

OURERC A LOCAL BUSINESS NEWSLETTER

Powered by Employer's Resources of Colorado

NEW YEAR & NEW LAWS

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COLORADO'S EQUAL PAY FOR EQUAL WORK ACT

On May 22, 2019, Colorado passed the Colorado Equal Pay for Equal Work Act (EPEWA). The purpose of the EPEWA is to "help close the pay gap in Colorado and ensure that employees with similar job duties are paid the same wage rate regardless of sex, or sex plus another protected status," as stated from Pay Parity Post.

The official [Colorado government site](#), outlines the act with the following:

The act allows exceptions to the prohibition against a wage differential based on sex if the employer demonstrates that a wage differential is not based on wage rate history and is based upon one or more of the following factors, so long as the employer applies the factors reasonably and they account for the entire wage rate differential:

- A seniority system;
- A merit system;
- A system that measures earnings by quantity or quality of production;
- The geographic location where the work is performed;
- Education, training, or experience to the extent that they are reasonably related to the work in question; or
- Travel, if the travel is a regular and necessary condition of the work performed.

The act **prohibits** an employer from:

- Seeking the wage rate history of a prospective employee or requiring disclosure of wage rate as a condition of employment;
- Relying on a prior wage rate to determine a wage rate;
- Discriminating or retaliating against a prospective employee for failing to disclose

the employee's wage rate history;

- Discharging or retaliating against an employee for actions by an employee asserting the rights established by the act against an employer; or
- Discharging, disciplining, discriminating against, or otherwise interfering with an employee for inquiring about, disclosing, or discussing the employee's wage rate.

The Act states employers have until January 1, 2021 to become compliant with the EPEWA. All employers, public and private within the state of Colorado must comply with the EPEWA.

What Are the Penalties for Non-Compliance?

Under the EPEWA, aggrieved employees have a range of avenues to pursue their claims. They may file administrative complaints with the State Department of Labor Employment or pursue a private right of action in court. Additionally, the EPEWA authorizes the Director of the Department of Labor and Employment to create a program to mediate equal pay complaints.

Violation of the law can result in back wages to affected employees in addition to liquidated damages and attorney fees and costs imposed by the court. Penalties can also be assessed and can range as high as \$10,000 per violation of the act's requirements.

IMPORTANT REMINDER—

Payroll deductions

Welcome to 2021! At the beginning of the year, we have new benefits, new taxes and pay changes.

Please take an extra minute to double check your paystub. You will want to ensure your deductions are correct for your benefits, FSA, HSA, retirement accounts and Holiday Savings account.

If the correct amount is not being deducted, or if you have questions about your deduction, please call Employer's Resources of Colorado.



COLORADO SICK LEAVE ACT

Beginning January 1, 2021, Healthy Families and Workplace Act (HFWA) will require employers with 16 or more employees in Colorado to provide paid sick leave to their employees. Beginning January 1, 2022, employers with 15 or fewer employees will also fall under this requirement.

Accrual of Sick Time: All employees of the Company whose primary place of employment is in Colorado shall be eligible to accrue and use paid sick time. Sick time accrues at the rate of one hour for every 30 hours worked per calendar year, up to a maximum of 48 hours.

For accrual purposes, exempt employees will be assumed to work 40 hours per week, unless they are normally scheduled to work fewer than 40 hours, in which case earned sick time accrues based on their regular schedule.

Use of Sick Time

Employees may use up to 48 hours of accrued sick time per calendar year. Accrual of sick time begins on the employee's first date of actual work, and employees may use any earned sick time as soon as it is accrued. Employees may use sick time in hourly increments, unless the Company and the employee agree to a shorter increment. Up to 48 hours of unused sick time may be carried over into the following benefit year.

Payout of Sick Time

[The HFWA does not create an obligation for employers to pay out unused, accrued paid sick leave at separation, regardless of the reason for separation.](#)

However, an individual may recover paid sick leave as a remedy for a retaliatory personnel action that prevented the individual from using paid sick leave. Additionally, if an employer rehires a separated employee within six months of that employee's separation, the employer must reinstate any unused, accrued paid sick leave the employee had during the employee's previous employment.



In order to better understand our partners in business, ERC has compiled some frequently asked questions:

Question: Does my company need to extend HFWA leave to part-time, temporary and seasonal employees?

Answer: The Colorado Wage Act (CWA) defines an employee as "any person, including a migratory laborer, performing labor or services for the benefit of an employer in which the employer may command when, where, and how much labor or services shall be performed." HFWA excludes federal employees and employees covered by the federal Railroad Unemployment Insurance Act. Therefore any employee is entitled to the HFWA leave. [Source.](#)

Question: Do part-time employees accrue HFWA leave at the same rate as full-time?

Answer: The HFWA requires all employees to accrue hours at the same rate of 1 hour for every 30 hours worked. Part-time employees will accrue this time at a slower rate than full-time employees.

Question: If an employer already provides leave, does my company need to provide additional leave to employees?

Answer: If an employer has a paid leave policy that satisfies the HFWA's requirements, the employer is not required to provide any additional leave. All company policies should be reviewed to meet HFWA requirements.

Question: What are the notice requirements for the HFWA?

Answer: According to the [DOL](#), HFWA has two distinct notice requirements. First, the employer must provide written notice to each employee of the right to take paid sick leave, in the amounts and for the purposes provided by the HFWA. The employer may provide such notice by giving each employee a copy, in paper form or electronically, of the "Interpretive Notice & Formal Opinion ('INFO') #6A," from the Colorado Department of Labor and Employment, which is linked here. In the alternative, the employer may provide each employee with a copy of the poster specified below. [Poster link here.](#)

The poster is also available for download on the ERC website. Please distribute as necessary.



Unemployment fraud is on the rise and new fraud schemes are continuing to appear. Government agencies are facing theft of millions in fraudulent unemployment schemes. [According to the DOL](#), "with the rise in unemployment insurance claims associated with COVID-19, we have also seen a rise in fraudulent claims and other instances of fraud." Employers are often the first to notice the unemployment fraud therefore ERC wanted to equip its partners with resources to fight the fraud.

Employers should be vigilant and notify their employees of such fraud. First tip is never give out personally identifiable information over the phone. We will never contact you and ask for your social security number (SSN), bank account numbers, your PIN, account passwords, or any other personally identifiable information.

According to the DOL, if you receive unemployment paperwork or a debit card without a claim:

If you received unemployment paperwork but did not file a claim, or otherwise believe you are a victim of identity theft related to unemployment benefits, please click here to [submit a fraud report](#). Additionally, there are several recommended steps to follow:

- If you received a U.S. Bank Reliacard for Colorado unemployment benefits but did not file a claim, fill out the [U.S Bank Form](#) contact U.S. Bank immediately at **1-855-279-1678**. Tell them that a fraudulent unemployment claim was filed using your information, and ask them to deactivate the card.
- Contact the three consumer credit bureaus and put a fraud alert on your name and Social Security number (SSN). It may be an automated system, so you may not talk to a live person and you will have to enter your SSN and date of birth.

It is important to regularly review your credit reports from each of the three credit bureaus. Each will look different and may contain different information. If you discover any incorrect or fraudulent information on your credit report, you should dispute it with the credit bureau directly. Normally, you can receive one free copy of your credit report each year from each credit bureau. Due to increased fraud during the COVID-19 pandemic, each of the three credit bureaus is offering free weekly credit reports via [annualcreditreport.com](#).

- It is also recommended that you file a police report. You can file a "counter report" with your local police department. As a victim, you have the right to file this report. It doesn't mean the police will investigate it, but there will at least be a record of it on file and you can get a copy of the report for your records.
- You can also report identity theft to the Federal Trade Commission at [identitytheft.gov](#). The FTC's website includes [valuable resources](#) about how to recover from identity theft and protect your identity.
- Lastly, create a file where you can keep any records relating to this identity theft in one central place, in case you are notified of other fraud or breaches of your personal information.

Credit Bureau Contact Info:

Equifax: 1-800-525-6285

Experian: 1-888-397-3742

TransUnion: 1-800-680-7289

[According to the DOL](#), unemployed worker fraud is on the rise as well. The DOL defines worker fraud as a person is committing fraud if they knowingly make a false statement or withhold information to receive unemployment benefits payments.

Fraud Includes:

- Not reporting or underreporting hours and earnings while working and collecting benefits.
- Failing to report employment. This includes commission, temporary, 1099 (independent contractor), self-employment, or cash jobs.
- Failing to report a job separation.
- Fabricating work search efforts or failing to conduct a valid work search.
- Failing to report refusals of work. Making a false statement or misrepresentation to receive or increase unemployment payments. (e.g., failing to report school attendance while collecting payments).
- Using another person's identity (name and/or social security number) to work and file for unemployment payments. Helping someone file a fraudulent unemployment claim.



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