

New Mexico Labor & Employment Laws

The New Mexico labor laws provide higher employee protections than federal law, such as requiring smaller employers to carry health insurance, but follow federal law when it comes to topics such as work safety and overtime pay.

Listed below are certain employment requirements in the state in order to assist employers and employees in understanding the range of employment laws affecting employer-employee relationships. In addition to complying with federal laws, employers must also comply with state working laws.

Additionally, employers must comply with applicable municipal law obligations affecting the employment relationship.

[What Are Labor Laws in New Mexico?](#)

Labor law in New Mexico is largely based on federal regulations that apply to businesspeople and companies.

A number of new laws applicable to private employers were passed in New Mexico in 2019. New Mexico's discrimination law protects workers based on their sexual orientation and gender identity.

Employers are required to comply with state regulations limiting the use of marijuana for personal purposes. There are some important exceptions to the law.

In order to be included in the new hire list, new employees must be reported to the state in a timely manner (NMSA '50-4 34).

What are Rights of Employees in New Mexico?

There are many rights over and above what the federal employment laws in New Mexico are. A few examples include:

Employees have the right to a safe workplace, such as one free from cigarette smoke.

Employees who lose health coverage due to termination of employment must be able to continue coverage for up to six months. Following six months, a conversion policy needs to be offered.

Breastfeeding mothers must be given the opportunity to take breaks in order to pump breastmilk. These breaks can be unpaid by the employer as they are above and beyond scheduled lunch and coffee breaks.

What is an Example of a Labor Law in New Mexico?

With regard to references, employee performance comments made by the employer are not liable as long as the employer acts in good faith. This immunity, however, will not be applicable in the following circumstances:

- False or misleading information that was knowingly provided.
- A malicious purpose was behind the rendering.
- Infringed on the civil rights of the employee.

What Typical Legal Rights Do Employees Have in New Mexico?

The state of New Mexico has several laws surrounding employee rights to take leave, and these laws apply to all employers. These laws include:

- Jury duty leave

- Voting leave
- Kin care leave
- Domestic violence leave
- Emergency responder leave
- Military leave

Frequently Asked Questions About Labor Laws in New Mexico

Do Employers in New Mexico Have to Give Their Employees Lunch Breaks?

In spite of what you might think, federal law does not provide employees with time off for lunch (or another meal) or small breaks during the workday. Employees must be paid for breaks they are allowed to take during the day, but employers are not obligated to offer these breaks at all.

Most employers provide these breaks as part of the standard procedure, knowing that an employee who is hungry and tired will not be focused on tasks, nor pleasant with customers and co-workers. No matter how sensible that seems, employers are not legally required to offer breaks, at least under federal law.

What is Minimum Wage in New Mexico?

Minimum wage in New Mexico is \$10.50/hour. Some counties and cities in New Mexico have enacted a higher minimum wage than New Mexico state law.

See below for additional planned increases:

Non-tipped Employees

- January 1, 2023 – \$12.00
- January 1, 2022 – \$11.50

Tipped Employees

- January 1, 2023 – \$3.00
- January 1, 2022 – \$2.80

Can You Be Forced to Work Overtime in New Mexico?

Yes. An employer can force an employee to work overtime but must pay them at a rate of time and a half if they are an hourly employee and not paid by salary. So, if you make minimum wage in New Mexico which is \$10.50/hour as of January 1, 2021, you must be paid \$15.75/hour if you are working overtime. Overtime is excess of 40 hours/week IF the employee is paid by the hour. Although the 40-hour workweek averages out to 8 hours per day, overtime in New Mexico is calculated on a weekly basis and will be reflected on the employee's paystub for that pay period. The employee is not entitled to overtime unless he works over 40 hours in a work week, even if he works 12 consecutive hours in one day. Unless an emergency arises, an employer cannot require an employee to work more than 16 hours per day in New Mexico.

Are There Any Labor Laws Specific to New Mexico?

In addition to the federal laws, New Mexico has implemented the following:

Overtime paid at a rate of time and a half.

New Mexico prohibits smoking in the workplace, and texting while driving.

Credit checks on applicants and employees are not expressly permitted or prohibited in New Mexico.

Pay periods must not be longer than 16 days.

Employers are prohibited from inquiring about a criminal history until their application has been reviewed and employment is being discussed with the employee.

[In New Mexico, can you be fired without cause?](#)

In New Mexico, employment is at-will, which means that without a written employment contract, an employee can be terminated for any reason at any time, provided that the reason is not discriminatory, and the employer is not retaliating against them for taking a rightful action.