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What’s New

091505 – As of November 2005, Alabama prohibits employers from requiring employees who serve on juries to use vacation or sick leave. Also, an employee of a company with five or fewer employees may get an automatic postponement of jury service if another employee is already out for jury service.

050806 – As of May 2006 employees in Alabama must be given up to 1 hour off to vote in election in which they are eligible to vote, provided they do not have 2 hours of unscheduled time when polls are open and that reasonable notice be given to the employer. Employers may specify then this time off may be taken.

010107 – New sections added on Breastfeeding Rights, Drug Testing and Smoking in the Workplace.

072407 – Alabama has no minimum wage law and thus follows the federal law that raised the minimum wage to $5.85 as of July 24, 2007.

072408 – Alabama has no minimum wage law and thus follows the federal law that raised the minimum wage to $6.55 as of July 24, 2008

072409 – Alabama has no minimum wage law and thus follows the federal law that raised the minimum wage to $7.25 as of July 24, 2009.

041012 - Changes were added to the Child Labor Law and Pay upon Termination sections. New section on Disaster and Emergency Services Leave was added.

110512 - Changes were made to the Drug Testing and Child Labor sections. A new section on Employment Verification was added. A New Hire Reporting section as added.
Introduction

Employment laws vary from state to state with some being more employee-friendly than others. Federal regulations set minimum standards of worker protections that all employers of a given size must meet. Individual states, however, are free to grant workers additional or expanded rights or protections above this federal minimum.

Virtually all employers in the U.S. are subject to federal employment regulations. Only the smallest, strictly local employers are not subject to federal regulations. If an employer does any of the following, they are participating in interstate commerce and are subject to federal employment regulations:

- Production of goods for commerce, such as transportation or communication
- Use of mail over state lines
- Interstate communications using the telephone
- Use of the Internet over state lines
- Interstate communications using electronic mail
- Make purchases from out-of-state vendors
- Sell to customers in other states

This summary of employment regulations does not include information for those few employers not subject to the federal minimum employment regulations.

Many states have regulations for public employers that are different than those for employers in the private sector. This document also does not include information on regulations (federal and state) that apply only to public sector employers.

In this document we summarize the workplace regulations and worker protections available in Alabama. Although not an exhaustive list, it covers the major topics small to mid-sized employers must deal with on a regular basis. Covered areas include:

- Wage, hour and overtime rules (including child labor and break rules);
- Leaves of absence (family leaves, voting time and jury duty);
- Discrimination and harassment regulations; and
- State rules on continuation of benefits.

The federally mandated, but state run new-hire reporting requirements are covered under a separate document, available for download from Libretto or from the Agent 77 store.
The following Quick View table summarizes these regulations. This is followed by a more detailed description of these regulations. Please be sure to read both carefully to understand your responsibilities under Alabama and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Alabama Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Wage</td>
<td>• $7.25 / hour&lt;br&gt;• Tipped employees may be paid a minimum of $2.13; however tips and cash earnings must equal the applicable minimum wage.</td>
</tr>
<tr>
<td>Overtime</td>
<td>• According to federal law, non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week. Special rules apply to members of law enforcement.</td>
</tr>
<tr>
<td>Payment of Wages</td>
<td>• Vacation pay is considered wages earned and may be due upon employment termination.</td>
</tr>
<tr>
<td>Verification of Employment</td>
<td>• All businesses and employers must enroll and use the E-Verify program to ensure that new hires are eligible to work.</td>
</tr>
<tr>
<td>New Hire Reporting</td>
<td>• Employers are required to report new hires within 7 days of employment; employers with 5 or more employees are required to report new hires electronically via the internet.</td>
</tr>
<tr>
<td>Work Hours and Breaks</td>
<td>• Alabama has no break time rules except for child labor.</td>
</tr>
</tbody>
</table>
| Child Labor             | • Employers employing minors under 16 must keep Eligibility to Work forms.  
                          | • Employers must obtain Class I or Class II Child Labor Certificates for certain persons.  
                          | • Employers are required to post a printed notice and must keep on premises a separate file for each employee under 18 years of age.  
                          | • Required 30-minute break for every 5 continuous hours worked for minors 14 and 15 years of age.  
                          | • Federal and Alabama law prohibit minors in certain occupations. See the U.S. Department of Labor and the Alabama Department of Industrial Relations for information on these prohibitions (contact information is in the reference section).  
                          | • See the details section below for restrictions on hours minors may work and the occupations in which they may work.  
                          | • An Employee Information Form is required for employers who employs persons under the age of 19. |
### Family Leave

Alabama has no separate Family Leave aside from the Federal Law outlined below:
- Employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours.
- Leave must be granted for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and serious injury or illness of covered service member for military family leave.
- Employee must be reinstated to same or equivalent position after completion of leave.
- Benefits must be maintained during leave.

### Disaster and Emergency Services Leave

- In certain circumstances, volunteer firefighters and emergency workers are protected from termination from employment when, as a member of a volunteer fire department or a volunteer member of an emergency medical service, they respond to an emergency call.

### Military Leave

- Alabama requires that eligible employees be granted up to 168 hours of paid military leave per calendar year plus an additional amount of pay for no more that 168 working hours at any one time while called by the Governor to duty in the active service of the state.
- Federal law (USERRA) requires:
  - Employee be reinstated to same or equivalent position after completion of military leave.
  - Employers may not terminate or threaten to terminate any employee called to military service.
  - Special benefit rules apply for military leave.
  - Employee has re-employment rights for 5 years.

### Jury Duty

- Leave is required, but summons must be presented to supervisor.
- Leave for full-time employees is paid at full wages (minus any fee paid by the court).
- Employers may not require employees to use vacation or sick leave while on jury duty.
- Employees of a small company (5 or fewer employees) may get an automatic postponement of jury service if another employee is already out for jury service.
- Employees may not be discharged solely because they serve on jury duty, provided they report to work on the next regularly scheduled hour after being dismissed from jury duty.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
</table>
| Voting Time                  | • 1 hour for any election where employees are qualified to vote, provided employees do not have 2 hours available before the start of work or there is 1 hour available after work when polls are open.  
• Reasonable notice must be made.  
• Employer can specify times for time off. |
| Breastfeeding Rights         | • Mothers must be allowed to breastfeed their child in any place that they otherwise are allowed to be. Although the statute doesn't specifically mention employers, it can be construed to include places of employment. |
| Drug Testing                 | • Employers that implement drug-free workplace policy conforming to state regulations may be eligible for a 5% discount on their workers’ compensation insurance. The policy must be delivered to each employee in person. |
| Smoking in the Workplace     | • Alabama prohibits smoking in public places or at public meetings. Bars, restaurants and private businesses may institute a smoking ban if they so desire.  
• Posting requirements apply. |
| Discrimination and Harassment| • Alabama specifically prohibits employers, with 20 or more employees, from discriminating based on age (over 40); however most federal laws prohibit discrimination based on ancestry or national origin, race or color, religion, physical or mental disability or sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions). Although Alabama does not have a state genetic discrimination law, most employers with more than 15 employees are covered by the federal law, GINA, which prohibits discrimination based on genetic testing information. |
| Continuation of Benefits     | Alabama has no general provisions for continuation of benefits. However, victims of abuse where health coverage was originally in the name of the abuser, who are not eligible for federal COBRA, are eligible for 18 months of continuation coverage as long as the full premium is paid in a timely fashion. |
Wage, Hour and Overtime Rules

Employers are subject to the federal minimum wage, hour and overtime rules through the Fair Labor Standards Act. This act specifies that businesses that do at least $500,000 in gross revenue, as well as all health care facilities and schools are subject to the federal rules. Also, employers involved in interstate commerce are subject to the federal rules.

Minimum Wage

Alabama minimum wage is $7.25 per hour. Employers may pay tipped employees a minimum of $2.13 per hour, provided that the total wages plus tips come to at least the minimum of $7.25 per hour. Special rules apply to members of law enforcement.

Finally, both federal and Alabama regulations allow employers to apply for licenses to pay sub-minimum wages to certain disabled persons. Please contact the U.S. Department of Labor or the Alabama Department of Industrial Relations for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

Overtime

Alabama has the same overtime rules as the federal government. That is, for any hours worked over 40 in a given week, non-exempt employees must be paid at least one and one-half times their regular pay.

Like the federal rules, Alabama exempts certain employees from minimum wage and overtime rules. Excluded employee classes include, but is not limited to, executive, administrative, professional, outside salespeople, and computer professionals. (Use Libretto's FLSA Resource Package for help in determining whether a given employee is exempt). Alabama also permits exemptions for certain small employers not involved in interstate commerce. See the Alabama Department of Industrial Relations website for a list of these exemptions.

Payment of Wages

Alabama requires that a terminating employee be paid for any accrued vacation in addition to all wages earned. Alabama has no other rules about payment of wages or final paychecks.

New Hire Reporting

Employer's name, address, and FEIN, as well as the employee's name, address social security number and signature is required on the first day of work and submitted to the State within seven days of hire. Employees with fewer than 5 employees can mail or fax a copy of the employee's W-4 form.

Work Hours and Breaks

Alabama has no break time rules.

Child Labor

No person under the age of 16 may be employed in any occupation, except in agricultural service, and except at otherwise provided for under the state's child labor laws.

Minors under the age of 16 in certain street trades or occupations in public places must have secured and in their possession an Eligibility to Work form, except for certain
exemptions (primarily for volunteer activities of a religious, charitable, scientific, historical, literary, education or nonprofit nature).

Employers must post a printed notice in a conspicuous place where minors under 18 years of age is employed that states the maximum number of hours minors can work each day of the week. Such forms are provided by the Department of Industrial Relations.

A person who is 15 or 15 years of age may be employed outside school hours and during school vacation periods, so long as the person is not employed in any manufacturing or mechanical establishment, cannery, mill, workshop or machine shop or in any occupation or place of employment otherwise prohibited by law.

A minor who is 14 or 15 years of age cannot be employed in any occupation, except agricultural service, unless the hiring person, entity, franchise, corporation or its division procures and keeps on file an Eligibility to Work form, which must be available for inspection by authorities charged with enforcement of the child labor law.

There are specific prohibitions regarding certain occupations, positions or places deemed hazardous.

An Eligibility to Work form is issued by the head administrator, counselor, or, if home schooled, an instructor of the school which a 14 or 15 year old minor attends, certifying satisfactory grades and attendance.

In order to employ minors 14 or 15 in any occupation, except agricultural services, the employer must obtain a class I Child Labor Certificate from the Department of Labor for each location where a minor would be employed. For employment of a minor ages 16 or 17, a Class II Child Labor Certificate must be obtained.

Employers must maintain on the premises at which any person under the age of 19 is employed, a separate file for each employee containing name, home address, dates of birth and hire, proof of age (using documents recognized by the federal Employees Identification Laws), school attendance, and time records that state the number of hours worked each date, starting and ending times, break times, and any other information required by the department of labor.

Employers who employ minors under 16 years of age are subject to strict limits for hours worked per day and per week for their minor employees:

1. When school is in session, children 14 and 15 years of age may NOT work:
   • For more than 6 days in any one week;
   • More than 3 hours per day on a school day;
   • More than 8 hours per day on a non-school day;
   • More than 18 hours in any school week, nor
   • Before 7:00 AM or after 9:00 PM

2. During summer months when school is NOT in session children 14 or 15 years of age may NOT work.
   • More than 6 days per week;
   • More than 8 hours per day;
   • More than 40 hours per week; nor
   • Before 7:00 AM or after 9:00 PM.
Minors 16, 17 or 18 years of age who are enrolled in a private or public primary or secondary school may NOT work before 5:00 AM or after 10:00 PM on any day preceding a school day, unless granted an exemption by the appropriate school authority.

No person under the age of 16 may be employed during school hours unless the person has completed the course of study required for secondary schools. When school attendance has been waived, and upon recommendation of the local superintendent of education and approval of the child labor inspector, a child, 14 or 15 years of age may be permitted to work in a nonhazardous occupation for:

- Not more than 8 hours in any one day; or
- For more than 40 hours in any one week; or
- For more than 6 days in any one week; and
- Not before 7:00 AM or after 9:00 PM.

Employers are required to keep on the premises where a person under the age of 19 is employed a completed Employee Information Form and proof of age, as well as time records, for the 60 days preceding the last day of the last work period recorded for each employee, which must state the number of hours worked each day, starting and ending times, and break times.

Both federal and Alabama law prohibits minors from working in hazardous or certain other occupations that include restrictions on hours and time allowed to be worked. Please contact the U.S. Department of Labor or the Alabama Department of Industrial Relations for more information on restricted occupations for minor employees.

Leaves of Absence

Family Leave

Employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, or to care for a family member with a serious medical condition, qualifying exigency for military leave and serious illness or injury of a covered service member for family leave. After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave.

Disaster and Emergency Services Leave

Volunteer fire fighters and emergency workers are protected from termination from employment when, as a member of a volunteer fire department or a volunteer member of an emergency medical service, in the line of emergency duty, responds to an emergency call prior to the time the employee is due to report to work and which emergency results in a loss of time from employment. Emergency is defined as going to, attending to, or coming from: a) a fire call; b) a hazardous or toxic materials spill and cleanup; c) any other situation to which a volunteer fire department has been dispatched and d) an actual emergency to prevent the imminent loss of life.

Such volunteer workers are to attempt to contact their employer to notify the employer that he/she has been dispatched to an emergency. The employer can request proof of such emergency service.
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Military Leave
Alabama law requires employers to grant military leave for eligible employees without loss of pay, time, efficiency rating, annual vacation, or sick leave. Paid leave is limited to 168 working hours per calendar year plus an additional amount of pay for no more than 168 working hours at any one time while called by the Governor to duty in the active service of the state. In addition, federal law requires that employees be restored to their position (or an equivalent position) within the company as if they had been continuously employed. Also, employers may not terminate or threaten to terminate any employee called to military service. Additional employer obligations apply. Please see Libretto’s White Paper on USERRA for more details on federal military leave.

Jury Duty
Employers must provide leave for jury duty. However, the employee must show the summons to the employer to be eligible for this time off. Full-time employees are entitled to their normal pay (minus any jury fee apportioned by the court) during their time of service on a jury, and employees may not be required to use vacation or sick leave while on jury duty. Employees covered by FLSA exemptions serving on a federal jury or grand jury must be paid their full salary (minus any jury stipend) or risk losing their exemption status.

An employee of a company with five (5) or fewer employees may get an automatic postponement of jury service if another employee is already out for jury service. Also, employers may not terminate or threaten to terminate any employee called to jury duty, provided they report to work on the next regularly scheduled hour after being dismissed from jury duty.

Voting Time
Employees must be granted one (1) hour off to vote in any election in which they are eligible to vote, provided the employee does not have two (2) hours available before the start of work or there is one (1) hour after work when polls are open, provided reasonable notice is given to the employer. Employers may specify when this time may be. Election officials employed, by companies with fewer than 25 employees, may be excused from employment to perform election duties on election day.

Discrimination and Harassment
Alabama and/or federal laws prohibit discrimination, harassment, inequality in compensation or other adverse employment decisions based on:

- Ancestry or national origin
- Race or color
- Religion
- Age (over 40)
- Mental or physical disability, or
- Sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions).

Although Alabama state law does not specifically cover discrimination based on race, color, national origin, sex or genetic testing information, Title VII of the Civil Rights Act of 1964, as amended, and the Genetic Information Non-Discrimination Act prohibits such discrimination in employment.
Other Employment Regulations

Breastfeeding Rights

Under Alabama law mothers may not be prohibited from breastfeeding their child in any location where they are otherwise authorized to be. Although the statute doesn't specifically mention employers, it can be construed to include places of employment.

Drug Testing

Employers who implement a drug-free workplace program conforming to state law may qualify for a 5% discount on their worker's compensation insurance policy. To qualify the program must have a specific, written policy, including a notice given to applicants and employees, a drug testing program, resources of employee assistance providers, employee education and supervisor training.

Certain requirements exist regarding frequency of drug testing. Employees who enter an Employee Assistance Program or rehab program as a result of positive substance abuse test must, without advance notice, submit to substance abuse testing at least once a year for 2 years after program completed. Testing is not required if the employee voluntarily enters a program.

Smoking in the Workplace

The Alabama Clean Indoor Air Act prohibits smoking in hospitals, schools, most retail businesses, elevators, buses and taxicabs, except in designated smoking areas. Bars, restaurants and private businesses may institute a smoking ban if they so desire. Owners, operators, managers or other persons in charge of facilities must prominently post and properly maintain "No Smoking" signs where smoking is prohibited by law.

State Continuation of Benefits

Alabama has no general provisions for continuation of benefits for employees of companies with fewer than 20 employees (companies with 20 or more employees are subject to the federal COBRA regulations). However, victims of abuse where health coverage was originally in the name of the abuser, and who are not eligible for federal COBRA coverage after divorce, separation or loss of custody from the abuser are eligible for 18 months of continuation coverage as long as the full premium is paid in a timely fashion.

Resources/Employment Posters

Alabama Department of Industrial Relations
http://dir.alabama.gov/

Department of Labor, Child Labor Office
http://222.labor.alabama.gov

United States Department of Labor
http://www.dol.gov/

U.S. Equal Employment Opportunity Commission
1801 L Street
N.W. Washington, D.C. 20507
Related Libretto Products

- FLSA Resource Package (for help in determining overtime exempt / non-exempt status of employees)
- Overtime Guidelines
- Break Period Guidelines
- Family Medical Leave of Absence Policy
- Military Leave of Absence Policy
- Jury Duty-Witness Leave Policy
- Voting Time Policy
- Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement
- Drug & Alcohol Testing Policy & Release Forms
- Guidelines on Smoking In the Workplace
- COBRA Continuation Coverage Policy
- General Notice of COBRA Continuation Coverage Rights
- COBRA Continuation Coverage Election Information: Notice And Form
- New Hire Reporting for Alabama