

Top 13 Most Overlooked Labor Laws

By GMLCPA



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Introduction

In our years of providing payroll services, we have noticed many businesses, young or old, making similar mistakes. Payroll is an intricate process and we know first hand how difficult it is to keep everything straight. We hope that this guide provides insight into parts of payroll that are oftentimes overlooked and can be a resource for your business in the years to come.



Disclaimer

This guide does not include every factor involved in payroll. We have included the most forgotten or overlook in our years of payroll services from our own experiences.



Minimum Wage

Arizona minimum wage is \$10.50/hr for 2018 and it will increase to \$11.00 for 2019, and \$12.00 for 2020. On January 1, 2021 the minimum wage will increase each year by the cost of living. This applies to both part-time and full-time employees.

Employees who are exempt from Arizona's minimum law:

- Individuals employed their parents or siblings
- Individuals who provide babysitting services on a casual basis at the residence of their employer
- Individuals employed by the State of Arizona or United States government
- Individuals employed by a small business that generates less than \$500,000 in gross annual revenue, if the small business is not covered by the Federal Fair Labor Standards Act.”



Tipped Employees

Employers are permitted to pay tipped employees a maximum of \$3.00 per hour less than non-tipped employees, provided that the tipped employees earn at least minimum wage for all hours worked each week (when tips are included).

However, if a tipped employee does not earn the required minimum wage after including tips, the employer is required to make up the difference.

Tipped employees include those working as a waiter, waitress, bellhop, busboy, car wash attendant, hairdresser, barber, valet, and service bartender. The employee must actually receive the tip free of any control by the employer. The tip must be the property of the employee.



Work Week

Arizona minimum wage laws define a workweek as any fixed and regularly recurring period of seven consecutive workdays. AZ Admin. Code R20-5-1202(I7)*



*<https://www.employmentlawhandbook.com/wage-and-hour-laws/state-wage-and-hour-laws/arizona/>
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Overtime

Federal overtime laws cover the payment of overtime hours worked. Arizona labor laws do not cover the payment of overtime.

Federal labor law does not regulate the number of hours an employer may require their employees to work in one workday or one workweek, but the law does require that employers pay employees for hours worked in excess of 40hrs a workweek (unless employee is exempt from FLSA overtime requirements).

See definition of work week above. Working more than 8 hours in one day, working on a holiday or a weekend, does not require the employer to pay overtime.



Hours Worked

Arizona minimum wage laws require employers to compensate employees for all hours worked. Arizona defines hours worked to include all hours employees are required to give to the employer, including all time employees are on duty or at a prescribed workplace as well as all time the employee is suffered or permitted to work. AZ Statute 23-350 (4); AZ Admin.

Code R20-5-1202(9) An employee is considered to be on duty if they are working or waiting for work and are not permitted to use the time for their own purposes. AZ Admin. Code R20-5-1202(12)



Sick Leave

As of July 1, 2017, all Arizona employers are required to provide paid sick time to employees who work in Arizona. Unpaid sick leave may be required by law in accordance with the Family and Medical Leave Act or other federal laws.

An employee may use paid sick leave as it is accrued or otherwise available for use. Employers may require employees to wait 90 calendar days after their date of employment before using accrued sick pay.

Employers must carry over unused sick time at the end of the year to the following year (subject to usage limitations based on employer size). Carryover of unused sick time does not affect the accrual of sick time.



Sick Leave

Employers with 15+ employees: Employees must accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but employees are not entitled to accrue or use more than 40 hours of earned paid sick time per year, unless the employer selects a higher limit.

Employers with under 15 employees: Employees must accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but they are not entitled to accrue or use more than 24 hours of earned paid sick time per year, unless the employer sets a higher limit.”



Voting Leave

Arizona employees are entitled to voting leave. Arizona law requires employers to provide employees time off with pay to vote. Employees must request the time off, prior to election day, to be eligible for the paid voting leave. State law mandates that employees be provided with 3 consecutive hours in which to vote at either the beginning or the ending of their shift.

For example, if the polls open at 7:00 am and the employees shift begins at 8:00 am the employer must allow the employee to arrive at work at 10:00 am. This allow them the three consecutive hours to vote and the employer would cover the two hours of wages between the employees typical start time and the adjusted start time. The employer may specify the hours an employee can leave to vote.



Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) is a federal law that provides employees with temporary job security in the event of certain health-related care responsibilities that keep them from working. The FMLA requires employers who employ 50 or more employees to grant qualifying employees up to 12 weeks of unpaid leave for:

- Birth, adoption, or foster care of a child with the
- employee
- Care of an immediate family member (spouse, child, parent) who has a serious health condition
- Care of the employee's own serious health condition.

For an employee to be eligible for FMLA, they must have worked at least 12 months (which do not have to be consecutive) for the employer and have worked at least 1,250 hours during the 12 months immediately before the date FMLA leave begins.



Worker's Compensation Insurance

Arizona law requires employers to secure workers' compensation insurance for their employees. Workers' compensation is a "no fault" system in which an injured employee is entitled to receive benefits for an industrial injury, no matter who caused the job-related accident.



Terminated Employees

When an employee in Arizona is terminated they must be paid their last paycheck within 7 days of termination. This can be paid via check, direct deposit, money order, warrant or draft. If an employer fails to comply with this law the employee can file a civil action which may result in the employer paying the employee triple the original amount due.

If an employee quits the employer must pay them their last check on the next regular pay day after they've resigned.

An employer may not withhold a last paycheck from an employee unless there is a reasonable dispute over the wages due. This could be due to the employer claiming a debt or the employee owing a reimbursement to the employer. There is no Arizona law governing how PTO is to be paid out to an employee. How PTO is paid is determined by the policies put in place by the employer and the details stated in the employment contract.



E-Verify

E-Verify is a website provided by the federal government that allows enrolled employers to confirm the eligibility of their employees to work in the United States. An employer can verify the identity and employment eligibility of newly hired employees using Form I-9 information and Employment Eligibility Verification, against records available to the Social Security Administration (SSA) and the Department of Homeland Security (DHS).

E-Verify is a voluntary program for most employers but those that receive federal contracts or subcontracts may be required to enroll in E-verify as a condition of their contract. Some states may require the use of E-verify and e-verify is available in all 50 states.

To see which states require e-verify, [click here](#).



E-Verify Tools

The enrollment checklist is a helpful tool for employers to use when signing up for the E-verify service. It can be found [here](#).

The verification process is done online using information provided by the employee on Form I-9. Initial results are displayed within seconds, while some cases may require additional action.

E-verify is also a tool useful for employees looking to determine their employment eligibility. If an employer gets a result of tentative nonconfirmation for an employee, that employee can login and complete necessary information to complete verification.

E-verify offers webinars on various employment topics from their website. E-Verify overview, Form I-9, employee rights, and information for federal contractors are some of the topics covered in the webinars. A link to the webinar calendar schedule can be found [here](#).



Required Postings for Businesses:

Minimum Wage

Paid Sick Time

Worker's Comp

Employee Safety and Health

Exposure to Bodily Fluids and Disease &
Additional Information

