

IDAHO — State Laws by Topic

➤ AGE ◀

Employers are prohibited from discriminating against employees and applicants based on age.

For purposes of state law, age discrimination provisions apply to those individuals between the ages of 40 and 70 years. An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ 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.

➤ BREAKS ◀

No provision.

➤ BREAST-FEEDING ◀

No general provision.

➤ CHILD LABOR ◀

Click on the following link <http://labor.idaho.gov/dnn/Default.aspx?TabId=667&AspxAutoDetectCookieSupport=1> to access Idaho's Department of Labor, Wage & Hour home page, which includes information on child labor provisions in the Guide to Idaho Labor Laws.

➤ CHILD SUPPORT ◀

Employers served with a child support order must begin withholding immediately on receipt of an order. Amounts are remitted within seven business days of payday. Notify the court or state agency promptly if the employee-obligor terminates.

➤ **COURT ATTENDANCE** ◀

See jury duty.

➤ **DISABILITIES** ◀

Employers are prohibited from refusing to hire; limiting, segregating, or classifying; discharging; or otherwise discriminating against an individual with respect to compensation or terms, conditions, or privileges of employment based on disability. These prohibitions do not apply if the particular disability, even with a reasonable accommodation, prevents the performance of the required work. Plus, it is not a discriminatory practice for an employer to discriminate against a person with a disability that, under the circumstances, poses a serious threat to the health or safety of that person or others.

Employers are prohibited from printing or publishing a notice or advertisement — relating to employment or to classification or referral for employment — indicating a preference, limitation, specification, or discrimination based on disability, unless a *bona fide* occupational qualification exists.

An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ **DRUG TESTING** ◀

The Idaho Private Employer Alcohol and Drug-Free Workplace Act creates a rebuttable presumption that drug test results are valid. Employers may test employees or applicants for drugs or alcohol in accordance with a written policy, which must include:

1. the consequences of violating a substance abuse policy;
2. the types of tests that will be conducted; and
3. an explanation of the testing procedures to be used.

An individual whose drug test comes back positive must be given the opportunity to explain the result, and has the right to be retested.

➤ **FAMILIAL/MARITAL STATUS** ◀

The state recognizes same-sex marriage.

➤ **FAMILY/MEDICAL LEAVE** ◀

Coverage applies to state government employers.

➤ **GENETIC TESTING** ◀

Public and private employers with five or more employees may not in connection with hiring, promotion, retention, or other related employment decisions:

1. access or otherwise take into consideration private genetic information about an individual;
2. request or require an individual to consent to a release for the purpose of accessing private genetic information about the individual;
3. request or require an individual or his/her blood relative to submit to a genetic test; or
4. inquire into the fact that an individual or his/her blood relative has taken or refused to take a genetic test.

➤ **HEALTH CARE CONTINUATION COVERAGE** ◀

No general health care continuation coverage provision.

➤ **JURY DUTY** ◀

Employers may not discharge, threaten, or otherwise coerce employees who receive a summons, respond to a summons, serve as a juror, or attend court for prospective jury service.

➤ **LIFESTYLE DISCRIMINATION** ◀

No provision.

➤ **MASS LAYOFF NOTIFICATION** ◀

No state-specific notification provision.

➤ **MEDICAL DONATION LEAVE** ◀

State employers must afford full-time employees five workdays to serve as a bone marrow donor and 30 workdays to serve as an organ donor, provided the employee provides the employer with written verification that the employee is to serve as a donor. Employees granted leave are entitled to receive their compensation without interruption during the leave of absence.

➤ **MILITARY LEAVE** ◀

Employees, other than temporary employees, who are members of the state National Guard are eligible for military leave privileges. Employees may be given, at the discretion of their employer, up to 15 unpaid days in a calendar year for military training with the U.S. Armed Forces.

Members of the state National Guard who are called to active duty for a period of 30 consecutive days or more are entitled to the same employment and reemployment rights as provided by federal law for members of the U.S. Armed Forces.

Note: State employees who are members of the National Guard or who are reservists in the U.S. Armed Forces are entitled to 120 hours of military leave without loss of pay, time, or efficiency rating each calendar year. State employees assigned to “uncommon tours of duty” are entitled to 120 hours of leave prorated proportionally to the number of hours in their regularly scheduled bi-weekly pay period.

Reinstatement: Employees must be restored to their positions or to similar positions with the same status, pay, and seniority upon completion of training as long as: 1) the employee’s position isn’t temporary; 2) the employee provides dates of departure and return 90 days before the date of departure; 3) the employee provides evidence of satisfactory completion of duty; and 4) the employee is still qualified to perform the duties of the position.

Employees returning from Guard duty ordered by the Governor must be reinstated to their position or a similar position with the same status, pay, and seniority as long as: 1) the employee’s position isn’t temporary; 2) the employee is physically qualified for employment; 3) service did not last more than one year; and 4) the employee applies for reinstatement within 30 days of release from duty.

If an employee is no longer qualified, but is able to perform the duties of another position, he/she must be offered a position most similar to the former position in terms of seniority, status, and pay.

Employees may not be fired without cause for one year after reinstatement.

➤ **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** ◀

Employers are prohibited from discriminating against employees and applicants based on national origin.

An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ **NEW-HIRE REPORTING** ◀

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

Reporting deadline/form: Within 20 days of hire or rehire; on W-4s.

➤ **OVERTIME** ◀

Basis for overtime: Over 40 hours in a workweek.

During emergencies, employees engaged in law enforcement, correctional, and fire protection activities may be paid overtime for work in excess of 40 hours in a 168-hour period.

➤ **PAY STATEMENTS** ◀

Information required: Itemized deductions.

➤ **PERSONNEL FILES** ◀

A public official, or his/her representative, may inspect or copy the official's personnel records, excluding information used to screen and test for employment.

➤ **POLYGRAPH TESTING** ◀

No employer may require as a condition of employment or for continuation of employment that any person or employee take a polygraph test or any form of lie detector test.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance (English & Spanish) — All employers

Workers' Compensation — All employers

Minimum Wage (English & Spanish) — All employers

Discrimination (English & Spanish) — Recommended

Sexual Harassment — Recommended

➤ **PREGNANCY** ◀

Coverage applies to state government employers.

➤ **RACE** ◀

Employers are prohibited from discriminating against employees and applicants based on race or color.

An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ **REFERENCES** ◀

Blacklisting: Employers may not maintain a blacklist or notify other employers that any current/former employee has been blacklisted.

References: Employers may not be held civilly liable for disclosing, or the consequences of disclosing, information about the job performance, professional conduct, or evaluation of a former/current employee to a prospective employer. The disclosure may be made at the request of the prospective employer or the current/former employee. Immunity from liability will be lost if it is shown that the information was disclosed with: 1) the knowledge that it was false; 2) a reckless disregard for the truth; 3) a deliberate intent to mislead.

➤ **RELIGION** ◀

Employers are prohibited from discriminating against employees and applicants based on religion.

An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

No OSHA-monitored state plan.

➤ **SCHOOL VISITATION LEAVE** ◀

No provision.

➤ **SEX DISCRIMINATION** ◀

Employers are prohibited from discriminating against employees and applicants based on sex.

An employer is defined as an individual that hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and whose services are to be partially or wholly performed in Idaho, except for domestic servants hired to work in and about an employer's household.

➤ **SEXUAL HARASSMENT** ◀

The Idaho Human Rights Commission publishes an educational brochure — titled *Sexual Harassment on the Job* — that provides employers with information about sexual harassment in the workplace, which is a prohibited act under state law.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

No provision.

➤ **SMOKING** ◀

Under the state's Clean Indoor Air Act, smoking is prohibited in private workplaces that fall under the definition of a public place. However, small businesses with five or fewer employees can establish designated employee break rooms for smoking as long as the following conditions are met: 1) they are not accessible to minors; 2) they are separated from other parts of the building by a floor to ceiling partition; 3) they are not the sole means of entrance or exit to the establishment or its restrooms; and 4) they are located in an area where no employee is required to enter as part of the employee's work responsibilities other than maintenance work performed when the break room is unoccupied. Nothing in this section of the Act shall prohibit an employer from prohibiting smoking in an enclosed place of employment.

“Warning: Smoking Permitted” signs must be prominently posted in the smoking break room and properly maintained by the employer.

As per an executive order, all state-owned or state-leased facilities, as well as areas occupied by state employees, must be designated as non-smoking.

➤ SOCIAL SECURITY NUMBER PRIVACY ◀

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

➤ UNEMPLOYMENT INSURANCE ◀

Click on the following link <http://labor.idaho.gov/dnn/Home/tabid/617/Default.aspx> to access the Idaho Department of Labor home page, which includes several unemployment insurance links.

➤ VACATION PAY UPON TERMINATION ◀

Although there is no provision requiring the payment of vacation pay following an employee’s termination, courts have interpreted wages due upon termination to include accrued vacation pay.

➤ VIOLENCE ◀

Domestic violence: An executive order has established a domestic violence policy for public employers (defined as all state agencies, offices, departments, and divisions).

Public employers must inform employees of available resources by including information on domestic violence awareness and services provided by the Idaho Coordinated Response to Domestic & Sexual Violence as part of new-hire orientation, and must integrate such into existing materials, literature, policies, protocols, and procedures, as appropriate. Public employers must train Human Resources personnel using information on domestic violence and its impact on the workplace as provided by the Idaho Coordinated Response to Domestic & Sexual Violence.

All public employers’ personnel policies and procedures must prohibit discrimination against victims of domestic violence, and must protect the confidentiality of and be responsive to the needs of victims of domestic violence.

➤ VOTING ◀

No time-off-to-vote provision for private employers.

Wages: Public employers must grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in an election if employees' work prevents them from being able to vote.

Notification: Public employees who need time off to vote must request time off.

➤ WAGE DEDUCTIONS ◀

No employer may withhold or divert any portion of an employee's wages unless the employer is required to do so by state or federal law, or the employer has written authorization from the employee for deductions for a lawful purpose.

➤ WAGE GARNISHMENT ◀

The amount subject to garnishment is controlled by federal law. 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.

➤ WAGE PAYMENT ON TERMINATION ◀

Employee who quits: Earliest of next payday, 10 days, or within 48 hours of employee's written request for final pay.

Employee who's fired: Earlier of next payday, 10 days, or within 48 hours of employee's written request for final pay.

➤ WAGE PAYMENTS ◀

Payday requirements: At least monthly on regular, predesignated paydays.

Direct deposit: Employers may not require employees to be paid electronically.

➤ WHISTLEBLOWING ◀

Employers are prohibited from discriminating against an individual for engaging in any of the following activities.

- Opposing an unlawful employment practice.
- Making a charge of a violation.

- Testifying, assisting, or participating in an investigation, proceeding, or litigation related to a violation.

For purposes of the state's whistleblower protection law, an employer is defined as an individual who employs five or more employees who partially or wholly perform services for the state for each working day in 20 or more weeks in the present or preceding calendar year.

➤ **WORK AUTHORIZATION** ◀

Executive Order No. 2006-40 requires the state Division of Human Resources to develop and implement procedures to verify and ensure that all new employees with any state agency are eligible for employment under federal and state law.

The state Department of Administration is tasked with developing and implementing procedures to verify and ensure that contracts for services performed in Idaho are with businesses that employ individuals who are eligible under federal and state law to work in the United States.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link <http://www.iic.idaho.gov/employer/employer.html> to access the Idaho Industrial Commission Workers' Compensation home page for employers.