EMPLOYEE RIGHTS **UNDER THE FAMILY AND MEDICAL LEAVE ACT**

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

weeks of unpaid, job-protected leave in a 12-month period for the The birth of a child or placement of a child for adoption or foster To bond with a child (leave must be taken within 1 year of the To care for the employee's spouse, child, or parent who has a

Ref.: 29 USC, Ch. 28, Sec. 2619

EXEMPTIONS

EXAMINEE

RIGHTS

Eligible employees who work for a covered employer can take up to 12 Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies. While employees are on FMLA leave, employers must continue health

nsurance coverage as if the employees were not on leave. Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job; An employer may not interfere with an individual's FMLA rights or For qualifying exigencies related to the foreign deployment of a retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in military member who is the employee's spouse, child, or any proceeding under or related to the FMLA. parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious An employee who works for a covered employer must meet thre criteria in order to be eligible for FMLA leave. The employee must: An employee does not need to use leave in one block. When it is

Have worked for the employer for at least 12 months:

 Work at a location where the employer has at least 50 EMPLOYER RESPONSIBILITIES employees within 75 miles of the employee's worksite. Once an employer becomes aware that an employee's need for leave is *Special "hours of service" requirements apply to airline flight crew for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, Generally, employees must give 30-days' advance notice of the need FMLA. If the employee is not eligible, the employer must provide a for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures. Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include forming an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perfor

imployers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an is necessary. Employees must inform the employer if the need for leave The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective argaining agreement that provides greater family or medical leave

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating Have at least 1,250 hours of service in the 12 months before For additional information or to file a complaint:

(1-866-487-9243) TTY: 1-877-889-5627 www.dol.gov/whd

1-866-4-USWAGE

U.S. Department of Labor | Wage and Hour Division



WH1420 REV 04/16

EMPLOYEE RIGHTS EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the

> certain private individuals engaged in national security-related activities. The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect

have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees

to have test results disclosed to unauthorized persons. **ENFORCEMENT** The Secretary of Labor may bring court actions to restrain violations and assess civil penalties against violators. Employees or job applicants

may also bring their own court actions. THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.





WAGE AND HOUR DIVISION

1-866-487-9243 TTY: 1-877-889-5627



Laws specific to Montana

Wage Payment Act

MCA 39-3-204 Payment of wages generally. (1) Except as provided in subsections (2) and (3), every employer of labor in the State of Montana shall pay to each employee the wages earned by the employee in lawful money of the United States or checks on banks convertible into cash on demand at the full face value of the checks, and a person for whom labor has been performed may not withhold from any employee any wages earned or unpaid for a longer period than 10 business days after the wages are due and payable, except as provided in 39-3-205. However, reasonable deductions may be made for board, room, and other incidentals supplied by the employer, whenever the deductions are a part of the conditions of employment, or as otherwise provided for by law.

39-3-205. Payment of wages when employee separated from employment prior to payday -- exceptions. (1) Except as provided in subsection (2) or (3), when an employee separates from the employ of any employer, all the unpaid wages of the employee are due and payable on the next regular payday for the pay period during which the employee was separated from employment or 15 days from the date of separation from employment, whichever occurs first, either through the regular pay

channels or by mail if requested by the employee. (2) Except as provided in subsection (3), when an employee is separated for cause or laid off from employment by the employer, all the unpaid wages of the employee are due and payable immediately upon separation unless the employer has a written personnel policy governing the employment that extends the time for payment of final wages to the employee's next regular payday for the

pay period or to within 15 days from the separation, whichever occurs first. (3) When an employee is discharged by reason of an allegation of theft of property or funds connected to the employee's work, the employer may withhold from the employee's final paycheck an amount sufficient to cover the value of the theft if:

(a) the employee agrees in writing to the withholding; or (b) the employer files a report of the theft with the local law enforcement agency within 7 business days of the separation from employment, subject to the following conditions:

(i) if no charges are filed in a court of competent jurisdiction against the employee for the alleged theft within 30 days of the filing of the report with a local law enforcement agency, wages are due and payable upon the expiration of the 30-day period. (ii) if charges are filed against the employee for theft, the court may order the withheld wages to be offset by the value of the theft. If the employee is found not guilty or if the employer withholds an amount in excess of the value of the theft, the court may order the employer to pay the employee the withheld amount plus interest.

For additional information contact: Montana Department of Labor, Wage & Hour Unit, 406-444-6543.



Job Safety and Health IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a workrelated injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

This poster is available free from OSHA.

Contact OSHA. We can help.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.



1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

Attention

Montana Employers

RE: Unemployment Insurance and Workers' Compensation posters

CHILD LABOR

NURSING

ADDITIONAL

INFORMATION

The Montana Unemployment Insurance Division and Workers' Compensation Regulation Bureau control the distribution of these postings. As part of our promise to keep you in compliance with the Montana labor law posting requirements, we are providing the contact information to obtain these "mandatory" postings:

Unemployment Insurance Posting

To obtain this posting, call (406) 444-3834 **Montana Administrative Rule §24.11.2701 POSTING NOTICE TO WORKERS**

(1) Every employer must post and maintain a printed notice provided by the department showing that the employer is subject to Montana unemployment insurance law and has been registered by the department. This notice must be posted in conspicuous places near the locations where services are performed.

Workers' Compensation Posting

This posting is only available through your "Workers' Compensation" carrier. Montana Code §39-71-401(6): Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of workers' compensation insurance. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for

each citation.



EMERGENCY NUMBERS CALL 911

AMBULANCE: PHYSICIAN: **HOSPITAL**:

FIRE DEPARTMENT:

POISON CONTROL:

POLICE:

PAY DAY NOTICE

□ SUNDAY

PAY DAY IS ON:

☐ FRIDAY ■ MONDAY **□** TUESDAY □ SATURDAY

□ WEDNESDAY ☐ THURSDAY

PAY SCHEDULE IS:

□ WEEKLY ☐ SEMI MONTHLY **□** BIWEEKLY ☐ MONTHLY

PAYCHECKS ARE ISSUED ON THE:

OF THE MONTH AND TIME:

EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

and 15 years old may work outside school hours in various non-manufacturing, non-manufacturing, non-hazardous jobs with certain work hours restrictions. Different rules apply in

The FLSA requires employers to provide reasonable break time for a nursing mother employee who is subject to the FLSA's overtime requirements in order for the employee

are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA

The law requires employers to display this poster where employees can readily see it. **OVERTIME PAY** At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14

Employers of "tipped employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash

TIP CREDIT wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

to express breast milk for her nursing child for one year after the child's birth each time such employee has a need to express breast milk. Employers are also required to **MOTHERS** provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express

The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The **ENFORCEMENT** Department may litigate and/or recommend criminal prosecution. Employers may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA's child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violations

Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.

Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions

 Some employers incorrectly classify workers as "independent contractors" when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA's minimum wage and overtime pay protections and correctly classified independent Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor





MONTANA'S MINIMUM WAGE

(Effective 1/1/2021) \$8.75*

*The minimum wage is subject to a cost-of-living adjustment based on the

Consumer Price Index no later than September 30th of each year. Montana's minimum wage is to be the greater of the federal or current state minimum wage.

Exception: A business not covered by the Fair Labor Standards Act whose gross annual sales are \$110,000 or less may pay \$4.00 per hour. However, if an individual employee is producing or moving goods between states or otherwise covered by the Fair Labor Standards Act, that employee must be paid the greater of either the federal minimum wage or Montana's minimum

NO TIP CREDIT, TRAINING WAGE OR MEAL CREDIT IS ALLOWED IN THE STATE OF MONTANA

OVERTIME PAY

Employees who work in excess of 40 hours in a workweek must receive overtime compensation at a rate of at least 1½ times their regular hourly rate for those hours worked over 40. There are exclusions from overtime pay. This information can be obtained by calling our office at (406) 444-6543.

PAYMENT OF WAGES

WHILE STILL EMPLOYED: An employee must be paid within 10 business days after the end of the pay period.

WHEN SEPARATED FROM EMPLOYMENT: When an employee quits, wages are due on the next scheduled pay day for the period in which the employee was separated, or 15 calendar days, whichever occurs first.

TERMINATED FOR CAUSE: When an employee is laid off or discharged, all wages are due immediately (within four hours or end of the business day, whichever occurs first), unless the employer has a preexisting, written policy that extends the time for payment. The wages cannot be delayed beyond the next pay day for the period in which the separation occurred, or 15 calendar days, whichever occurs first.

FOR ADDITIONAL INFORMATION PLEASE CONTACT:

DEPARTMENT OF LABOR & INDUSTRY COMPLIANCE & INVESTIGATIONS BUREAU PO BOX 201503 **HELENA MT 59620-1503** PHONE (406) 444-6543 **EMAIL: DLIERDWage@mt.gov**

> Please visit us on the web at: www.mtwagehourbopa.com

Discrimination is Against the Law!

Discrimination is against the law **in:** Employment

Housing

Public Accommodations Education or Training

Financing

Insurance (sex & marital status only) **Government Services**

The law prohibits retaliation for filing a complaint, being a witness or opposing a discriminatory practice.

Discrimination is illegal if it is based on:

Race, color, national origin

Religion, creed

Physical or mental disability Marital status

Sex (includes pregnancy, sexual orientation & gender identity)

Familial status (housing only) Political belief (government employment or service)

State of Montana Human Rights Bureau P.O. Box 1728

(406) 444-2884 or 1-800-542-0807

Relay Service 711

Helena, MT 59624-1728



GENETICS

Equal Employment Opportunity is THE LAW

INDIVIDUALS WITH DISABILITIES

Private Employers, State and Local Governments, Educational Institutions **Employment Agencies and Labor Organizations** applicants to and employees of most private employers, state and local governments, educational institutions.

employment agencies and labor organizations are protected under Federal law from discrimination on the

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected: The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669section. Additional information about EEOC, including information about charge filing, is available at financial assistance, you should immediately contact the Federal agency providing such assistance.

EEOC 9/02 and OFCCP 8/08 Versions Useable With 11/09 Supplement

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases: RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employmen

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination

on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification,

referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level. DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans,

recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws. Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately: The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or

district office, listed in most telephone directories under U.S. Government, Department of Labor.

Programs or Activities Receiving Federal Financial Assistance RACE, COLOR, NATIONAL ORIGIN, SEX In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable dation, can perform the essential functions of the job. available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government

If you believe you have been discriminated against in a program of any institution which receives Federal

