e.g., Social Security numbers) must make the information unreadable or undecipherable prior to disposal by shredding, erasing, etc.

Employers that maintain computerized or other data that includes personal information must disclose a security breach "immediately following discovery" to the owner or licensee of the information if the information was, or reasonably believed to have been, acquired by an unauthorized person.

➤ **UNEMPLOYMENT INSURANCE** ◀

Click on the following link <https://dew.sc.gov/> to access South Carolina's Department of Employment and Workforce home page for employers, which includes links to unemployment information.

➤ **VACATION PAY UPON TERMINATION** ◀

Final wages include vacation pay, when vacation pay is provided under a company policy or employment agreement.

Vacation pay must be paid within 48 hours of the time of separation or the next regular pay-day, which may not exceed 30 days after written notice is given.

➤ **VIOLENCE** ◀

South Carolina has a zero-tolerance policy for workplace violence in state employment.

➤ **VOTING** ◀

No time-off-to-vote provision.

➤ **WAGE DEDUCTIONS** ◀

Employers may not make deductions from employee wages unless the employer is required or permitted to do so by state or federal law or the employer has given written notification to the employee of the amount and terms of the deductions.

➤ **WAGE GARNISHMENT** ◀

All wages are exempt from creditor garnishment.

➤ **WAGE PAYMENT ON TERMINATION** ◀

Employee who quits: Within two days or next payday.

Employee who's fired: Within two days or next payday.

➤ **WAGE PAYMENTS** ◀

Payday requirements: Employer designates regular payday.

Direct deposit: Employers may not require employees to be paid electronically. Employee must receive pay statement and get one free withdrawal.

➤ WHISTLEBLOWING ◀

Employers may not discriminate against employees or applicants because they: 1) oppose any unlawful employment practice under the South Carolina Human Affairs Law, or 2) make a charge, testify, assist, or participate in an investigation, proceeding, or hearing concerning the South Carolina Human Affairs Law.

For purposes of the state's whistleblower protection, an employer is an individual that employs 15 or more individuals for each working day in 20 or more calendar weeks in the preceding or present calendar year.

Employees who believe that they were fired or discriminated against because they filed a complaint or instituted an action alleging a violation of the state's OSH Act may file a complaint with state labor department within 30 days. The state will forward the complaint to the federal Department of Labor's whistleblower program within 15 days.

➤ WORK AUTHORIZATION ◀

Under the South Carolina Illegal Immigration Reform Act (SCIIRA), all private and public employers are prohibited from knowingly or intentionally employing an unauthorized alien and must take affirmative steps to verify the legal status of new employees without regard to race, religion, gender, ethnicity, or national origin.

Private employers who are required to complete and maintain the federal I-9 form must either register with and participate in E-Verify or check that new hires possess a valid South Carolina driver's license or identification card, are eligible to obtain such a license or card, or possess a valid license or card from another state whose eligibility criteria are approved by South Carolina. A private employer who in good faith verifies the immigration status of a new employee using E-Verify shall be presumed to have complied with the provisions of this Act.

Note: The South Carolina Department of Labor, Licensing, and Regulations (LLR) has revised its enforcement procedures in connection with the private employment provisions of the SCIIRA. LLR is now providing several days notice prior to conducting an audit; is no longer requesting to inspect I-9 forms and supporting documentation; and has implemented a new "Affirmation of Legal Work Status" form to be signed by employers affirming they are not knowingly or intentionally employing an unauthorized alien.

All public employers are required to register with and participate in the E-Verify program to verify the employment authorization of all new employees.

Public contracts: A public employer may not enter into a services contract with a contractor for the physical performance of services unless the contractor agrees to either register with and participate in E-Verify or employ only those workers who possess a valid South Carolina driver's license or identification card, are eligible to obtain such a license or card, or possess a valid license or card from another state whose eligibility criteria are approved by South Carolina.

Discrimination: There is a civil right of action for wrongful termination against an employer who discharges an employee authorized to work in the United States for the purpose of replacing that employee with a person the employer knows, or should reasonably know, is an unauthorized alien. A cause of action shall not arise against an employer who submits the necessary identifying

information for all employees through the Systematic Alien Verification of Entitlement (SAVE) program, the E-Verify program, or a successor program used for verification of work authorization and operated by the U.S. Department of Homeland Security.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link www.wcc.sc.gov to access the South Carolina Workers' Compensation Commission.