

INDIANA — State Laws by Topic

➤ AGE ◀

It is an unfair employment practice, under the Indiana Civil Rights Law, for an employer to dismiss from employment or to refuse to employ or hire any individual based solely on age, so long as the individual has attained the age of 40 and has not yet attained the age of 75.

The Act defines an employer as any person within Indiana who employs one or more individuals.

➤ AIDS ◀

Testing: Informed consent must be obtained before an individual is tested for AIDS.

➤ ARRESTS/CONVICTIONS ◀

No general provision prohibiting an employer's collection and use of arrest or conviction records.

Employer can't ask employees, contract employees, or job applicants whether their criminal records have been sealed or restricted.

Employers cannot suspend, refuse to employ, or otherwise discriminate against employees because their conviction or arrest records have been expunged. In addition, job applications may inquire about previous criminal records, but only in terms that exclude expunged convictions or arrests. *Acceptable:* Have you ever been arrested for or convicted of a crime that has not been expunged by a court?

➤ BREAKS ◀

No provision.

➤ BREAST-FEEDING ◀

Employers with 25 or more employees must provide a private location, other than a toilet stall, where an employee can express breast milk during any period away from the employee's assigned duties. Employers are also required, to the extent possible, to provide a refrigerator or other cold storage device for keeping milk that has been expressed, or to allow the employee to provide her own portable cold storage device for keeping milk that has been expressed until the end of the employee's workday.

In addition, a woman may breast-feed her child anywhere she has the right to be present.

Also, state and political subdivisions of the state must provide reasonable paid break time each day to an employee who needs to express breast milk for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. Such employers are not required to provide break time if doing so would unduly disrupt business operations.

The state and political subdivisions of the state must also: 1) make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, where an employee can express breast milk in private, and 2) make reasonable efforts to provide a refrigerator or other cold storage space for keeping milk that has been expressed.

➤ CHILD LABOR ◀

Click on the following link <http://www.in.gov/dol/childlabor.htm> for Indiana's Department of Labor child labor home page.

➤ 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 withheld are remitted immediately. Along with each remittance, employers must include employees' names, Social Security numbers, and the Indiana support enforcement tracking number. Notify the court or agency within 10 days if the employee-obligor terminates. Employers with 50 or more employees must remit electronically.

➤ COURT ATTENDANCE ◀

Employers are restricted from discharging employees for taking leave to be witnesses if acting in response to a criminal subpoena.

➤ DISABILITIES ◀

Indiana has two major laws that apply to applicants and employees with disabilities. The first is the Indiana Civil Rights Law, and the second is commonly referred to as the state's disability discrimination law.

The Indiana Civil Rights Law prohibits employers from denying equal employment opportunities to properly qualified persons by reason of disability. This prohibition does not apply to the failure of an employer to employ or retain an individual who, because of a disability, is unable to efficiently and safely perform, at the standard set by the employer, the duties required in the job held or applied for by the individual. Further, once a person with a disability is hired, the em-

ployer is not required to promote or transfer that person to another position, unless the person is qualified for the job duties by training or experience.

The Indiana Civil Rights Law defines an employer as anyone employing six or more persons in the state.

Under the state's disability discrimination law, employers may not discriminate against a qualified individual with a disability — an individual with a disability who, with or without accommodation, can perform the essential functions of the employment position that the individual holds or desires — because of that person's disability in any of the following areas: job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training; or other terms, conditions, and privileges of employment.

The disability discrimination law defines an employer as any person engaged in an industry affecting commerce that has at least 15 employees for each working day in each of at least 20 calendar weeks in the current or preceding year.

➤ DRUG TESTING ◀

Employers are permitted to adopt reasonable drug testing policies that are designed to ensure that an individual who has successfully completed a supervised drug rehabilitation program, has otherwise been rehabilitated successfully, or is participating in a supervised rehabilitation program is no longer engaging in the illegal use of drugs.

➤ FAMILIAL/MARITAL STATUS ◀

The state recognizes same-sex marriage.

➤ FAMILY/MEDICAL LEAVE ◀

See medical donation leave and military leave.

➤ GENETIC TESTING ◀

No provisions specified in the general employment context.

➤ HEALTH CARE CONTINUATION COVERAGE ◀

Continuation coverage requirements apply to small employer-sponsored group health plans that do not meet federal COBRA requirements. Eligible employees have the right to continue coverage for up to 12 months.

Click on the following link <http://www.in.gov/legislative/ic/code/title27/ar8/ch15.html> to access the state law.

➤ JURY DUTY ◀

Employees summoned to jury duty must notify their employers within a reasonable period after receiving the jury summons and before having to appear for jury service. Employers may not subject employees to any adverse employment action because of jury service. Employers also may not require or request employees to use annual vacation or sick leave for time spent responding to a summons for jury service, participating in the jury selection process, or serving on a jury.

If 1) a prospective juror works for an employer with 10 or fewer full-time employees; 2) another employee of the employer is performing jury service; and 3) the prospective juror or serving employee notifies the court that they both work for the same employer, the court will reschedule the prospective juror's service to a date that does not overlap the service of the employee already serving.

➤ LIFESTYLE DISCRIMINATION ◀

Employers are prohibited from requiring, as a condition of employment, that an employee or prospective employee refrain from using tobacco products outside the course of employment. Employers must also refrain from discriminating against an employee with respect to compensation and benefits, or terms and conditions of employment based on the employee's use of tobacco products outside the course of employment. *Exception:* Churches and religious organizations.

Employers may implement financial incentives that are: 1) intended to reduce tobacco use, and 2) related to employee health benefits provided by the employer.

➤ MASS LAYOFF NOTIFICATION ◀

No state-specific notification provision.

➤ MEDICAL DONATION LEAVE ◀

Employees of a state agency are entitled to leave of up to five workdays to serve as a bone marrow donor and up to 30 workdays to serve as an organ donor. To be eligible for leave, an employee must submit written verification from the physician slated to perform the procedure verifying that the employee is, indeed, serving as a donor. Employees granted leave are entitled to receive their regular salary without interruption during the period of leave. Leave is in addition to accrued vacation days, sick days, personal days, and compensatory time off.

➤ **MILITARY LEAVE** ◀

Employees who are members of a reserve unit of the U.S. Armed Forces are entitled to a temporary leave of absence from employment for up to 15 days per calendar year for military training.

Temporary military leave may be with or without pay, within the discretion of the employer, but must be granted without affecting the rights of the employee to vacation leave, sick leave, seniority, or other benefits of employment.

Private sector employees are also entitled to a leave of absence for state active duty. This leave is in addition to any regular vacation time and may be leave with or without loss of time or pay at the discretion of the employer.

Reinstatement: Employees are to be restored to the position vacated or a similar position with the same status and pay as they held before leaving for training provided: 1) the training did not exceed 15 days in a calendar year; 2) they give evidence of the date of departure and the date of return 90 days prior to the departure date; 3) they give evidence of the satisfactory completion of such training immediately thereafter; and 4) they remain qualified to perform the duties of such a position.

Family military leave: Employers with at least 50 employees for each working day for each of at least 20 calendar workweeks must provide a leave of absence of up to 10 days to an employee who is the spouse, parent, grandparent, child, or sibling of a person ordered to active duty. Employees must have been employed for at least 12 months and worked at least 1,500 hours during the 12-month period immediately preceding the day the leave begins in order to be eligible.

An employee may take the leave of absence during one or more of the following periods.

- 30 days before active duty orders are in effect.
- A period when the person on active duty is on leave while active duty orders are in effect.
- 30 days after the active duty orders are terminated.

Employers may require employees, or employees may elect, to substitute any earned paid vacation, personal, or other paid leave, except for medical or sick leave. Employers must allow employees to continue their health benefits at their expense.

Employees who want to take a leave of absence must provide written notice, including a copy of the active duty orders if available. Employees must give at least 30 days' notice before the date on which they intend to begin leave, unless active duty orders are issued less than 30 days before that date.

An employer may require verification of an employee's eligibility for the leave. If the employee fails to provide such verification, the employer may consider the employee's absence as unexcused.

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

Employees must be restored to the position they held before leave or a position with equivalent seniority, pay, benefits, and other terms and conditions of employment. An employer is not

required to restore an employee to a position if the employer can show the reason is unrelated to the employee's exercise of leave rights.

Employment of veterans: It is an unlawful employment practice for an employer of six or more employees to discriminate against a prospective employee on the basis of his/her status as a veteran, or based on his/her membership in the state national guard or reserves. Employers that discriminate against veterans may be required to place the veteran in the position for which he/she applied.

➤ **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.

Note: The state bases its minimum wage on the federal minimum wage. The state minimum may exceed federal minimum wage by a stated amount or percentage, or be adjusted to reflect cost of living increases.

➤ **NATIONAL ORIGIN** ◀

The Indiana Civil Rights Law prohibits private and 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 or ancestry.

An employer is defined as any person employing six or more persons within the state.

➤ **NEW-HIRE REPORTING** ◀

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

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

➤ **OVERTIME** ◀

Basis for overtime: Over 40 hours in a workweek.

➤ **PAY STATEMENTS** ◀

Information required: Hours worked; wages paid; itemized deductions.

➤ PERSONNEL FILES ◀

Public employees have the right to access their personnel file information.

➤ POLYGRAPH TESTING ◀

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ◀

Workers' Compensation (English & Spanish) — All employers subject to the Workers' Compensation Act

Child Labor Law — All employers who employ youth under 18

Minimum Wage & Overtime — All businesses with an annual gross income of less than \$500,000 and having no out-of-state business

Note: When posting, staple the pages together as a booklet.

Safety & Health Protection on the Job — All employers, except sole proprietorships

Equal Employment Opportunity (English & Spanish) — All employers with 15 or more employees

Workforce Development Act (English & Spanish) — All employers

➤ PREGNANCY ◀

Coverage applies to state government employers.

➤ RACE ◀

The Indiana Civil Rights Law prohibits private and 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 person employing six or more persons within the state.

➤ REFERENCES ◀

Blacklisting: Blacklisting any discharged employee is unlawful. However, an employer is not prohibited from giving a prospective employer a truthful statement, in writing, of the reasons for the discharge.

References: An employer is immune from liability for disclosing information about a current/former employee unless the information disclosed was known to be false. Upon written request by a prospective employee, the prospective employer must provide copies of any written communications from a current/former employer that may affect the applicant's possibility of employment. The request must be received no later than 30 days after application for employment is made.

Service letters: Former employees are entitled, upon written request, to a letter stating: 1) the nature and character of their services; 2) their employment dates; and 3) for what cause, if any, they quit or were fired. However, the obligation to provide service letters does not apply to employers that do not require written recommendations or applications showing an applicant's qualifications or experience. An employer that fails to provide a requested service letter may be fined.

➤ RELIGION ◀

The Indiana Civil Rights Law prohibits private and 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.

An employer is defined as any person employing six or more persons within the state.

➤ REPORTING PAY ◀

No provision.

➤ SAFETY ◀

Click on the following link <http://www.in.gov/dol/iosha.htm> to access Indiana's Occupational Safety and Health Administration home page.

➤ SCHOOL VISITATION LEAVE ◀

No provision.

➤ SEX DISCRIMINATION ◀

The Indiana Civil Rights Law prohibits private and 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 person employing six or more persons within the state.

➤ **SEXUAL HARASSMENT** ◀

State employers must adopt a policy prohibiting sexual harassment in the workplace.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

Public employers are prohibited from discriminating against employees based on sexual orientation.

➤ **SMOKING** ◀

Smoking in private workplaces, and within eight feet of a building entrance, is banned. Employers must inform employees and job applicants of the ban. Building owners must post a sign at each public entrance that reads “State Law Prohibits Smoking Within 8 Feet of this Entrance” or similar language. Exceptions to the smoking ban apply to certain entertainment venues.

See also lifestyle discrimination.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Employers that maintain computerized data that includes personal information (e.g., Social Security numbers) must report a security breach “without unreasonable delay” to anyone whose personal information might have been compromised.

➤ **UNEMPLOYMENT INSURANCE** ◀

Click on the following link <http://www.in.gov/dwd/2332.htm> to access the Indiana Department of Workforce Development unemployment insurance information for employers.

➤ **VACATION PAY UPON TERMINATION** ◀

Although there is no law regarding the payment of vacation pay following an employee’s termination, courts have interpreted wages due upon termination to include vacation pay. However, employees earn vacation pay simultaneously with wages and other forms of ongoing compensation if an employer agrees at the time of hire to pay vacation to an employee, and has no agreement or policy to the contrary.

➤ **VIOLENCE** ◀

Employers may seek a temporary restraining order or an injunction on behalf of an employee who has suffered unlawful violence or received a credible threat of violence that has been carried out or could reasonably be construed to be carried out at the employee's place of work.

To obtain a temporary restraining order, an employer has to petition for an injunction and must file an affidavit showing: 1) reasonable proof that the employee suffered unlawful violence or a credible threat of violence, and 2) great or irreparable harm shall result to the employee if no further action is taken.

Concealed weapons: Employers are prohibited from establishing or enforcing a policy that prohibits a person from lawfully storing a firearm or ammunition inside a locked, privately owned motor vehicle on the employer's property, with limited exceptions.

Anti-discrimination. Employers may not require a job applicant or current employee to disclose information about whether the job applicant or employee owns, possesses, uses, or transports a firearm or ammunition. In addition, employers may not condition employment, or any rights, benefits, privileges, or opportunities, upon an agreement that the job applicant or employee forgo the lawful ownership, possession, storage, transportation, or use of a firearm or ammunition.

➤ **VOTING** ◀

No time-off-to-vote provision.

➤ **WAGE DEDUCTIONS** ◀

Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied: the assignment is in writing, signed by the employee, revocable at any time by the employee upon written notice, and agreed to in writing by the employer; an executed copy is delivered to the employer within 10 days after its execution; the assignment is for payment of insurance premiums, contributions to charity, United States bonds, stocks in the employer company, merchandise sold by the employer, loans by the employer, hospital insurance, credit unions, and deposits in the employee's bank.

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

An employee who is subject to a creditor garnishment may, on a showing of good cause, reduce the amount of wages subject to the garnishment to an amount that is less than 25%, but at least 10%, of his/her disposable earnings for the week.

Court clerks are not required to notify employers that are honoring creditor garnishments to suspend withholding under those garnishment orders after the underlying judgments are satisfied. Requests to suspend garnishment orders must be submitted by the employees whose wages are being garnished.

➤ WAGE PAYMENT ON TERMINATION ◀

Employee who quits: Next payday.

Employee who's fired: Payday in the pay period in which the termination occurs.

➤ WAGE PAYMENTS ◀

Payday requirements: At least semimonthly; biweekly if requested.

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

Employers that fail to pay employees on time, or that withhold wages, must pay the wages due, reasonable attorneys' fees and court costs. Employers will be ordered to pay employees liquidated damages equal to twice the wages owed, if a court finds that the failure to pay wasn't in good faith. Previously, employers could be liable for liquidated damages without a court finding that they acted in bad faith.

➤ WHISTLEBLOWING ◀

Employers are prohibited from taking adverse employment action against employees who report, in writing, the existence of a violation of a local, state, or federal law or rule, or the misuse of public resources. This protection applies to employees in general, and in particular to employees of the state educational system and employees of political subdivisions of the state.

➤ WORK AUTHORIZATION ◀

Public employers must use E-Verify to check the work status of new hires. Further, government entities cannot contract with private employers unless those employers are enrolled in E-Verify, and sign affidavits attesting that they don't knowingly employ unauthorized aliens. Contractors cannot retain unauthorized aliens on their payrolls, and have 30 days to terminate unauthorized aliens. Contractors that miss the 30-day deadline risk termination of their public contracts. Subcontractors must certify that they don't employ unauthorized aliens to the general contractors, and that they are enrolled in E-Verify. General contractors may terminate the contracts of subcontractors who violate these provisions.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link <http://www.state.in.us/workcomp/index.html> to access the Workers' Compensation Board of Indiana home page. For Workers' Compensation information for employers, click on <http://www.in.gov/wcb/2331.htm>.