

COLORADO LAWS & REGULATIONS THAT IMPACT YOUR BUSINESS

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Partner with Local Experts That
Know Colorado's Laws



COLORADO LAWS & REGULATIONS ARE CONSTANTLY EVOLVING

While most laws and regulations are signed into effect early in the year, regular changes and new laws can take effect throughout the year. To keep you up to date, our experts put together the changes that have occurred in 2021 and what to look out for this year.

You'll get access to our resources on each of these laws and how you can get compliant in 2022.

Get Help From Local HR Experts to Make Sure You're Compliant

A local HR partner with experts who understand Colorado's laws and regulations can give you the information and support you need. It's their job to understand the details and complexities of each law and help businesses like yours follow best practices for implementing the laws and managing risk. When this burden is removed from your shoulders or your team's, then you can focus more time and energy on the activities that nurture and develop your workforce, generate more revenue, and drive business growth.

2021 Laws & Regulations

For a more in-depth look at 2021 laws and regulations that impacted your business, download the more comprehensive guide. It covers the following refresh in more depth.



Download the eGuide:
2021 Colorado Laws &
Regulations

Get the Guide

Now that it's 2022, you can expect the laws and regulations that were new in 2021 to be upheld. To avoid compliance issues, here's a refresher of what was new last year.



Refresh for 2021 EQUAL PAY FOR EQUAL WORK ACT

Passed in 2019, but in effect as of January 1, 2021, the Equal Pay Act affects all employers in Colorado and strengthens pay equity requirements.

How the Law Impacts Your Business:

The law requires equal pay, including benefits, for “substantially similar work,” regardless of job title, and prohibits pay disparity on the basis of sex or any other protected status.

Pay disparity is allowed if it's based on:

- Seniority/tenure
- A merit-based system
- Quality- or quantity-based system
- Geographic location
- Job-related education and training
- Required travel

Employers must include the offered pay or pay range in all job postings, as well as a general description of any other compensation, such as bonuses and commissions.

Promotional opportunities must also be announced to all employees on the same business day. Under the law, employees have the right to pursue administrative or civil proceedings for two years and receive two times the damages for up to three years of pay.

The law also:

- Requires job descriptions and wage-related documents be kept for two years after the employee leaves the organization
- Prohibits employers from asking about an applicant's wage history and using any self-disclosed information to determine the pay rate offered to the applicant
- Prohibits prevention of, or retaliation against, an employee who discloses their pay rate to another employee or to others outside the organization

Read more about the law [here](#).



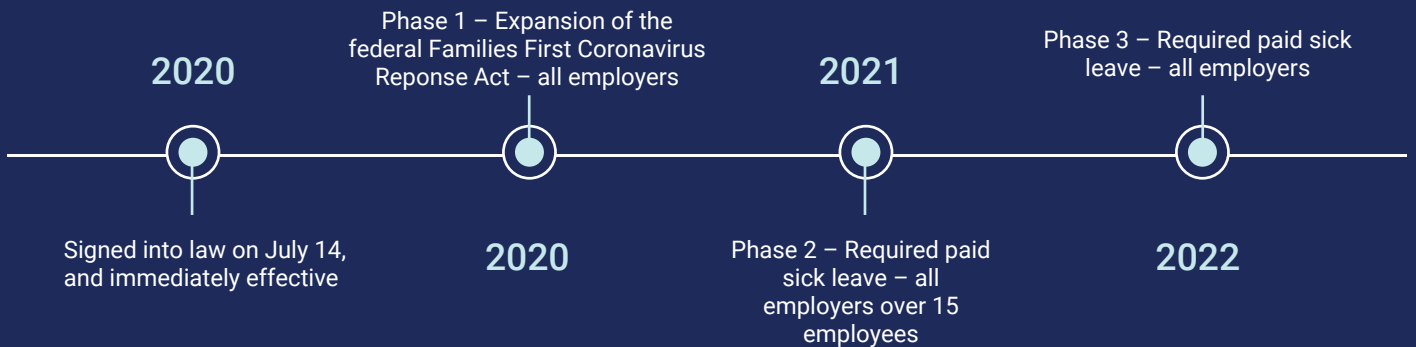


Refresh for 2021

HEALTHY FAMILIES & WORKPLACES ACT (HFWA)

Signed into law and immediately effective on July 14, 2020, the HFWA requires paid sick leave for all Colorado employers by 2022 and was rolled out in three phases. Phase three rolled out January 1, 2022.

HFWA: Timeline & Overview



The law requires employers to offer a maximum of 48 hours (or six days) of sick leave to all employees per year. There are two allowed accrual methods:

- Grants all hours up front
- Hours pro-rated for part-time employees
- Accrue 1 hour per 30 hours worked
- Can exclude overtime, sick hours from accrual

Unused sick leave can roll over into future years, but employers can choose to cap this at 48 hours. Unused sick leave also doesn't have to be paid out when an employee is terminated, but it does have to be reinstated if the employee is rehired.

The law also:

- Ensures a provision of two weeks paid sick leave in the event of a public health emergency
- Requires documentation only for leave longer than four consecutive days
- Mandates that sick leave records be kept for two years after an employee leaves the organization, including hours accrued and hours used

Read more about the law [here](#).





Refresh for 2021 MINIMUM WAGE & SALARY INCREASES



For the state of Colorado, the minimum wage in 2022 is \$12.56 per hour. The increase went into effect on January 1, 2022. The minimum salary for exempt employees in Colorado (employees exempted from overtime pay) will increase from \$40,500 to \$45,000 in 2022.

Read more about Denver's minimum wage [here](#) and Colorado's minimum salary [here](#).

2 Colorado Department of Labor, "2022 Colorado State Minimum Wage" 2022



Refresh for 2021 PUBLIC HEALTH EMERGENCY WHISTLEBLOWER



PHEW

PUBLIC HEALTH EMERGENCY WHISTLEBLOWER ACT IS STILL RELEVANT

Signed into law and immediately effective on July 11, 2020, the PHEW Act protects employees and contractors who file complaints about public health violations during a public health emergency. The law applies to employers of all sizes and those that employ five or more independent contractors.

Though the law is already in effect, it will have continued significance in 2022 as the COVID health crisis continues. Read more about the law [here](#).

To learn more about how PHEW could impact your business,

▶ WATCH THE WEBINAR



Refresh for 2021

No More “Use-It-Or-Lose-It” Vacation Policies

The Colorado Supreme Court ruled on a case under the Colorado Wage Claim Act (CWCA) that clarifies Colorado businesses will have to pay out vacation pay when an employee leaves. The case, *Neito vs. Clarks Market* was ruled on by the Colorado Supreme Court in June 2021.

What to Know:

The Colorado Wage Claim Act states that employees are entitled to “earned, vested, determinable, and unpaid [compensation] at the time of discharge.” Unpaid compensation under the CWCA includes vacation pay. Under federal and state law you are not required to provide paid vacation as a business owner — it is a voluntary benefit. But if you do, this creates an obligation you’ll want to prepare for.

Vacation pay, like other wages, cannot be forfeited once earned.

In other words, vacation pay policies that take a “use-it-or-lose-it” approach aren’t an option. If your current employment agreement or vacation policy states something like this, it’s now void.

Vacation pay that’s offered as an employee benefit only applies to full or part-time employees — not independent contractors. Under the Colorado Wage Claim Act, when an employee is terminated, compensation for vacation pay is due with their final paycheck. When an employee ends the relationship, compensation is due and payable upon the next regular payday. If more time is required, give written notice. Payment can be made at a worksite, employer’s local office, or employee’s last known mailing address.

If timely payment isn’t provided, employees can pursue legal action and employers will be liable for the unpaid compensation plus a penalty.

Though the recent ruling dealt with vacation pay, the CWCA requires compensation for any labor, services, bonuses, or commissions to be paid out similarly. For the employee to receive their unpaid compensation they must have fulfilled all their requirements for the job or service.

You can learn more about the law [here](#).



NEW FOR 2022



COLORADO SECURE SAVINGS PROGRAM

In July of 2020, the Colorado Secure Savings Program was signed, mandating businesses with at least five employees must offer access to individual retirement accounts.

This ruling isn't a requirement for employers just yet – but will be in 2022. So it's essential you understand what this program entails as you prepare your business for it. The Colorado Secure Savings Act is state-mandated legislation. The purpose of the act is to increase access to retirement savings for workers in Colorado. Some workers, as it stands, don't have the ease of saving for retirement through their job. This program would mandate that qualifying employers provide an employer-sponsored retirement plan funded through automatic payroll deductions to solve that need.

The deadline for compliance for the Colorado Secure Savings Program in 2022 is still to be determined.

Employers aren't currently responsible or being held accountable for anything just yet. Employer registration for this act will likely be in the first half of 2022. Enforcement won't begin until at least one year after the program is established – or one year after an employer is scheduled to enter the program based on the number of employees or years in business.

HOW THE LAW IMPACTS YOUR BUSINESS:

As an employer, you will be required to implement this program if:

- You have five or more employees
- Have been in business for two or more years
- Don't have an existing qualifying retirement plan

Employees can voluntarily participate in the retirement plan if they are 18 years of age or older, employed by a Colorado employer for at least 180 days, and earn taxable wages.

Employers do NOT have to provide contributions to the retirement accounts – that is a voluntary option. Employers also don't have to be the fiduciaries of the program.

Every business is responsible for ensuring their workplace is compliant with new laws and regulations in addition to the usual annual responsibilities. But understanding new laws and regulations is such a large task that it can feel like a full-time job.

While this guide provides direction on the newest laws and regulations for Colorado, be sure to check for other compliance requirements, such as filing needs and deadlines for your state.

And be prepared, there may be more for 2022. We share some of the trends below that could result in new laws and regulations for next year. Being aware of them now will make it easier to get compliant should they evolve into something more.



5 WORKPLACE COMPLIANCE TRENDS TO WATCH FOR IN 2022

1 Wage and hour laws have changing definitions

Wage and hour laws can involve the minimum wage, vacation and sick time, overtime, child labor, and record-keeping laws.

Based on the Colorado Supreme Court ruling back in June of 2021, under the Colorado Wage Claim Act (CWCA), Colorado businesses will have to pay out vacation pay when an employee leaves. The ruling ultimately proves that vacation pay, like other wages, cannot be forfeited once earned. Recall that if your current employment agreement or vacation policy has a use-it-or-lose-it approach, it's now void.

The conversation around vacation pay and the Colorado Wage Claim Act will continue to develop. Likely there will be updates around the terminology of "vacation pay," how it is "earned," and what this means for unlimited PTO policies.

No matter what state you do business in, you should be clear in your vacation policies and have a means for time and attendance tracking to make future guidelines in this space easier to follow.

2

Pre-employment screening legislation is combatting discrimination

Pre-employment screening includes everything from background checks to drug screening to reference checks and education and employment verification. Essentially any step that a job candidate takes before being hired is a part of pre-employment screening. But this process is undergoing more scrutiny than ever before.

In 2019, Colorado enacted the “ban the box” legislation that prohibits employers from asking about a candidate’s criminal history in a job application. Similarly, New York has proposed the Clean Slate Bill that follows suit but takes it a step further. New York’s legislation would clear conviction records as candidates become eligible.

Other laws shaping this trend include the Equal Pay for Equal Work Act, signed into law in Colorado this year. As part of this law, employers can no longer ask previous salary history of job applicants and must provide salary ranges in their job postings.



The Equal Pay for Equal Work Act requires a lot from Colorado employers – learn more about it and how to be compliant

[Read more](#)

Changes are taking place at the federal level too. The Marijuana Opportunity Reinvestment and Expungement Act or MORE Act is new legislation proposing the descheduling of marijuana and the removal of criminal sanctions regarding its manufacturing, distribution, and possession. In other words, it wipes certain marijuana-related offenses from an individual’s criminal records. This law is born out of the increasing legalization of marijuana – such as in states like Colorado.

Learn more about employer drug testing in Colorado and how it factors into your drug screening policies

[Read more](#)

A tablet is shown at an angle, displaying a webpage with the title "Drug Testing: What Colorado Employers Need to Know". The page features a large image of a marijuana leaf.

Pre-employment screening and discrimination are evolving in other states as well. Recently, Connecticut banned inquiries into job applicants’ age. Employers in that state can no longer ask anything that gets at an applicant’s age, date of birth, or even attendance or graduation from an educational institution. This new law went into effect in Connecticut in October of 2021. More states will likely follow suit.

Employers should look closely at their job application requirements and pre-employment screening to ensure they're removing bias and being fair to the applicant when it comes to their criminal history, pay, and age.

And with remote work becoming more common, if you're an employer accepting applications from other states, you'll need to make sure you're up to date on regulations for pre-screening in those locations as well.

3 The minimum wage is increasing

President Biden wants to double the federal minimum wage to fifteen dollars an hour. In 2021 he signed an executive order for federal employees to be paid this amount, but the original legislation wasn't passed.



In a recent survey by the NFIB research center, 74% of small businesses feel they'd be negatively impacted by a federally mandated minimum wage of fifteen dollars.

In total, twenty-five states increased their minimum wage in 2022 — but not by much. Colorado's minimum wage increased from \$12.32 to \$12.56 per hour for this year. Only five states — California, Connecticut, Florida, Illinois, New Jersey, and New Mexico increased their minimum wage by a dollar or more. Any increase can significantly impact small businesses.

In case federal legislation to raise the minimum wage passes, you should prepare your business for increased labor costs. Evaluate what costs you can reduce or how to offset the increase in wages in other ways (i.e. raise prices, reduce the number of employees or hours, etc.).



4 Companies will have to focus on harassment protections

Currently, there are no specific requirements for sexual harassment training at the federal or state level for Colorado – though it's strongly recommended.

Harassment training could be a requirement in the future. In 2021, Colorado proposed a hostile work environment bill that would have defined a hostile work environment as anything that undermines a person's sense of well-being. Though the bill didn't pass, it's clear that employees are looking for more protection.

As an employer, you should take steps to prevent discrimination and harassment from occurring in the workplace. Providing access to resources where your employees can get ongoing training is the first step to protecting your business and employees from harassment cases.

5 Employee leave programs are expanding

Labor laws around leave refer to any short or long-term paid or unpaid leave of absence that can occur in a workplace. With COVID sticking around and mental health becoming more important, employee leave laws will be a big trend this year.

The Family Medical Leave Act (FMLA), signed into law in 1993, was the starting point for much of the evolution in this space.

Specifically, at the state level, California made multiple revisions to their California Family Rights Act (CFRA) in 2021, including:



Expanding the coverage from 50 or more employees to small employers with only 5 or more employees




Expanding the definition of "family member" to include siblings, grandparents, grandchildren, domestic partners, and adult children

Employers in states dealing with updated leave laws should look at their policies and procedures around leave, educate their management, and inform their employees of any changes – especially where COVID-19 leave applies.

PARTNER WITH LOCAL EXPERTS THAT KNOW COLORADO'S LAWS

Staying on top of changing laws and regulations is a full-time job for anyone. When you or your HR team are already strapped for time and resources, this can be especially challenging, not to mention put your business at increased risk if anything is missed.



“While you may think a rule or regulation change is straightforward, it never is. It is extremely important to get legal support.”³

³Forbes Human Resources Council. “How to Ensure Compliance with New Regulations: Nine Key Actions.” Forbes. March 6, 2020.

One of the biggest benefits of working with a local HR partner with a team of legal experts on staff is that they understand Colorado’s employment laws inside and out and can help your business achieve and maintain compliance.

They can:

- ✓ Answer questions
- ✓ Advise on best practices
- ✓ Stay alert to regulatory changes
- ✓ Help you strategize and plan
- ✓ Conduct regular reviews and audits of your policies and procedures, or help you create them from the ground up

With experts at the helm, you can free up more time for you and your team to focus on the strategic activities that will meet business goals.

Make sure you’re aware of the new employment laws and regulations that went into effect this year and other recent changes. Then consider how an HR partner’s legal experts can help ensure your business is prepared and compliant and give you greater confidence in the work you’re doing.

Ready to outsource your HR to a trusted, local partner? Schedule time with an expert today.

[Learn More](#)



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