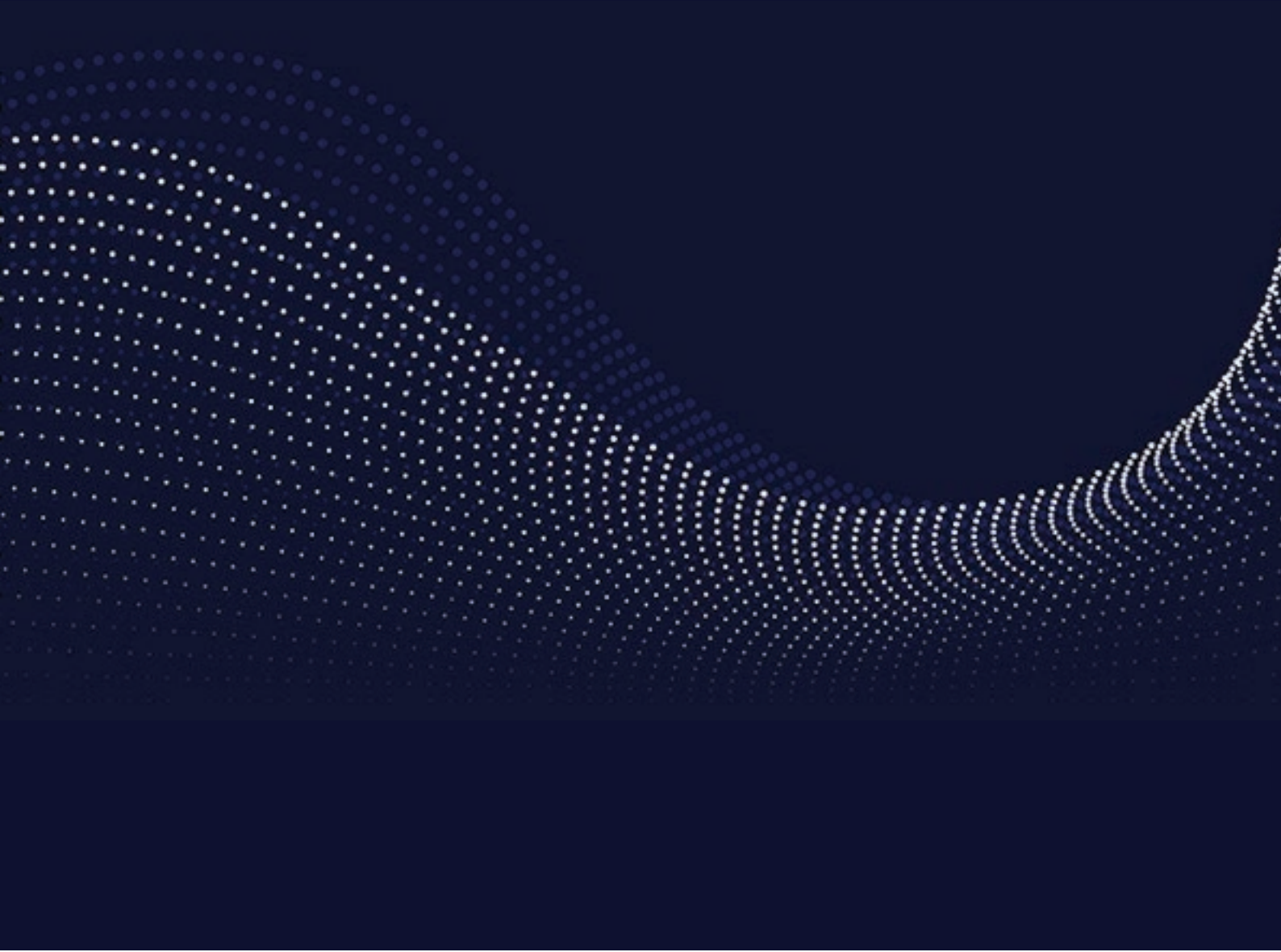


EMPLOYMENT: NORTH AMERICA 2023

Contributing Editor



Employment: North America 2023

Consulting Editor

Quick reference guide enabling side-by-side comparison of key considerations, emerging issues and reform proposal for each state; the employment relationship; hiring; wage and hour laws; discrimination, harassment and family leave; privacy in the workplace; trade secrets and restrictive covenants; labour relations; and discipline and termination procedures.

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STATE SNAPSHOT

Key considerations

1 | Which issues would you most highlight to someone new to your state?

Colorado is an employment-at-will state. In the absence of a contract to the contrary, every employment relationship is presumed to be at will. Colorado recognizes the legal claim of wrongful discharge in violation of public policy as an exception to “at-will” employment.

Colorado law includes numerous unique employment provisions, some of which go beyond the requirements of federal law. The highlights of some key state law differences include the following:

- Employers with at least 1 employee in Colorado are required to include compensation range and benefits in job postings for roles that could be performed in Colorado.
- Overtime pay is required for non-exempt employees on a daily and weekly basis.
- The minimum salary thresholds for employees exempt from overtime under Colorado law are higher than federal thresholds regarding the same and, while similar to the federal counterparts, portions of Colorado’s duties tests for the executive, administrative, and professional exemptions are narrower.
- With limited exceptions, employers may not take any adverse employment action based on an employee’s lawful activities off the employer’s premises during non-working hours.
- Employers with more than 25 employees may not discharge or refuse to hire an individual on the basis that he or she is married to or plans to marry another employee of the same company.
- Employers must provide up to 48 hours of paid sick leave per year. Mandatory paid sick leave includes leave for reasons related to the treatment of domestic abuse, stalking, sexual assault, or other related crimes, and effective August 7, 2023, leave to grieve, attend funeral services or a memorial, or deal with financial and legal matters that arise after the death of a family member, and leave to care for a family member whose school or place of care has been closed—or to evacuate a place of residence—due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence or event that results in closure or the need to evacuate.
- The state minimum wage is adjusted annually. As of January 1, 2023, Colorado’s minimum wage rate is \$13.65 per hour.
- Cities, counties, and other local jurisdictions may pass their own minimum wage and overtime requirements that exceed state law requirements. For example, Denver County’s minimum wage rate in 2023 is \$17.29 per hour.
- Colorado generally considers restrictive covenants void except in limited circumstances and only when certain criteria is met.

2 | What do you consider unique to those doing business in your state?

Colorado is known for its highly educated workforce. The state's natural beauty and outdoor lifestyle make it a very desirable place to study, work, and live.

Colorado has some unique legal provisions of which employers should be aware, including the legalization of marijuana, the protection of lawful off-duty activities, mandatory paid sick leave, expanded privacy rights, etc.

3 | Is there any general advice you would give in the labor/employment area?

Employment relationships in Colorado are presumed to be at will, terminable with or without cause or notice but an implied contract may be created through written or oral statements, including oral representations made by managers or statements contained in employee handbooks or other materials. Continued employment can constitute sufficient consideration for contracts, including non-compete agreements (which are void unless specific statutory criteria is met). Additionally, Colorado is quickly expanding employee protections and rights with mandatory paid sick leave, payment for accrued but unused PTO upon separation from employment, and statutory penalties for presenting unenforceable noncompete and nonsolicitation agreements. Colorado also has a mandatory insurance program (the Family and Medical Leave Insurance or "FAMLI") that provides employees with supplemental wage replacement for qualifying leaves of absence.

Emerging issues

4 | What are the emerging trends in employment law in your state, including the interplay with other areas of law, such as firearms legislation, legalization of marijuana and privacy?

Colorado law is trending to provide employees increasingly more rights in the workplace. Employers must provide mandatory paid sick leave, most employers and all employees must pay into the FAMLI program (with employee benefits becoming available January 1, 2024), and employers must announce job opportunities to all employees. Colorado has also expanded the number and type of protected classes for discrimination purposes and, effective August 7, 2023, lowered the burden of proof for harassment claims. Colorado has passed comprehensive consumer data privacy laws, which will certainly affect larger employers operating in Colorado.

Proposals for reform

5 | Are there any noteworthy proposals for reform in your state?

In 2023, the Colorado General Assembly passed a number of bills relating to labor and employment, including:

- SB23-17: Amends the Colorado Healthy Families and Workplaces Act to provide additional qualifying uses of paid sick leave.

- SB23-172: The “Protecting Opportunities and Workers’ Rights” or “POWR” Act lowers the burden of proof for harassment claims, changes the standard for disability discrimination claims, restricts confidentiality and nondisclosure agreements, makes marital status a protected class, and includes new record retention requirements.
- SB23-105: Amends Colorado’s Equal Pay for Equal Work Act such that employers no longer need to provide notice to employees of career progression/development promotions, extends the statute of limitations for wage discrimination claims, and creates a process for the Division of Labor and Employment to investigate and mediate wage discrimination claims.
- SB23-58: Prohibits employers from inquiring about a prospective employee’s age, date or birth, and dates of attendance at or date of graduation from an educational institution on an initial employment application.

EMPLOYMENT RELATIONSHIP

State-specific laws

6 | What state-specific laws govern the employment relationship?

Colorado Revised Statutes – Title 8 – Labor and Industry contains the majority of the laws governing employer-employee relationships, including wages, workers’ compensation and employment security (unemployment compensation). Title 24 – Government-State contains the state’s anti-discrimination and fair employment practices laws.

Colorado’s administrative rules and regulations, the Code of Colorado Regulations (CCR), include rules governing employment-related matters. 3 CCR 708 contains rules related to Colorado’s Civil Rights Commission and enforcement of the state’s Anti-Discrimination Act. 7 CCR 1101 to 1103 includes regulations concerning wages, employment security (unemployment compensation), wages, employment verification, restrictions on the use of credit report and social media and worker’s compensation.

7 | Who do these cover, including categories of workers?

Depending on the specific provision, these laws generally cover employees. Some provisions, including the anti-discrimination laws, also apply to applicants for employment.

Misclassification

8 | Are there state-specific rules regarding employee/contractor misclassification?

Colorado has a statute related to misclassifying independent contractors under the Employment Security Act (unemployment compensation) (C.R.S. §8-72-114). It provides for penalties of up to \$5,000 per misclassified employee for the first misclassification

with willful disregard, and up to \$25,000 per misclassification for subsequent willful misclassifications. The employer will also be ordered to pay appropriate premiums for unemployment insurance, including back premiums, and interest. Colorado follows the control/supervision test for independent contractors, which is detailed in C.R.S. §§ 8-4-101; 8-40-202; and 8-70-115, and summarized by the Department of Labor and Employment [here](#).

Contracts

9 | Must an employment contract be in writing?

An express contract for employment may be made either orally or in writing and an agreement may also be created by conduct, which is said to be a contract implied in fact.

An implied contract can arise out of an employment manual, handbook, or other document reflecting company policy and practice.

However, the statute of frauds voids unwritten agreements that cannot be performed within one year, so an oral contract extending beyond one year must be in writing (see C.R.S. §38-10-112). Thus, an oral employment agreement that cannot be performed within one year is barred by the statute of frauds, but an oral employment agreement for an indefinite term is not barred by this statute.

10 | Are any terms implied into employment contracts?

Every contract in Colorado, except at-will employment contracts, contains an implied covenant of good faith and fair dealing. The Colorado Supreme Court has declined to recognize a tort claim for breach of an express covenant of good faith and fair dealing, concluding that a breach of an express covenant may result in damages for breach of contract only, not as a tort.

11 | Are mandatory arbitration agreements enforceable?

In Colorado, arbitration is a matter of contract and ordinary principles of contract interpretation apply. Arbitration is a favored means of dispute resolution in Colorado courts. Without grounds based in a contract to find the arbitration agreement unenforceable, mandatory arbitration agreements may be enforced. Likewise, mandatory arbitration agreements may also include class and/or collective action waivers, generally speaking.

12 | How can employers make changes to existing employment agreements?

Except as stated in any written agreement, parties may alter written or unwritten contracts orally. However, best practice would be to record any contractual changes in writing, signed by both parties.

HIRING

Advertising

13 | What are the requirements relating to advertising open positions?

It is unlawful to persuade or engage workers to move from one place to another through false or deceptive means, including deceptive representations and false advertisements around wages, the type of employment, the job environment, union strike environment, or other key characteristics (C.R.S. §8-2-104). Employers must also comply with the anti-discrimination provisions of the Colorado Anti-Discrimination Act (C.R.S. §24-34-402) and under Part 2 of Colorado's Equal Pay for Equal Work Act, job postings must include salary/compensation information in the posting, including a general description of benefits offered with the position (see [INFO #9](#)). Internal job opportunities within Colorado, with some exceptions, must be published to existing employees before filling the position.

Background checks

WAGE AND HOUR

Pay

21 | What are the main sources of wage and hour laws in your state?

Article 4 of Title 8 in Colorado's Revised Statutes contains most of the laws governing wage and hour issues. The Code of Colorado Regulations (CCR), 7 CCR 1101-1103, includes the regulations concerning wages.

22 | What is the minimum hourly wage?

The Colorado Constitution requires that the state minimum wage be adjusted annually for inflation. The current minimum wage as of July 2023 is \$13.65 per hour.

23 | What are the rules applicable to final pay and deductions from wages?

When an employee is terminated by the employer, all earned wages are due immediately (including accrued but unused PTO), if the accounting unit is operational. If the unit is not scheduled to be operational, pay is due no later than six hours after the start of the unit's next regular working day. If the unit is offsite, wages are due no later than 24 hours after the start of the unit's next regular working day (C.R.S. §8-4-109).

When an employee resigns or quits their employment, all earned wages (including accrued but unused PTO) are due by or on the next regular payday (C.R.S. §8-4-109).

Generally, deductions from wages are permitted for:

- those mandated by local, state, or federal law (e.g., FICA requirements, and garnishments);
- contributions attributable to automatic enrollment in an employee retirement plan;
- loans, advances, goods or services, and equipment or property provided by an employer to the employee pursuant to a written agreement;
- the cost of theft, if a report has been properly filed with law enforcement;
- revocable deductions authorized by the employee (e.g., for medical insurance, stock purchases, pension plans, or charities); and
- the amount of money or value of property that the employee failed to properly pay or return when the terminated employee was entrusted with such money or property so long as proper notice is provided to the employee as set out in the statute (C.R.S. §8-4-105).

Hours and overtime

24 | What are the requirements for meal and rest breaks?

For individuals covered by the Colorado Overtime and Minimum Pay Standards Order (COMPS Order) # 38, employers must provide an uninterrupted meal period of at least 30 minutes to employees scheduled to work a shift of five or more hours. If the nature of the job does not allow for an uninterrupted meal period, the employee must be permitted to consume an “on-duty” meal while performing duties and such period must be compensated.

Paid rest periods of 10 minutes are required for every four hours worked, or major fractions of four hours. To the extent practical, rest periods should be in the middle of each four-hour work period. If an employer fails to authorize and permit a required rest break, then the employer must pay the employee an additional 10 minutes of wages at the employee’s agreed-upon or required rate of pay. Special rules and time periods apply to agricultural workers.

25 | What are the maximum hour rules?

Colorado employees engaged in work in underground mines, underground workings, and smelters may not work more than eight hours within 24 hours, except under certain conditions (C.R.S. §8-13-102).

Firefighters are restricted from being on duty during any calendar month for periods which amount to more than 12 hours for each day in a month, with exceptions for emergencies (C.R.S. §8-13-107).

Minors (under 18) may not work more than 40 hours in a week or more than eight hours in any 24-hour period. Minors under 16 may not work more than six hours after school hours unless the next day is not a school day. Except for babysitters, no minor under the age of

16 shall be permitted to work between the hours of 9:30 p.m. and 5:00 a.m., except work as a model, actor, or performer, unless the next day is not a school day (C.R.S. §8-12-105).

For overtime purposes, Colorado requires that overtime pay be paid to non-exempt employees at 1.5 times their regular hourly rate for hours worked in excess of 40 hours per working week, and on a daily basis for hours worked over 12 hours per day, or 12 consecutive hours without regard to the start and end time of the working day, whichever calculation results in the greater payment of wages (see COMPS Order #38).

26 | How should overtime be calculated?

For individuals covered by the COMPS Order, overtime pay must be paid to non-exempt employees at 1.5 times their regular hourly rate for hours worked in excess of 40 hours per working week, and on a daily basis for hours worked over 12 hours per day, or 12 consecutive hours without regard to the starting and ending time of the working day, whichever calculation results in the greater payment of wages. A working day is any consecutive 24-hour period starting with the same hour each day and the same hour as the beginning of the working week. A working week is any consecutive seven-day period starting with the same calendar day and hour each week (see COMPS Order #38).

27 | What exemptions are there from overtime?

Colorado exemptions from overtime include commission sales, the ski industry, medical transportation, salespersons, parts persons, and mechanics employed by automobile, truck, or farm implement dealers, range workers, and salespersons employed by trailer, aircraft and retail boat dealers. Other exemptions include supervisory and sales roles, business owners and non-profits, some residence workers, taxi drivers, volunteers, and other categories covered in COMPS Order #38.

Record keeping

28 | What payroll and payment records must be maintained?

For employees covered by the COMPS Order, employers must keep for at least three years after the wages or compensation was due, a true and accurate record of the following:

- name, address, occupation, and date of hire;
- date of birth, if the employee is under 18;
- daily record of all hours worked;
- record of allowable credits and declared tips; and
- regular rates of pay, gross wages earned, withholdings made, and net amounts paid each pay period (COMPS Order # 38 (2022)).

Work records required under Colorado's unemployment compensation law must be retained for at least five years.

Federal payroll record-keeping requirements exist under the Fair Labor Standards Act.

DISCRIMINATION, HARASSMENT AND FAMILY LEAVE

What is the state law in relation to:

Protected categories

29 | (a) Age?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of age (age 40 or older) (C.R.S. §24-34-402).

30 | (b) Race?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of race or colour (C.R.S. §24-34-402). It is also a discriminatory employment practice to discriminate against a person based on the person's protective hairstyle, such as braids, locs, twists, tight coils, cornrows, Bantu knots, Afros, and headwraps (C.R.S. § 24-34-301).

31 | (c) Disability?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of disability. However, with regard to disability, it is not a discriminatory or unfair employment practice if:

- there is no reasonable accommodation that the employer can make with regard to the disability that would allow the individual to satisfy the essential functions of the job; and
- the disability actually disqualifies the person from the job (C.R.S. §24-34-402).

32 | (d) Gender?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of sex (C.R.S. §24-34-402).

33 | (e) Sexual orientation?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of sexual orientation, which includes gender identity and gender expression (C.R.S. §24-34-402).

34 | (f) Religion?

It is discriminatory employment practice to refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of religion or creed (C.R.S. §24-34-402).

35 | (g) Medical?

Colorado does not include medical or genetic information as a protected category under its anti-discrimination statute, except to the extent it relates to disability.

36 | (h) Other?

Additional protected classes under the Colorado Anti-Discrimination Act are national origin and ancestry (C.R.S. §24-34-402). Colorado law also protects against discrimination based on pregnancy, physical recovery from childbirth, or related conditions (C.R.S. §24-34-402.3).

Employers with more than 25 employees are prohibited from discharging an employee or refusing to hire an individual solely on the basis that he or she is married to or plans to marry another employee of the same employer (C.R.S. §24-34-402).

Effective August 7, 2023, marital status is a protected category under the Colorado Anti-Discrimination Act.

Employers cannot terminate an employee for engaging in any lawful activity away from or off the employer's premises during non-working hours. There are limited exceptions to this restriction when a conflict of interest or bona fide occupational requirement exists (C.R.S. §24-34-402.5).

Harassment

37 | What is the state law in relation to harassment?

Under the Colorado Anti-Discrimination Act, as amended by the Protecting Opportunities and Workers' Rights (POWR) Act (effective August 7, 2023), "harass" or "harassment" means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, which conduct or communication is subjectively offensive to the individual alleging harassment and is objectively offensive to a reasonable individual who is a member of the same protected class. (C.R.S. §24-34-402).

Although the conduct or communication need not be severe or pervasive to constitute harassment, it must fall into one of three categories to be actionable:

- submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;
- submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or
- the conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances, or lack of manners, when taken individually or in combination rise to level of actionable harassment.

In cases involving alleged harassment by a supervisor, the employer can only raise an affirmative defense if:

- the employer has established a program that is reasonably designed to prevent harassment, deter future harassers, and protect employees from harassment;
- the employer has communicated the existence and details of how to make complaints to both its supervisory and nonsupervisory employees, such as through a handbook or policy; and
- the employee has unreasonably failed to take advantage of this reporting program.

Family and medical leave

38 | What is the state law in relation to family and medical leave?

Colorado's FAMLI Program is funded with employee and employer contributions. Starting January 1, 2023, 0.45% of each Colorado employee's gross earnings per pay period will be deducted to cover FAMLI Program premiums and employers with 9 or more employees will similarly pay a 0.45% premium. Employers can opt-out of FAMLI provided they have a

State-approved plan in place. Employees can start applying for benefits and using FMLI leave on January 1, 2024. Employees are eligible to receive FMLI leave and benefits on their first day of employment, provided they work in Colorado and have earned \$2,500 over the previous year for work performed in Colorado. Employees are not eligible for job protections under Colorado's FMLI Act unless they have been employed by their current employer for at least 180 days.

The following are qualifying conditions for paid FMLI leave:

- caring for a new child in the first year after the birth, adoption, or foster care placement;
- caring for a family member with a serious health condition;
- leave for the employee's own serious health condition;
- leave because of a family member's active duty service in the United States Armed Forces, or notice of an impending call or order to active duty in the Armed Forces; and
- leave needed because the employee or a family member was the victim of domestic violence, stalking, sexual assault, or abuse.

Employees will submit applications for benefits directly to the Colorado Department of Labor and Employment's FMLI Division via its Employee Portal. The Employee Portal will be up and running by the fourth quarter of 2023. The CDLE will process each application and let the employee know whether their request was approved or denied, or whether additional documentation is needed. The CDLE will also notify the employer that the employee applied for FMLI leave and benefits.

PRIVACY IN THE WORKPLACE

Privacy and monitoring

39 | What are employees' rights with regard to privacy and monitoring?

No Colorado law specifically addresses the monitoring of employees or employee communications, thus such monitoring is governed by Colorado's wiretapping statute (C.R.S. 18-9-304). Employer policies should specify that employees should have no expectation of privacy in any information or items brought onto the employer's premises or contained on or accessed through the employer's computer systems or devices. Colorado is a one-party consent state for recording telephone conversations or other wire communications (C.R.S. §18-9-304). Accordingly, employers that aren't visibly present during employees' conversations can't knowingly listen to or record such conversations or attempt to listen to or record such conversations unless they have consent from at least one main party to the conversations.

40 | Are there state rules protecting social media passwords in the employment context and/or on employer monitoring of employee social media accounts?

C.R.S. §8-2-127 addresses the exemptions related to workplace investigations, but Colorado employers may not request or require employees or applicants disclose usernames or passwords for personal accounts or electronic devices, nor compel them to add anyone to a contact list or social networking account. Employers are also barred from requiring an employee to change their privacy settings associated with accounts, and employers may not retaliate against employees or applicants for refusal.

Bring your own device

41 | What is the latest position in relation to bring your own device?

Colorado law does not address the issue of bring your own device.

Off-duty

42 | To what extent can employers regulate off-duty conduct?

Employers may not terminate an employee for engaging in any lawful activity away from or off the employer's premises during non-working hours. There are limited exceptions to this restriction when a conflict of interest or bona fide occupational requirement exists (C.R.S. §24-34-402.5).

Gun rights

43 | Are there state rules protecting gun rights in the employment context?

In Colorado, an employer can determine which employees, if any, may carry a firearm in the workplace. Colorado Revised Statute § 18-12-214 restricts where a person holding a concealed carry permit may take their gun, and reserves the right of a private property owner, private tenant, private employer, or private business entity to exclude weapons from their premises. This law includes the right to prohibit the possession of a firearm in a locked vehicle in the company's parking lot.

TRADE SECRETS AND RESTRICTIVE COVENANTS

Intellectual property

44 | Who owns IP rights created by employees during the course of their employment?

If an employee's job duties include inventing or solving a particular problem that requires invention, any invention created by that employee becomes the property of the employer (*Scott Sys., Inc. v. Scott*, 996 P.2d 775 (Colo. App. 2000)). Corporate officers may also be under a duty to assign rights to inventions to their employer (*Id.*). However, absent an

agreement to the contrary, an employee who is not an officer or was not hired to invent generally retains ownership of all intellectual property that he or she creates (Id.; see also *Hewett v. Samsonite Corp.*, 507 P.2d 1119 (Colo. App. 1973)).

Restrictive covenants

45 | What types of restrictive covenants are recognized and enforceable?

Any non-compete covenant that restricts the right of any person to receive compensation for performance of labor is void (C.R.S. §8-2-113). The statute provides exceptions for:

- the purchase and sale of a business or the assets of a business;
- the protection of trade secrets, provided certain other requirements are satisfied; and
- recovery of the expense of educating and training an employee who has served an employer for less than two years.

A non-compete agreement for the protection of trade secrets is only enforceable if:

- at the time the agreement is entered into and enforced, the employee earns an amount of annualized cash compensation equivalent to or greater than the threshold for highly compensated employees (which is set at \$101,250 for 2023);
- the agreement is no broader than reasonably necessary to protect the employer's legitimate interests in protecting trade secrets; and
- the employer satisfies the notice requirements described below.

To determine whether the restrictions are reasonable, courts will look to the scope, duration, and geographic coverage.

Notice requirements: employers must provide workers and prospective workers a separate notice 14 days in advance that informs them that they are being offered a non-compete agreement and directing them to the specific paragraph(s) containing the non-compete covenant. The notice must be signed by the worker.

Customer non-solicitation agreements: the same general requirements that apply to non-compete agreements apply to customer non-solicitation agreements except that an employee need only earn 60% of the threshold for highly compensated employees (currently \$60,750).

Colorado has adopted the Uniform Trade Secrets Act (C.R.S. §7-74-101 et seq.).

Non-compete

46 | Are there any special rules on non-competes for particular classes of employee?

An agreement between a physician and a partnership, group, or other employer may require the payment of damages in an amount that is reasonably related to the injury

suffered by reason of the termination of the employment relationship, with a liability exception for physicians who treat patients with rare disorders.

LABOR RELATIONS

Right to work

47 | Is the state a “right to work” state?

Colorado is a modified right to work state. Collective bargaining agreements may require that all employees join the union as a condition of employment, but Colorado’s Labor Peace Act provides conditions that must be met before such contract provisions be included in the agreement (C.R.S. §8-3-101 et seq.).

Unions and layoffs

48 | Is the state (or a particular area) known to be heavily unionized?

According to the Bureau of Labor Statistics, union members account for about 6.7% of wage and salary workers in Colorado in 2022. Industries with union representation include mining, manufacturing/construction, healthcare, public employment, and retail/grocers.

49 | What rules apply to layoffs? Are there particular rules for plant closures/mass layoffs?

Colorado has no law regarding plant closures and mass layoffs for private employers.

DISCIPLINE AND TERMINATION

State procedures

50 | Are there state-specific laws on the procedures employers must follow with regard to discipline and grievance procedures?

Colorado has no law governing private employers with regard to discipline and grievance procedures.

At-will or notice

51 | At-will status and/or notice period?

Colorado is an at-will state.

52 | What restrictions apply to the above?

The at-will status may be modified by an express or implied contract and Colorado recognizes certain public policy exceptions to the at-will employment relationship including violation of public policy (e.g., whistleblowing), wrongful constructive discharge, fraudulent inducement, or any other unlawful reason (e.g., discrimination).

Final paychecks**53** | Are there state-specific rules on when final paychecks are due after termination?

When an employee is terminated by the employer, all earned wages (including accrued but unused PTO) are due immediately if the accounting unit is operational. If the accounting unit is not scheduled to be operational, pay is due no later than six hours after the start of the unit's next regular working day. If the unit is offsite, then wages are due no later than 24 hours after the start of the accounting unit's next regular working day (C.R.S. §8-4-109). When an employee resigns or quits their employment, all earned wages (including accrued but unused PTO) are due by or on the next regular payday (C.R.S. §8-4-109).



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