

## OHIO — State Laws by Topic

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### ➤ AGE ◀

Under the Ohio Fair Employment Practices Law, employers cannot discriminate in any job opening against any applicant, or discharge without just cause any employee, aged 40 or older who is physically capable of performing the job duties in question and otherwise meets the established requirements of the job and laws pertaining to the relationship between employer and employee.

Employers are also prohibited from denying training opportunities to or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on age.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about the age of an applicant for employment;
- make or keep a record of an individual's age for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to age; or
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on age.

An employer is defined as any person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

### ➤ AIDS ◀

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

**Note:** Employers are immune from liability in a civil lawsuit by or on behalf of employees or others who suffer death, injury, or other loss by contracting the HIV virus from an infected employee, unless the employer acted recklessly. This immunity also applies to those situations in which an employee claims a stress-related illness or injury resulting from having to work with an individual who has AIDS or an AIDS-related virus.

### ➤ ARRESTS/CONVICTIONS ◀

*Arrests:* No general provision prohibiting an employer's collection and use of arrest records. However, the Ohio Guide to Pre-Employment Inquiries considers questions about arrests that were not followed by convictions to be unlawful.

*Convictions:* No general provision prohibiting an employer's collection and use of conviction records. However, the Guide prohibits employers from seeking conviction information that has been sealed, unless the inquiry bears a direct and substantial relationship to the job in question.

Ohio has adopted the federal Uniform Guidelines on Employee Selection Procedures for public employees. Consequently, inquiries into criminal records information may be invalidated if it is a discrete step in employment decisions and if it adversely affects members of a protected class, unless the employer can demonstrate that the inquiry is related to job performance.

➤ **BREAKS** ◀

*Minors:* Minors must be provided with a 30-minute meal break after five hours of work.

➤ **BREAST-FEEDING** ◀

A woman is entitled to breast-feed her child in any location of a place of public accommodation where she is permitted to be present.

➤ **CHILD LABOR** ◀

Click on the following link [www.com.ohio.gov/laws/](http://www.com.ohio.gov/laws/) to access Ohio's Department of Commerce, Bureau of Labor & Worker Safety home page, which includes links to information about employment of minors.

➤ **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 working days of payday. Notify the state agency within 10 days if the employee-obligor terminates. Employers with more than 50 employees must remit withheld child support electronically.

➤ **COURT ATTENDANCE** ◀

Employers cannot discharge or retaliate against employees who attend juvenile, grand jury, or criminal proceedings pursuant to a subpoena. Employers do not have to pay employees for time lost as a result of such attendance, except when the offense is charged against the employee or involves the employee in the course of employment.

➤ **DISABILITIES** ◀

Under the Ohio Fair Employment Practices Law, employers are prohibited from refusing to hire, terminating without just cause, denying training opportunities to, or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on disability.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about an applicant's disability;

- make or keep a record of an individual's disability for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to a disability; and
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on disability.

For purposes of this law, a person who has 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 person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

#### ➤ **DRUG TESTING** ◀

An employer may request that an employee who sustains an injury submit to a chemical test or a test of the employee's blood, breath, or urine if the employer has reason to believe that the employee's injury was the result of being intoxicated or under the influence of a non-prescribed controlled substance.

The Drug-Free Safety Program discount program provides a discount on Workers' Compensation premiums to employers who voluntarily implement a drug-free workplace program in compliance with state regulations.

Ohio has legalized the medical use of marijuana. Employers, however, can still maintain a drug-free workplace. Employers may also refuse to hire a job candidate because of his/her use of medical marijuana.

#### ➤ **FAMILIAL/MARITAL STATUS** ◀

No provisions specified in the general employment context.

#### ➤ **FAMILY/MEDICAL LEAVE** ◀

See medical donation leave, military leave, and pregnancy.

#### ➤ **GENETIC TESTING** ◀

No provisions specified in the general employment context.

#### ➤ **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 12 months.

Click on the following link <http://codes.ohio.gov/orc/3923.38> to access the state law.

➤ **JURY DUTY** ◀

Employers may not discharge or threaten to discharge employees summoned to serve as jurors, if reasonable notice is given before jury service begins and the absence is due to actual jury service.

Employers are prohibited from requiring an employee to use annual sick or vacation leave to attend jury service.

Courts will automatically postpone or reschedule jury duty of a summoned juror from a small employer if another employee was summoned during that same court term and the employer or employee adequately demonstrates that the other employee had been summoned.

➤ **LIFESTYLE DISCRIMINATION** ◀

No provision.

➤ **MASS LAYOFF NOTIFICATION** ◀

Employers that separate 50 or more individuals within a seven-day period due to a lack of work must furnish a notice to the Department of Job and Family Services. The notice must include the date(s) of separation and the approximate number of individuals being separated at least three days before the layoff occurs.

➤ **MEDICAL DONATION LEAVE** ◀

State employees are entitled to up to seven days of paid leave to serve as a bone marrow donor and up to 30 days of paid leave to serve as an organ donor.

➤ **MILITARY LEAVE** ◀

Employees are entitled to the same protections under state law as they are under federal law.

**Note:** Employers with four or more employees are prohibited from discharging without just cause, refusing to hire, or otherwise discriminating against employees and applicants based on military status.

*Family military leave:* Under Ohio's Military Family Leave Act, employers with 50 or more employees must permit employees to take up to 10 days or 80 hours, whichever is less, of unpaid leave once per calendar year when a parent, spouse, child, or other person over whom they have legal custody is called to active duty for a period longer than 30 days or is injured, wounded, or hospitalized while serving on active duty.

To be eligible for leave, an employee: 1) must have worked for at least 12 consecutive months and for at least 1,250 hours in the 12 months immediately preceding the commencement of leave, and 2) must not have any other leave available to use except for sick or disability leave.

Employees need to provide their employer with at least 14 days' notice when the need for leave is the result of a call to active duty, or at least two days' notice when the need for leave is the result of an injury, wound, or hospitalization. In situations where the family member's condition is critical, notice requirements are waived.

In the case of active duty leave, the requested leave must occur no more than two weeks prior to, or one week after, the deployment.

Employers are permitted to require certification from the appropriate military authority to verify the need for leave.

An employer may not interfere with, restrain, or deny an employee's right to take family military leave.

Employers must restore employees to their position or one with equivalent seniority, benefits, pay, and other terms and conditions of employment.

### ➤ **MINIMUM WAGE** ◀

*Minimum hourly wage/overtime rate:* \$8.55/\$12.83; \$7.25/\$10.88, for employers with annual gross receipts of \$305,000 or less in preceding calendar year.

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

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

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

### ➤ **NATIONAL ORIGIN** ◀

Under the Ohio Fair Employment Practices Law, employers are prohibited from refusing to hire, terminating without just cause, denying training opportunities to, or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on national origin or ancestry.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about the national origin or ancestry of an applicant for employment;
- make or keep a record of an individual's national origin or ancestry for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to national origin or ancestry; or
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on national origin or ancestry.

An employer is defined as any person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

➤ **NEW-HIRE REPORTING** ◀

*Data to be reported:* Employee or independent contractor's name, address, SSN, dates of birth and hire or rehire; employer's name, address, federal EIN; date payments begin to independent contractor, length of time contractor will be performing services.

*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:* No provision.

➤ **PERSONNEL FILES** ◀

Employees have a statutory right to access any medical records from a physical exam required by the employer as a condition of employment, or an exam required as a result of an injury or disease relating to the employee's job. Employees may obtain records from the employer, a physician, a health care provider, or a laboratory with a written request.

➤ **POLYGRAPH TESTING** ◀

No provisions specified in the general employment context.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance — Optional, but highly recommended

Minimum Wage — All employers

Minor Labor Law — All employers

Fair Employment — All employers of four or more persons

Workers' Compensation Fraud — Recommended

Safety & Health — All public employers

Workers' Compensation — All employers

Rebuttable Presumption Law — All employers

## ➤ PREGNANCY ◀

*Coverage:* Anyone employing four or more employees within the state.

*General rule:* Any illness arising out of, or occurring during the course of, pregnancy, childbirth, or related medical conditions is to be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as illnesses occurring to other persons who are not pregnant, but similar in their ability or inability to work.

Even if an employer does not have a leave policy, it must allow female employees reasonable time off for childbirth.

In addition, it is an unlawful discriminatory practice for an employer to terminate without just cause, refuse to hire, or otherwise discriminate against an individual with respect to terms, conditions, and privileges of employment based on pregnancy, childbirth, or related medical conditions.

*Reinstatement:* Following the birth of a child and upon signifying intent to return within a reasonable time, female employees must be reinstated to their original position or to a position of like status and pay, without loss of service credits.

## ➤ RACE ◀

Under the Ohio Fair Employment Practices Law, employers are prohibited from refusing to hire, terminating without just cause, denying training opportunities to, or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on race or color.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about the race or color of an applicant for employment;
- make or keep a record of an individual's race or color for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to race or color; and
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on race or color.

An employer is defined as any person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

## ➤ REFERENCES ◀

*References:* Employers are immune from liability for a good-faith disclosure of information believed to be truthful about a former employee's job performance to a prospective employer at the request of the prospective employer or the former employee. In order to sue an employer for providing a detrimental job reference, the employee must show either that the employer

knowingly provided false information with the intent to mislead the prospective employer, or that the employer provided information that constitutes an unlawful discriminatory employment practice.

*Service letters:* Although there is no general employment provision, railroad employees who request a reason for discharge must be given one within 10 days.

### ➤ RELIGION ◀

Under the Ohio Fair Employment Practices Law, employers are prohibited from refusing to hire, terminating without just cause, denying training opportunities to, or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on religion.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about the religion of an applicant for employment;
- make or keep a record of an individual's religion for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to religion; and
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on religion.

An employer is defined as any person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

### ➤ REPORTING PAY ◀

No provision.

### ➤ SAFETY ◀

Click on <https://info.bwc.ohio.gov> Bureau of Worker Compensation home page; click on the menu for safety.

### ➤ SCHOOL VISITATION LEAVE ◀

No provision.



➤ **SEX DISCRIMINATION** ◀

Under the Ohio Fair Employment Practices Law, employers are prohibited from refusing to hire, terminating without just cause, denying training opportunities to, or otherwise discriminating against an individual with respect to terms, conditions, or privileges of employment based on sex.

In addition, unless a *bona fide* occupational qualification exists, it is unlawful for an employer to:

- elicit or attempt to elicit any information about the sex of an applicant for employment;
- make or keep a record of an individual's sex for employment purposes;
- use an employment application form or other personnel forms that contain questions or entries that directly or indirectly pertain to sex; and
- print or publish a help-wanted ad that indicates a preference, limitation, specification, or discrimination based on sex.

An employer is defined as any person employing four or more individuals in Ohio, or any person acting directly or indirectly in the interest of an employer.

➤ **SEXUAL HARASSMENT** ◀

No general provision.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

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

➤ **SMOKING** ◀

The Ohio Smoke Free Workplace Act bans smoking and burning of tobacco, or any other plant, in any enclosed area of a public place or workplace, with limited exceptions. This includes outdoor areas “immediately adjacent to” doors or other entrances or exits to a building, if smoke can migrate into the building, restrooms, storage areas, stairwells, garages, warehouses, and employer-owned vehicles.

Signs that state “no smoking” or that contain the international “no smoking” symbol must be conspicuously posted in every public place and place of employment where smoking is prohibited, including at each entrance. Signs must be of sufficient size to be clearly legible to a person with normal vision and must contain a toll-free telephone number for reporting violations to the state Department of Labor.

### ➤ SOCIAL SECURITY NUMBER PRIVACY ◀

Employers that maintain computerized data that includes personal information (e.g., Social Security numbers) shall, following discovery of a breach in the security of the system containing such data, notify “in the most expedient time possible, but no later than 45 days following a discovery or notification of the breach in the security of the system” anyone whose personal information might have been compromised.

### ➤ UNEMPLOYMENT INSURANCE ◀

Click on the following link <http://jfs.ohio.gov/ouc/> to access the Ohio Department of Job & Family Services, Office of Unemployment Compensation home page. To access unemployment tax information for employers, click on <http://jfs.ohio.gov/ouc/uctax/index.stm>.

### ➤ VACATION PAY UPON TERMINATION ◀

The statute reads as follows: Employers that agree to provide vacation pay become the trustee of the funds. Payment must be made within 30 days after the close of the pay period during which the pay was earned.

However, multiple court decisions as recent as 2006 have said that company policy dictates whether vacation pay is paid upon termination.

### ➤ VIOLENCE ◀

*Concealed weapons:* No business entity or employer may establish, maintain, or enforce a policy or rule that prohibits, or has the effect of prohibiting, a valid concealed handgun licensee from transporting or storing a firearm or ammunition inside his/her car, while he/she is present. Employees must also be allowed to store firearms or ammunition in the trunk, glove box, or other enclosed compartment or container in the car, so long as the car is in a location where it’s otherwise permitted to be.

Business entities or employers are immune from civil liability for damages, injuries, or death resulting from another person’s actions involving a firearm or ammunition transported or stored in a car, including from theft of a firearm from an employee’s automobile, unless the business entities or employers intentionally solicited or procured the other person’s injurious actions.

In addition, concealed handgun licensees may carry firearms on the premises of an institution of higher education, if the institution’s board of trustees or other governing body authorizes it. Concealed handgun licensees may also carry firearms in day care centers.

*State agencies:* Under Executive Order 2011-04K, state agencies can’t discriminate, penalize, or discipline employees who are victims of domestic violence. In addition, where feasible, state agencies should implement a workplace domestic violence policy under which employees who are victims or survivors of domestic violence should be granted leave upon their request or allowed to modify their work duties, assignments, or work sites when the perpetrator and the victim work at the same work site.

➤ **VOTING** ◀

It is unlawful for employers to discharge or threaten to discharge employees for taking reasonable time off to vote on Election Day.

➤ **WAGE DEDUCTIONS** ◀

Deductions from pay may be made pursuant to federal, state, or local law; for fringe benefits provided under a written agreement; and pursuant to any employee-authorized deductions. An employee authorized deduction includes, but is not limited to, deductions for the purpose of United States savings bonds or corporate stocks or bonds; a charitable contribution; credit union savings or other regular savings program; or repayment of a loan or other obligation. Public employers may deduct periodic dues, initiation fees, and assessments of members of exclusive representative of bargaining unions with the employee's written authorization.

➤ **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 (60 times for biweekly pay; 65 times for semimonthly pay; 130 times for monthly pay) in effect during the week the garnishment is to occur, may be withheld. Employers may not discharge an employee for any single indebtedness incurred during a 12-month period.

➤ **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 semimonthly; with some exceptions.

*Direct deposit:* May be mandatory if employee chooses bank.

➤ **WHISTLEBLOWING** ◀

It is an unlawful employment action for any individual to discriminate in any manner against a person because that person has opposed any unlawful discriminatory practice, or because that person has made a charge, testified, assisted, or participated in any manner in any related investigation, proceeding, or hearing.

Employers may not take any disciplinary or retaliatory actions against employees for reporting violations of state or federal laws, or for taking any actions to ensure accuracy provided in reports.

Public employers may not discharge or in any manner discriminate against public employees because the employees, in good faith, file any complaint or institute any proceedings under the state's occupational safety and health law, or testify in any related proceeding or exercise any right under the occupational safety and health law.

➤ **WORK AUTHORIZATION** ◀

No general provision.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link <https://info.bwc.ohio.gov> to access the Ohio Bureau of Workers' Compensation home page.