

BUSINESS SENSE

Next Level Tools for Entrepreneurs & Small Business Owners

HUMAN RESOURCES SERIES

Employment Laws and Employee Policies

Why is this important?

Complying with applicable employment laws is important for several reasons, not the least of which is that failure to do so can lead to penalties and other fines, and damages such as back wages that could be due if an employer is not in compliance with the overtime provisions of federal and state wage and hour laws. Another reason is to ensure that you have the proper policies and practices in place to protect and benefit both yourself and employees. Lastly, complying with employment laws can help support risk management, safety, and workplace culture goals. By notifying employees of their rights and responsibilities, you are not only ensuring compliance, but you are building transparency and opening lines of communications for issues that may surface.



Vermont Sustainable Jobs Fund

Introduction

Business owners need to be aware of all applicable federal and state labor and employment laws, what they require, and how to comply. While some laws only pertain to businesses in a specific sector, or to businesses that employ more than a particular number of employees, other laws apply to all employers.

An example of a law that doesn't apply to all Vermont employers is Vermont's Parental and Family Leave Act (VPFL). In general terms, the parental leave part (for birth, adoption or foster care) applies to employers with 10 or more employees who work an average of at least 30 hours per week per year, while the family leave portion (for the employee's own serious illness or the serious illness of their child, stepchild, foster child, ward, parent, parent-in-law, or spouse) applies to employers with 15 or more employees. The companion federal Family and Medical

Leave Act (FMLA) does not apply until you have 50 or more employees.

Important laws that apply to all employers, regardless of size, include (but are not limited to) the Vermont Fair Employment Practices Act, wage and hour laws, and Vermont's Earned Sick Time Act.

What to pay attention to

Non-Discrimination

All employers are subject to basic non-discrimination laws, and cannot make any employment decisions on the basis of the following protected characteristics: race, color, religion, national origin, citizenship, sex, sexual orientation, gender identity, ancestry, place of birth, age, disability, health coverage status, HIV status, genetic information, veteran or military status, crime victim status, pregnancy or pregnancy-related condition, or any other characteristic protected by law.

State and Federal Laws

It's important to know where state and federal laws differ and/or overlap. The VPFL and FMLA laws are a great example of the importance of understanding and evaluating both laws and creating an appropriate policy for your size of organization. When there is a difference between state and federal regulations, employers must comply with whatever favors or offers the greatest protections to their employees. You can always be more generous than required, e.g., providing paid leave for employee needs that are not already mandated by law.



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How do I know what laws apply?

Fortunately, both the State of Vermont and the Federal government provide a number of valuable resources for employers. A list of key laws and related compliance tools and training resources can be found on the State of [Vermont's Workplaces for All](#) website, organized by the following topic areas and with links to federal resources:

- Wage and Hour (you can also find helpful information in the [Compensation and Benefits Management Business Sense PDF](#))
- Workplace Safety
- Non-Discrimination

Other Helpful Sites For Workplace Safety

- Federal:
 - [Federal mandated training and resources](#)
- Vermont:
 - <https://labor.vermont.gov/vosha/safety-management>
 - <https://labor.vermont.gov/vosha/vosha-resources>
 - Project WorkSAFE: <https://labor.vermont.gov/workplace-safety/project-worksafe>
- For Non-Profit Organizations
 - [Common Good Vermont's HR resources](#).

How do I communicate with employees about applicable employment laws?

There are a number of ways to communicate with employees

about your company's practices and compliance with applicable laws. Key tools include the following:

Employee handbook

Done well, an employee handbook can serve as both a compliance and culture resource, conveying to employees both employer and employee rights and obligations vis-a-vis employment policies, as well as communicating company values and the type of workplace culture management strives to cultivate for the benefit of all. It is important to have an employment attorney review your employee handbook, and/or stand-alone policies, to ensure policies do not create risk for the organization.

Some laws require that you have a written policy outlining employee rights and responsibilities. Business owners that do not feel ready for full handbooks with all of their policies should at least issue basic legally required policies while they develop a complete handbook.

Mandatory employment law posters

Employers are required to prominently post a number of state and federal employment law posters. Some posters must be posted continuously (e.g., for FMLA and Wage and Hour) while others may be provided once. It's also important to understand the differences in posting requirements for 100% on-site, hybrid, and fully remote workforces.

Helpful links:

- [Federal Employment Posters and Related Recordkeeping](#)
- [elaws - FirstStep Poster Advisor \(dol.gov\)](#)
- https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fab_2020_7.pdf

Training and education

It is important to review your employment policies with all new employees to ensure they understand company expectations, obligations, and intentions, as well as what is expected of employees. Supervisors should be provided additional



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training - both when they start a supervisory role and ongoing - on the important role they play as agents of the company, their responsibilities in helping upload and reinforce policies, and the personal liability they have in relation to sexual harassment claims.

Day-to-day practices

- **Be aware of employment status.** In Vermont, the default for employment relationships is "at-will employment," which means that either an employee or an employer can terminate the employment relationship at any time and for any reason, provided that the reason is not unlawful. There are a number of ways that at-will status can be modified (through agreements, policies, or verbal promises). Employers should also be mindful that there are various laws that prohibit termination or other retaliation if an employee exercises a protected right, or on the basis of a characteristic protected by law.

- **Strive for consistent employee relations practices**
A common mantra for HR professionals is to treat similarly situated employees in a consistent manner. This approach helps ensure employees encountering similar situations are treated in a fair, consistent, and equitable manner, although not always in the identical manner in terms of actions taken to address a situation.
- **Keep abreast of changes in law and best practices**
Employment laws and regulations are constantly evolving and require diligent monitoring to identify needed changes to policies and practices, and ongoing training and education of employees.
- **Know when to call an employment attorney**
Employment attorneys can play a crucial role in helping employers maintain a proactive approach to risk management related to employee policies, practices,

and relations by reviewing handbooks, providing preventive training in employment law and common day-to-day workplace issues, ensuring all contracts are necessary, well-crafted, and enforceable. Employment attorneys are also critical sounding boards when you need to respond to an employee complaint of potential discrimination or retaliation, you need help handling an investigation of sexual harassment or other discrimination claim, or navigating a sensitive employee relations issue, etc.

NOTE TO READER

The information contained herein is based upon sources believed to be accurate and reliable. While we have exercised reasonable care to ensure the accuracy of the information contained here, no representation or warranty is made as to such accuracy. Readers should check primary sources where appropriate and use traditional research techniques to make sure that the information has not been affected or changed by recent developments.

The author of this information does not render any legal, accounting or other professional service through publication of this document. Due to the rapidly changing nature of the law, information contained in this document may become outdated. Readers are encouraged to seek legal or other professional advice for their particular needs.

Business Sense is a no-fluff source of information that gets right to the heart of what small business owners need: essential tools and informational resources to help their businesses grow. Written by our team of business coaches, this series shares their decades of experience in areas such as financials, operations, sales and marketing, human resources, leadership, and governance. Business Sense is designed to provide entrepreneurs and small business owners in various sectors, including agriculture, forestry, waste management, renewable energy, and environmental technology, with recommendations and practical advice to help their businesses not only survive but thrive.

Our business management coaching and Business Sense Resource Guide are designed to accelerate the growth of the enterprises we work with and expand the leadership capacity of the entrepreneurs who own and manage these businesses.

Let Us Help You and Your Business

The Vermont Sustainable Jobs Fund provides tailored business management coaching, entrepreneurial support, and training to position Vermont-based entrepreneurs and small business owners in our designated market sectors for growth and long-term success. We partner with state government, private sector businesses and nonprofit organizations to build a thriving economic, social and ecological future for Vermont. Learn more at VJSJF.org



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Accelerating Sustainable Economic Development

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