

TENNESSEE — State Laws by Topic

➤ AGE ◀

Under the Tennessee Anti-Discrimination Act, employers are prohibited from refusing to hire; terminating; limiting, segregating, or classifying; denying training opportunities to; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on age.

It is not unlawful for an employer to:

- discriminate in employment based on age when age is a bona fide occupational qualification; or
- observe the terms of a bona fide seniority system or employee benefit plan, as long as the system or plan is not the result of an intent to discriminate.

For the purposes of the Act, age means at least 40 years old, and an employer is defined as any person employing eight or more individuals within Tennessee, as well as an agent of such an employer.

➤ AIDS ◀

No provisions specified in the general employment context.

➤ ARRESTS/CONVICTIONS ◀

No general provision prohibiting an employer's collection and use of arrest or conviction records. Tennessee has adopted the federal Uniform Guidelines on Employee Selection Procedures. Consequently, inquiries into criminal record 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 ◀

A 30-minute meal break is required for each six hours employees work. Meal breaks must be scheduled after the first hour of work. *Minors:* Minors must be provided with a 30-minute meal break after six hours of work.

Restaurant employers: At employers' discretion and with employees' consent, employers may establish written policies that allow tipped waitstaff to waive their right to receive 30-minute unpaid meal breaks per six-hour shift. Policies must be posted in at least one conspicuous place in the workplace and require employees to submit their waiver requests in writing. Policies must specify the length of time employees' waivers will remain in effect and the procedures that apply should employers or employees seek to rescind their waiver agreements. Waivers may be rescinded upon seven calendar days' notice to the other party.

➤ 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 breast milk in private. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer shall not be required to provide break time if doing so would unduly disrupt its operations.

In addition, a woman may breast-feed her child in any location, public or private, where she is authorized to be present.

➤ CHILD LABOR ◀

Click on the following link www.tn.gov/labor-wfd/regscompl/lldiv.shtml for information about Tennessee's Child Labor Act. For frequently-asked questions on child labor laws, click on www.tn.gov/labor-wfd/regscompl/faq_laws.shtml#chlldlabor.

➤ CHILD SUPPORT ◀

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

➤ COURT ATTENDANCE ◀

See jury duty.

➤ DISABILITIES ◀

Under Tennessee's disability law, employers with one or more employees are prohibited from discriminating against an individual based on a physical, mental, or visual disability.

➤ DRUG TESTING ◀

Under the state's drug-free workplace 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 statement advising of Tennessee laws governing drug testing and drug-free workplace programs.
3. A confidentiality statement.
4. Procedures for confidentially reporting the use of prescription or non-prescription medications.
5. The consequences of refusing to submit to testing.

6. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug or alcohol rehabilitation programs.
7. An explanation of the right to contest or explain a positive test result.
8. A statement informing the employee or applicant of his/her responsibility to notify the drug testing laboratory of any administrative or civil action brought pursuant to the drug testing rules.
9. The drugs for which the employer will test.
10. A statement regarding any applicable collective bargaining agreement or contract, and the right to appeal to an applicable court.
11. An explanation of the right to consult with a medical review officer for technical information regarding prescription or non-prescription medication.
12. A statement that it is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in his/her body.

Employers may conduct drug and alcohol testing under the following circumstances.

1. As a condition of employment, following a conditional job offer.
2. If there is reasonable suspicion that an employee has violated the company's substance abuse policy.
3. Following a workplace injury or accident.
4. As part of a routinely scheduled fitness-for-duty medical exam.
5. Following an employee's return to work after completing a rehabilitation program.

Note: The above are minimum requirements. An employer may conduct any other lawful drug or alcohol testing of employees.

Notification: If drug or alcohol testing is conducted on a reasonable suspicion basis, the employer must promptly detail in writing the circumstances that formed the basis of the determination that reasonable suspicion existed to warrant testing. A copy of the document must be given to the employee, if requested, and the original document must be kept confidential but retained for at least one year.

➤ **FAMILIAL/MARITAL STATUS** ◀

No provisions specified in the general employment context.

➤ **FAMILY/MEDICAL LEAVE** ◀

See 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 15 months.

Click the following link www.legislature.state.tn.us/ to access the Tennessee General Assembly website. Click on Legislation for a link to the published Tennessee Code where you may search for continuation coverage provisions located at section 56-7-2312.

➤ JURY DUTY ◀

Employers with five or more employees must excuse from work, without discrimination, employees who present a summons for jury duty to an immediate superior on the first workday following receipt of the summons. To be entitled to time off, jury duty must exceed three hours per day for each day off requested. Employees who work the night shift or during hours before which court is normally held must be excused for the shift immediately preceding the first day of jury service. After the first day of service, if jury duty exceeds three hours per day, employees must be excused from the next scheduled work period occurring within 24 hours of jury service.

Employees must receive usual compensation, less any fees collected for jury service. Employers are not required to pay employees for more time than was actually spent serving and traveling to and from jury duty. Employees who have been employed on a temporary basis for less than six months are not entitled to paid time off for jury duty.

➤ LIFESTYLE DISCRIMINATION ◀

Employees shall not be discharged or terminated solely for using an agricultural product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law, if they use the product in a manner that complies with all applicable employer policies regarding use during work time, or if they use the product when they are not working.

➤ MASS LAYOFF NOTIFICATION ◀

Employers with at least 50, but no more than 99, full-time workers and covered by the state's unemployment insurance law who are planning a full or partial plant closing, a relocation to a site more than 50 miles away, a modernization of the workplace or a portion of its operations, or the implementation or application of a management policy that will permanently or indefinitely reduce the workforce by 50 or more employees during any three-month period must give notice to all employees affected by the action. **Note:** The provisions do not specify that the notice must be given in advance of the event.

Employers must also give the state Department of Labor and Workforce Development information about the reduction, the number of employees affected, and the circumstances leading up to the reduction.

Notification rules do not apply where the action: results solely from a labor dispute, occurs at a construction site or other temporary worksite, or results from seasonal factors that are deemed customary within the particular business or industry.

➤ **MEDICAL DONATION LEAVE** ◀

No general provision.

➤ **MILITARY LEAVE** ◀

No military leave provision for private employers.

Employment of veterans: Employers may adopt written employment policies that give preference in hiring to honorably discharged veterans, spouses of veterans with service-related disabilities, the unremarried widow or widower of a veteran who died of a service-connected disability; or the unremarried widow or widower of a member of the United States armed forces who died in the line of duty. Employers may require that job candidates submit a certification of release or discharge from active duty as proof of eligibility for the veterans' preference hiring policy. Employers must apply the policy uniformly.

➤ **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 Tennessee Anti-Discrimination Act, employers are prohibited from refusing to hire; terminating; limiting, segregating, or classifying; denying training opportunities to; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on national origin, including the national origin of an ancestor.

For the purposes of the Act, an employer is defined as any person employing eight or more individuals within Tennessee, as well as an agent of such an employer.

➤ **NEW-HIRE REPORTING** ◀

Data to be reported: Employee's name, address, SSN, date of hire; employer's name, address, federal EIN.

Reporting deadline/form: Within 20 days of hire or rehire, including employees who are reinstated after 30 consecutive days off the payroll; 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** ◀

State and local government employees are permitted access to their personnel files at any reasonable time.

➤ **POLYGRAPH TESTING** ◀

No employer may take any personnel action based solely upon the results of a polygraph examination.

Special rules: In order to protect the rights of the examinee in the administration of the polygraph examination, the following minimum procedures must be followed.

1. Each prospective examinee of an employment examination must be shown a list of the questions to be asked on a prescribed form, and the questions must be reviewed with the examinee prior to the commencement of the examination.
2. Each prospective examinee of an employment examination must be shown a list of those areas that the examination will not cover on a prescribed form.

Prohibited inquiries: It is unlawful for a polygraph examiner to inquire into any of the following areas during a polygraph examination with respect to employment, unless the examination is administered as a result of an investigation of illegal activity in such area, and the inability to pose relevant questions in relation to such illegal activity would be detrimental to such investigations.

1. Religious beliefs or affiliations.
2. Beliefs or opinions regarding racial matters.
3. Political beliefs or affiliations.
4. Beliefs, affiliations, or lawful activities regarding unions or labor organizations.
5. Sexual preferences or activities.
6. Actions or activities occurring more than five years before the date of the examination, except for felony convictions and violations of the Tennessee Drug Control Act.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance (English & Spanish) — All employers

Child Labor Law (English & Spanish) — All employers who employ youth under 18

TOSHA Safety & Health (English & Spanish) — All employers

Discrimination — All employers

Workers' Compensation (English & Spanish) — All employers

Pay Day Notice — All employers

Discrimination in Housing — All employers

No Smoking — All employers

No Guns— All employers that ban guns in the workplace

➤ PREGNANCY ◀

Coverage: Employers with 100 or more permanent employees at a job site or location must include a provision in any newly-published employee handbook explaining maternity leave rights.

The law does not: 1) affect any bargaining agreement or company policy that provides for greater or additional benefits than those required under this law, or 2) apply to any employer who employs fewer than 100 full-time employees on a permanent basis at the job site or location.

Length of leave: All employees (male and female) with at least 12 consecutive months of full-time employment with the same employer may be absent for a period not to exceed four months for adoption, pregnancy, childbirth, and nursing an infant. Adoption leave will begin at the time the employee receives custody of the child.

Paid leave: Leave under this law may be with or without pay at the discretion of the employer, and must not affect an employee's right to receive: vacation and sick leave; bonuses, advancement, seniority, and length of service credit; benefits plans or programs for which the employee was eligible at the date of taking leave; and any other benefits or rights of employment. The employer need not provide for the cost of any benefits plans or programs during the period of leave unless the employer provides similar compensation to other employees on leaves of absence.

Reinstatement: Employees who give their employer at least three months' advance notice of the anticipated date of departure for leave, the length of leave, and their intention to return to full-time employment must be restored to their previous or a similar position with the same status, pay, length of service credit, and seniority as of the date of leave.

Employees who are prevented from giving less than three months' advance notice due to a medical emergency, which necessitates that leave begin earlier than anticipated, will not forfeit their reinstatement rights.

In addition, employees who are prevented from giving less than three months' advance notice because a notice of adoption was received less than three months in advance will not forfeit their reinstatement rights.

An employer will not be required to reinstate if it finds that: the employee's position was so unique that it could not fill the position temporarily; the employee utilized the period of leave to actively pursue other employment opportunities; or the employee worked part-time or full-time for another employer during the period of leave. In such situations, the employer must notify the employee that he/she will not be reinstated.

➤ **RACE** ◀

Under the Tennessee Anti-Discrimination Act, employers are prohibited from refusing to hire; terminating; limiting, segregating, or classifying; denying training opportunities to; 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 the Act, an employer is defined as any person employing eight or more individuals within Tennessee, as well as an agent of such an employer.

➤ **REFERENCES** ◀

References: Employers have a qualified immunity from liability for providing truthful, fair, and unbiased information about a current/former employee's job performance if requested by a prospective employer or the employee.

Immunity is lost if the information disclosed was knowingly false, deliberately misleading, disclosed for a malicious purpose, disclosed in reckless disregard for its falsity or defamatory nature, or violated the employee's civil rights under current employment discrimination laws.

Social media: Employers are prohibited from requesting or requiring employees or job applicants to disclose usernames or passwords for accessing any personal account or service they use primarily for personal communications, from disclosing details regarding their personal social media, and from requiring anyone to be added to their personal social media accounts. Employers may obtain information that's in the public domain.

Employers may monitor employees' use of electronic equipment and e-mail; and request or require that employees disclose usernames or passwords information for employer-provided equipment or accounts or services.

Employers may require disclosure in connection with investigations to ensure compliance with federal or state laws or to prohibit workplace misconduct and to determine whether employees disclosed proprietary information, confidential information, or financial data without authorization. Employers may also require disclosure to comply with federal laws or regulatory requirements.

➤ **RELIGION** ◀

Under the Tennessee Anti-Discrimination Act, employers are prohibited from refusing to hire; terminating; limiting, segregating, or classifying; denying training opportunities to; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on creed or religion.

For the purposes of the Act, an employer is defined as any person employing eight or more individuals within Tennessee, as well as an agent of such an employer.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

Click on the following link www.tn.gov/labor-wfd/tosha.shtml to access Tennessee's Occupational Safety and Health Administration home page.

➤ **SCHOOL VISITATION LEAVE** ◀

State employees with children enrolled in school may take up to one day off each month to voluntarily participate in the educational or teaching process, subject to department approval or the approval of the employee's immediate supervisor.

➤ **SEX DISCRIMINATION** ◀

Under the Tennessee Anti-Discrimination Act, employers are prohibited from refusing to hire; terminating; limiting, segregating, or classifying; denying training opportunities to; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on sex.

For the purposes of the Act, an employer is defined as any person employing eight or more individuals within Tennessee, as well as any agent of such an employer.

➤ **SEXUAL HARASSMENT** ◀

State employers must post a copy of the state's policy for preventing sexual harassment in the workplace.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

No provision.

➤ **SMOKING** ◀

The Tennessee Non-Smokers Protection Act prohibits smoking in all enclosed public places, with limited exceptions. A public place is defined to include private businesses with more than three employees.

Employers must communicate the smoking ban to all existing employees and to all prospective employees upon their application for employment.

Signs containing the words "no smoking" or the international "no smoking" symbol must be conspicuously posted at the entrance to every public place and place of employment where smoking is prohibited.

See also lifestyle discrimination.

➤ SOCIAL SECURITY NUMBER PRIVACY ◀

Social Security numbers may not be posted or displayed in 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.

Employers that maintain computerized data that includes unencrypted or encrypted personal information (e.g., Social Security numbers) shall, following discovery of a breach in the security of the system containing such data, notify immediately, but not later than 45 days, anyone whose personal information might have been compromised.

➤ UNEMPLOYMENT INSURANCE ◀

Click on the following link www.tn.gov/workforce to access the Tennessee Department of Labor and Workforce Development, Employment Security Division home page. To access an unemployment insurance handbook for employers in PDF format, click on www.tn.gov/labor-wfd/es/Employers/forms/HandbookforEmployers2013.pdf.

➤ VACATION PAY UPON TERMINATION ◀

The final wages of employees, whether they quit or are discharged, must include any unused vacation pay. Employers are not required to provide vacation days or to establish a written vacation policy, but if vacation days are provided under a specific vacation policy, the value of accrued days must be included as final pay.

➤ VIOLENCE ◀

Employers of any employee who has suffered unlawful violence or a credible threat of violence that can be reasonably construed to have occurred in the workplace may seek to obtain a temporary restraining order and an injunction to prohibit further unlawful violence or threats of violence at the workplace or while the employee is acting within the course and scope of employment.

To apply for a temporary restraining order, an employer must file an affidavit showing: 1) reasonable proof that the employee has suffered unlawful violence or received a credible threat of violence; 2) the employee will suffer great or irreparable harm if an eventual injunction is not granted; and 3) the employer conducted a reasonable investigation into the underlying facts.

Concealed weapons: An individual, corporation, business entity, or government entity is authorized to prohibit the possession of weapons by employees otherwise authorized by law to possess weapons on premises owned, operated, or managed by the individual, corporation, or business entity. Notice of the prohibition must be posted or announced to all affected employees. Employees may store concealed weapons in their cars on the employer's premises (i.e., parking lots where employees are legally allowed to be). Firearms and ammunition must be stored in locked vehicles and out of sight. Employers are prohibited from firing employees who store their concealed weapons in the cars.

In addition, an individual, corporation, or business entity is authorized to prohibit the possession of weapons by employees otherwise authorized by law to possess weapons at meetings conducted by or on premises owned, operated, managed, or under the control of the individual, corporation, business entity, or government entity. Notice of the prohibition must be posted or announced.

Anti-bullying: Public employers that adopt a model anti-bullying policy will be immune from lawsuits for any employee's abusive conduct that results in negligent or intentional infliction of mental anguish. Employees who are found to have bullied colleagues will be personally liable for their conduct.

Bullying or abusive conduct means acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee has been subject to an abusive work environment, including:

- repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
- verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
- the sabotage or undermining of an employee's work performance in the workplace.

A model anti-bullying policy will assist public employers in recognizing and responding to abusive conduct in the workplace and preventing retaliation against any employee who has reported abusive conduct in the workplace.

➤ VOTING ◀

Employees may be absent to vote for a reasonable time not to exceed three hours without penalty or loss of wages during the time the polls are open in the county where the employee resides. This does not apply to workers whose work hours begin three hours after the opening or end three hours before the closing of the polls. Employees may not be discharged for exercising or failing to exercise the right to vote. The employer may specify the hours of absence.

Wages: Leave will be paid.

Notification: An application for leave to vote must be made before noon on the day prior to the election.

➤ WAGE DEDUCTIONS ◀

Any employee of a state agency may authorize deduction for the payment of membership dues and benefit premiums to be made from the employee's compensation for payment to an employee association. Employers may make deductions from employees' pay for health insurance.

Employers that advance employees their wages, agree to lend employees money, or allow employees to charge personal items on company credit cards may deduct those amounts from employees' future wages. Employees must sign written agreements prior to the transaction allowing the deductions.

Employers must provide employees with written notice of the deductions 14 days before the payday during which the deductions will be made. The notice must inform employees that

they owe money, which they have yet to pay back, and that their pay may be offset through a deduction if they don't pay back the money prior to payday. Employers may not make deductions from the wages of employees who contest the amounts due by filing sworn affidavits with them and the state department of labor and workforce development. Employees have seven days after receiving notice to file affidavits. Employers may then sue these employees for the amounts due.

➤ 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. These maximums are reduced by \$2.50 for documented dependent under the age of 16 who lives with the employee. The state has no provisions prohibiting discharge, but federal law prohibits discharging an employee for any single indebtedness.

For purposes of creditor garnishments, an employee's "earnings" mean any compensation, in any form, including wages, salaries, commissions, bonuses, and periodic distributions from retirement plans.

Employers subject to honoring garnishment orders include any person or entity who employs, retains or contracts with another person for services for compensation in any form, including employees, agents, contractors or subcontractors.

➤ WAGE PAYMENT ON TERMINATION ◀

Employee who quits: Later of next payday or 21 days.

Employee who's fired: Later of next payday or 21 days.

➤ WAGE PAYMENTS ◀

Payday requirements: At least semimonthly or monthly.

Direct deposit: Voluntary

➤ WHISTLEBLOWING ◀

Tennessee law prohibits employers from discharging employees under the following circumstances.

- Solely for refusing to participate in or refusing to remain silent about illegal activities.
- For reporting the waste or mismanagement of public education funds, or the falsification of statements in reports to law enforcement agencies or the judiciary concerning the operation of a local education agency.

➤ WORK AUTHORIZATION ◀

Private employers with at least 50 employees must use E-Verify to verify the employment status of new employees and independent contractors hired after January 1, 2017.

Employers must request that independent contractors and employees provide one of the following documents:

- a valid state driver's license or photo ID issued by the department of safety;
- an official birth certificate issued by a state or the federal government;
- an unexpired U.S. passport
- a U.S. certificate of birth abroad or a report of birth abroad of a citizen;
- a certificate of citizenship or a certificate of naturalization; or
- a U.S. citizen identification card, or a valid alien registration documentation.

Employers that choose not to require employees to present valid documents must enroll in E-Verify. Records of E-Verify results must be maintained for the later of three years after the date of hire or one year after employment is terminated.

Public contracts: Prior to contracting with the state, employers must certify that they won't knowingly employ aliens not authorized to work in the United States or employ subcontractors who knowingly employ aliens not authorized to work in the United States.

➤ WORKERS' COMPENSATION ◀

Click on the following link www.tn.gov/labor-wfd/wcomp.shtml to access the Tennessee Department of Labor & Workforce Development, Workers' Compensation Division home page. For frequently-asked questions and other Workers' Compensation information, click on www.tn.gov/labor-wfd/wcomp/employers.shtml.