




American Staffing Association

The background of the entire page is a photograph of a law library. Tall wooden shelves are filled with numerous blue and red law books. A man in a dark suit and glasses is walking from left to right in the foreground, carrying a blue folder. In the bottom left corner, a desk with a red chair and some papers is partially visible.

STATE EMPLOYMENT LAW WORKBOOK CONNECTICUT



Employment Law

workbook

Connecticut

Participant Name

Company



American Staffing Association

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The information in this workbook was provided by the law firm Seyfarth Shaw LLP. The workbook is intended as information and not as legal advice. Readers requiring legal or other advice regarding the matters discussed in the workbook should consult with experienced legal counsel.

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Introduction

Certification is a key element in maintaining high standards of professionalism in the staffing industry. The Certified Staffing Professional® and the Technical Services CertifiedSM programs are self-study programs that offer professional credentials to individuals who pass examinations of labor and employment law principles and ethical practices. Both exams test your knowledge of federal and state employment laws.

This workbook is one component of the study materials for the ASA CSP® and TSCSM exams. The workbook covers the following topics:

- Discrimination
- Pre-employment inquiry guidelines
- Family and medical leave
- Wage and hour laws
- Noncompete and other employment agreements
- Workplace safety
- Drug testing
- Workers' compensation

Study questions are included to assist you in preparing for the CSP and TSC exams. An answer key is also included.

In addition to using this workbook, study for the exam using the two textbooks, *Employment Law for Staffing Professionals* and *Co-Employment: Employer Liability Issues in Third-Party Staffing Arrangements*. These textbooks cover applicable federal laws and serve as authoritative references.

You may also use the online timed practice exam. This practice exam contains the same number of questions that are on the actual online exam. Questions cover the content in this workbook and the two textbooks.

Individuals who pass the CSP or TSC exam will be eligible to use the CSP or TSC designation on all professional correspondence. To maintain the designations, certified individuals must complete at least 30 hours of approved continuing education (CE) within a prescribed period after the award of their CSP or TSC certificate and within each period thereafter as specified by ASA. At least six of the 30 CE hours must pertain to employment law. For more information about certification and continuing education, visit the ASA Web site at americanstaffing.net and click on Education & Certification.

Important State Law Updates

The American Staffing Association understands the importance of keeping up-to-date with changing state laws. The ASA legal team works with the law firm Seyfarth Shaw LLP to track and maintain these state law updates. Before starting your study of this workbook, please visit americanstaffing.net/stateaddendums to see if any laws in your state have changed since this workbook was printed.

Discrimination

Overview

Connecticut's **Fair Employment Practices Act** prohibits employment discrimination. The law applies to all employers with **three or more employees** with the exception of domestics, children, spouses, and parents. The **Connecticut Commission on Human Rights and Opportunities** enforces the CFEPA.

The CFEPA makes it unlawful for an employer to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against him or her in compensation or in terms, conditions, or privileges of employment because of the following:

- Age
- Ancestry
- Color
- Gender identity or expression
- Marital status
- National origin
- Present or past history of mental disability, mental retardation, learning disability or physical disability, including but not limited to blindness
- Race
- Religious creed
- Sex

These prohibitions also apply to discrimination based on sexual orientation as set forth in a separate statute.

Employers may not advertise employment opportunities in a way that restricts employment and discriminates against individuals because of the protected classifications.

Employers may not discharge, expel, or otherwise discriminate against an employee who opposes a discriminatory employment practice or files a complaint, testifies, or assists in any enforcement proceeding. Aiding, abetting, inciting, compelling, or coercing a discriminatory employment practice is also prohibited.

Exceptions

Exceptions to prohibited employment discrimination include

- **Bona fide occupational qualifications:** A BFOQ is a characteristic that is essential for performing the job and justifies the elimination of other protected groups. An obvious example would be a requirement that only a female be selected to model women's clothing. Connecticut law will construe the validity of a BFOQ very narrowly.
- **Bona fide merit or retirement system:** A bona fide merit or retirement system is legal if the system is not used as a subterfuge or does not have the effect of unlawful discrimination.
- **Mandatory retirement:** Mandatory retirement of any employee age 65 or older and for the two years immediately preceding retirement, who is employed in a bona fide executive or high policy-making position, is permissible if the person is entitled to an immediate nonforfeitable annual retirement benefit of at least \$44,000.

- **Maternity leave:** If an employer's circumstances have changed to make it impossible or unreasonable to do so, the employer is not required to reinstate a female employee to her original job or equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits after maternity leave.
- **Medical exams:** Employers may legally require medical examinations for older employees to determine their physical qualification for continued employment.

Complaints and Violations

Any person claiming that his or her legal rights have been infringed by an alleged discriminatory practice may file a **written complaint with the Commission on Human Rights and Opportunities**. The commission itself may also issue a complaint under certain circumstances. Complaints must be filed within **180 days after the alleged act of discrimination**. The complaint will be served on the employer within 20 days, and the employer must answer the complaint in writing within 30 days of receiving it.

If the investigator determines that there is reasonable cause to believe that a discriminatory practice was committed, the investigator will try to eliminate the practice by conference, conciliation, and persuasion within 50 days of a finding of reasonable cause.

If the investigator is not able to eliminate a discriminatory practice within that time, he or she will certify the complaint and the results of the investigation to the executive director of the commission and to the attorney general within 10 days. A hearing officer will be appointed. The hearing must begin within 45 days after certification of the complaint if the hearing officer finds that the employer engaged in a discriminatory practice. The officer will state his or her findings and an order will be issued requiring the employer to cease and desist from the discriminatory practice. The order may further require the employer to take remedial action such as the hiring or reinstatement of employees, with or without back pay. Liability for back pay may not accrue from a date more than **two years** before the filing or issuance of the complaint.

Classifications Under the Law

Following is an overview of each classification.

Classification

Connecticut Law

Age

Unlike federal law, which protects employees age 40 older, there is no restriction on the age of the individual in Connecticut. All persons are protected from age discrimination.

Gender Identity and Expression

Gender identity or expression is protected under the Connecticut Human Rights and Opportunities Act.

Sexual Orientation

Connecticut has a separate law that prohibits discrimination in employment based on sexual orientation. "Sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality; having a history of such preference or being identified with such preference; but excludes any behavior that constitutes a sex offense under Connecticut's penal code. The law covers all employers of **three or more persons**.

Classification

Connecticut Law

It is unlawful for an employer (except in the case of a bona fide occupational qualification) to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against an individual in compensation or in terms, conditions, or privileges of employment because of the individual's sexual orientation.

Exceptions: The law does not apply to a religious corporation, entity, association, educational institution, or society with positions that perform work in discipline, faith, internal organization or ecclesiastical rule, custom, or law that are established by such corporation, entity, association, educational institution, or society.

Sex

In addition to the general prohibition against discrimination in employment based on sex, Connecticut also has **equal pay, sexual harassment, pregnancy, and breast-feeding laws**.

Equal Pay Law

No employer may discriminate in the amount of compensation paid to any employee based solely on the employee's sex. Any difference in pay based on sex is discrimination. However, employment practices that use length of service or merit rating as a factor in determining wage or salary rates are not prohibited by the equal pay law. The labor commissioner enforces the equal pay law.

Sexual Harassment

Employers may not sexually harass any employee or applicant. "Sexual harassment" means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when

- Submission to such conduct is explicitly or implicitly a term or condition of an individual's employment.
- Submission or rejection of such conduct is used as a basis for employment decisions affecting the individual.
- Such conduct substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Employers with **50 or more employees** must provide two hours of training and education to all supervisory employees within six months of taking a supervisory position. Training must cover federal and state laws on sexual harassment and remedies available to victims of sexual harassment.

Classification

Connecticut Law

Pregnancy Disability

Employers may not terminate or refuse to grant any female employee **reasonable disability leave because of her pregnancy**. Employers are also prohibited from denying a female employee any compensation she is entitled to under the employer's disability or leave benefits because of her pregnancy.

Employers must reinstate an employee returning from pregnancy leave to her original or equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and any other service credits upon her signifying her intent to return.

Employers must make a reasonable effort to transfer a pregnant employee to **any suitable temporary position available** if the employee and the employer reasonably believe that the employee's continued employment in the position may cause injury to her or to her fetus.

Employers must inform pregnant employees that a written notice of their pregnancy is required to be eligible for a transfer to a temporary position and that transfers may be appealed.

Employers must inform any female employee of a workplace exposure to substances that may cause birth defects or harm the employee's reproductive system or fetus. At an employee's request, employers must take reasonable measures to protect the employee from the identified hazard. Reasonable measures are those consistent with business necessity and those that least disrupt the terms and conditions of the employee's employment.

Employers may not request information from an employee or applicant relating to the individual's childbearing age or plans, pregnancy, reproductive system, birth control, or familial responsibilities.

Breast-Feeding

It is a discriminatory practice to restrict or limit the right of a mother to breast-feed her child in a public place. This includes most workplaces.

Religion

Discrimination in employment on the basis of religion is prohibited.

Disability

It is a discriminatory practice for an employer to refuse to hire or employ or to discharge from employment any individual or to discriminate against an individual in compensation, terms, conditions, or privileges of employment because of the individual's existing or previous **mental disability, mental retardation, learning disability, or physical disability, including blindness**.

Classification

Connecticut Law

It is a discriminatory practice for an employment agency, except in the case of a bona fide occupational qualification or need, to fail or refuse to classify properly or refer for employment or otherwise to discriminate against an individual because of his or her present or past history of a disability as described here.

Definitions

- **Mental disability:** A record of, or regarded as having one or more mental disorders, as defined in the most recent addition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders
- **Physical disability:** Chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic changes or from illness, including but not limited to epilepsy, deafness or hearing impairment, or reliance on a wheelchair or other device
- **Learning disability:** A severe discrepancy between educational performance and measured intellectual ability; exhibits a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may affect the ability to listen, speak, read, write, spell, or do mathematical calculations
- **Blindness:** Central visual acuity does not exceed 20/200 in the better eye with correction, or visual acuity greater than 20/200 but limited in the fields of vision so that the widest diameter of the visual field subtends an angle of 20 degrees or less.

The Connecticut law against disability discrimination differs greatly from the federal Americans With Disabilities Act. The **Connecticut law does not recognize the duty to accommodate a disability or the defense of undue hardship**. Employers with **15 or more employees** would need to comply with the ADA because it is more favorable to disabled persons.

Marital Status

Discrimination in employment on the basis of marital status is prohibited.

Medical Marijuana Patient Status

Connecticut's Palliative Use of Marijuana law permits medical marijuana use by Connecticut residents who have registered with the Connecticut Department of Consumer Protection. The law prohibits an employer from refusing to hire, discharging, penalizing, or threatening an employee solely on the basis of the person's status as a qualifying patient.

Classification

Connecticut Law

The law does allow employers to prohibit use of intoxicating substances and to discipline employees for being under the influence of such substances during work hours. The law also allows employers to take action required by federal law or to obtain federal funding. No independent cause of action against employers was created.

Military Status

Connecticut's Military Leave from Employment law aligns state law with the federal Uniformed Services Employment and Reemployment Rights Act, which protects employees who serve or served in the military from discrimination in the workplace. Its protections include: (1) permitted leave of absence when ordered to military duty during regular working hours, and (2) protection from loss of vacation or holiday privileges, or prejudice in promotions, continuances or reappointments of employment due to absences.

Genetic Disorder

An employer may not request or require genetic information from an employee or person seeking employment, or to discharge, expel, or otherwise discriminate against any person on the basis of genetic information. "Genetic information" means the information about genes, gene products, or inherited characteristics that may derive from an individual or a family member.

Study Questions

1. How many employees must a Connecticut employer have to be covered by the federal Americans With Disabilities Act?
 - a. Three or more
 - b. Six or more
 - c. Eight or more
 - d. 15 or more
2. Lisa has been prescribed a medical marijuana by her doctor has registered with the Connecticut Department of Consumer Protection. Select the statement that is true.
 - a. Lisa has the right to use medical marijuana on her employer's premises
 - b. Lisa does not have the right to use medical marijuana on her employer's premises
3. Under Connecticut's Military Leave from Employment law employers may stop accruing vacation time when an employee is out on military leave.
 - a. True
 - b. False
4. Employers must inform pregnant employees to give written notice of their pregnancy to be eligible for a transfer to a temporary position.
 - a. True
 - b. False

5. Anthony was recently hired as a manager at ConCo, a Connecticut employer with 50 employees. Upon his hire, ConCo required Anthony to go through one hour of training regarding state and federal discrimination and harassment laws. Has ConCo fulfilled its obligations?
 - a. Yes
 - b. No
6. Anthony and Lisa are both employees of ConCo. They both have the same job, skills, experience, tenure, and other relevant employment-related characteristics. However, Anthony's pay rate is significantly more than Lisa's. Is this a violation of the equal pay law?
 - a. Yes
 - b. No
7. Henry believes that he has been discriminated against. How long from the alleged discriminatory occurrence does Henry have to file a complaint?
 - a. 30 days
 - b. 90 days
 - c. 180 days
 - d. 300 days
8. It is lawful to require medical examinations for older employees to determine physical qualification for continued employment.
 - a. True
 - b. False
9. Under Connecticut law, a policy requiring all employees who have reached the age of 65 to retire is lawful if such employees receive an annual retirement benefit of at least \$44,000.
 - a. True
 - b. False
10. Jeff believes that he was discriminated against because he is gay. Being gay, Jeff is considered a protected class in the state of Connecticut. In Connecticut, employers cannot lawfully deny employment for the sole reason of sexual orientation.
 - a. True
 - b. False

Pre-Employment Inquiry Guidelines

Connecticut does **not** have a general law governing pre-employment inquiries. However, Connecticut does have a law that requires an application form to state, in clear and conspicuous language, that the applicant is **not** required to disclose the existence of any arrest, charge, or conviction that has been erased under to law. The following records are subject to erasure: the finding of delinquency or that a child was a member of a family with service needs; an adjudication as a youthful offender; a criminal charge that has been dismissed; and a criminal charge for which the person has been found not guilty, or a conviction for which the person received an absolute pardon. Any person whose criminal records have been erased will be considered to have never been arrested for those causes and may so swear under oath.

The criminal history record of an applicant or employee should only be available to members of the personnel department of the company. If the company does not have a personnel department, those records will be available only to the person in charge of employment and to any employee involved in the interviewing of the applicant.

Connecticut also has a job-reference liability law.

Guidelines for employee background checking follow.

Category	Connecticut Law
Consumer and Credit Reports	Unless a credit report is substantially related to the employee's current or potential job, employers may not use credit scores in making employment decisions. Generally, employers may not require employees or applicants to consent to a request for a credit report as a condition of employment.
Criminal Records	Other than prohibiting the use of erased criminal records, Connecticut does not prohibit or further restrict the use of criminal records. On the federal level, the Equal Employment Opportunity Commission prohibits an employer from considering a criminal record for employment purposes unless the crime is related to the job duties to be performed.
Fingerprinting	Connecticut does not prohibit or restrict the use of fingerprinting.
Driving Records	Connecticut does not prohibit or restrict the use of driving records.
Education and Employment History	Connecticut does not prohibit or restrict the use of educational or employment history information.

Study Questions

11. ABC Staffing Company is hiring internal recruiting and account managers. Can ABC staffing require that candidates pass a credit check as a condition of employment?
 - a. Yes
 - b. No

Family and Medical Leave

Connecticut has a family medical leave law that covers employers that employ **75 or more employees**. While very similar to the federal Family Medical Leave Act, the Connecticut law provides for up to **16 weeks of leave per year**, which is more generous than the FMLA that provides for up to 12 weeks per year. Because the Connecticut law is more generous, it would provide additional entitlements over federal law for those employers of 75 or more employees.

An “eligible employee” under the Connecticut law means an employee who has been employed for at least **12 months and has worked for at least 1,000 hours during the 12-month period preceding the first day of the leave**. In private employment (except as provided below), family and medical leave may consist of unpaid leave. If an employer provides paid leave for fewer than 16 workweeks, the additional weeks of leave necessary to attain the 16 workweeks of leave required under Connecticut’s private employment family and medical leave law may be provided without compensation.

In private employment, employees make take family medical leave for the following reasons:

- Upon the birth of the child of the employee
- Upon the placement of a child with the employee for adoption or foster care
- To care for the spouse, or a child or parent of the employee, if such spouse, child or parent has a serious health condition
- Because of the serious health condition of the employee
- To serve as an organ or bone marrow donor

“Serious health condition” in private employment means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, nursing home, or residential medical care facility; or continuing treatment, including outpatient treatment, by a health care provider. An employer may ask for certification of the serious health condition from the health care provider of the eligible party.

Private employers must grant eligible employees a total of **16 workweeks of leave during any 24-month period** to be determined by the employer using one of the following methods:

- Consecutive calendar years
- Any fixed 24-month period, such as two consecutive fiscal years or a 24-month period measured forward from an employee’s first day of employment
- A 24-month period measured from an employee’s first day of leave
- A rolling 24-month period measured backward from an employee’s first day of leave.

Leave for the birth of an employee’s child or for the placement of a child with an employee for adoption or foster care may not be taken intermittently or on a reduced schedule unless the employer and employee agree. Leave taken due to the serious health condition of the spouse, child, or parent of an employee, or for an employee’s own serious health condition may be taken intermittently or on a reduced leave schedule when medically necessary.

Taking of family or medical leave cannot result in the loss of any employment benefits accrued before to the beginning of leave.

In private employment, an eligible employee who takes family or medical leave is entitled to the following conditions upon return from leave:

- To be restored by the employer to the position of employment held by the employee when the leave began
- To be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment if the original position of employment is not available
- To be transferred to a suitable position if such work is available, if the employee is medically unable to perform his or her original job

An employer may require each employee to have his or her own health care provider certify that the employee is able to resume work. Whenever possible, an employee must give the employer **notice of intent to take leave at least 30 days before the leave begins**. If the leave is not foreseeable, the employee must provide notice as soon as is practicable.

Parties to a **civil union** have the same benefits, protections, and responsibilities under the Connecticut family medical leave law as married persons.

Retaliation Prohibited

Employers are prohibited from taking retaliatory personnel action or from discriminating against an employee because the employee: (1) requests or uses paid sick leave to address the results of family violence or sexual assault; or (2) files a complaint with the Labor Commissioner alleging the employer's violation of any of these leave provisions.

Service Workers

Employers with 50 or more employees must provide "service workers" with 40 hours of paid sick leave each year. The statute provides a complete list of classifications that qualify as service workers. Employers must provide accrual at a rate of one hour per every 40 hours worked. However, the accrual rate is not based on full-time status. Instead, employees are allowed to accrue leave based on their hours worked.

Additionally, service workers are allowed to carryover up to 40 hours of unused accrued leave per year. Service workers cannot use accrued paid sick leave until they have worked 680 hours of employment. However, this 680-hour requirement is a one-time requirement. Once an employee has met this requirement, he or she can use accrued time as long as the employee has worked an average of 10 hours per week in the most recent calendar quarter. Lastly, employers may only request reasonable documentation for reason for the leave after the employee has used paid sick leave for three or more consecutive days.

Study Questions

12. Anthony recently suffered a severe heart attack and must undergo open-heart surgery. Assuming that Anthony's employer, ConCo, is covered by Connecticut's family and medical leave law and Anthony is an eligible employee, does ConCo have to provide Anthony with up to 16 weeks of paid leave?
 - a. Yes
 - b. No

13. If at all possible, how much notice should Anthony provide to ConCo of his need and intent to take medical leave?
- a. Two weeks
 - b. 30 days
 - c. 60 days
 - d. None of the above
14. ABC Staffing company employs over 100 service workers. The employees work on average 32 hours per week. Although they work less than full time, ABC Staffing is required to provide paid sick time.
- a. True
 - b. False

Wage and Hour Laws

The following guidelines are used in wage and hour laws in Connecticut.

Category	Wage Guideline
Covered Employees	<p>An “employer” under Connecticut’s wage payment law includes any individual; partnership; association; joint stock company; trust; corporation; administrator or executor of the estate of a deceased person; the conservator of the estate of an incompetent; or the receiver, trustee, successor or assignees of any of the same, employing any person, including the state and its political subdivisions.</p> <p>“Wages” means compensation for labor or services rendered by an employee. The amount can be determined on a time, task, piece, commission, or other basis.</p>
Payment Form	<p>Wages must be paid in cash or by negotiable check. Upon an employee’s written request, an employer may credit such employee’s account in any bank that has agreed with the employer to accept such wage deposits.</p>
Payment Frequency	<p>Employers must pay all moneys due each employee weekly, on a regular payday designated in advance by the employer. The end of the pay period may not be more than eight days before the regular payday. If payday falls on a nonworkday, payment must be made on the preceding workday.</p> <p>A collective bargaining agreement may include a schedule for the payment of wages that differs from these requirements.</p>

Category	Wage Guideline
Discharged Employees and Resignations	<p>Discharges Whenever an employer discharges an employee, the employer must pay the employee's wages in full no later than the next business day.</p> <p>Resignations Whenever an employee quits or resigns, the employer must pay the employee's wages in full no later than the next regular payday, either through the regular payment channels or by mail.</p>
Wage Disputes	In case of a dispute over the amount of wages, the employer must pay all wages conceded by the employer to be due within the time set by law.
Labor Disputes or Layoffs	When work of any employee is suspended because of a labor dispute or when an employee is laid off, the employer must pay the employee the wages earned by the next regular payday.
Wage Discounts and Deductions	<p>No employer may make any discount or deduction from the wages because of any agreement requiring notice before leaving the employment.</p> <p>No employer may withhold or divert any portion of an employee's wages unless</p> <ul style="list-style-type: none"> ▪ The employer is required or empowered to do so by state or federal law. ▪ The employer has written authorization from the employee for deductions on a form approved by the labor commissioner. ▪ The deductions are authorized by the employee, in writing, for medical care without financial benefit to the employer and recorded in the employer's wage record book. <p>Employers may not withhold wages based on the representation or understanding that doing so is necessary to secure employment or to continue in employment.</p>
Commissions	Sales representatives paid by commission must be paid all commissions due when a contract is terminated. Civil relief is available for failure to pay.
Notifications	<p>Each employer must advise its employees in writing, at the time of hiring, of</p> <ul style="list-style-type: none"> ▪ Rate of pay ▪ Hours of employment ▪ Wage payment schedules <p>Employers must also inform employees, either in writing or through a</p>

Category

Wage Guideline

posted notice accessible to employees, any employment practices and policies or changes regarding wages, vacation pay, sick leave, health and welfare benefits and comparable matters.

Complaints and Violations

When any employer fails to pay wages in accordance with Connecticut's wage payment law, the **employee may recover twice the full amount of such wages with costs and reasonable attorneys' fees in a civil action.** The employee may also file a complaint with the labor commissioner, who may bring any legal action necessary to recover twice the full amount of unpaid wages. The employer may be required to pay costs and attorney's fees as may be allowed by the court. An employer may also be fined between \$2,000 and \$5,000 or imprisoned for up to five years, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than \$2,000.

Minimum Wage and Overtime Provisions

Each state has its own minimum wage, which may be the same as or different from the federal minimum wage. To ascertain your state's minimum wage, contact your state department of labor. (Note: your state agency may go by a name other than the department of labor.)

The following information outlines critical information regarding the minimum wage and overtime provisions.

Category

Wage Guideline

Covered Employers

Connecticut's minimum wage law covers all employers and all employees except

- Camps or resorts that are open no more than six months of the year
- Domestic service in or about a private home, except any individual in domestic service employment as defined in the regulations of the federal Fair Labor Standards Act
- A bona fide executive, administrative, or professional capacity
- The federal government
- The activities of an educational, charitable, religious, scientific, historical, literary, or nonprofit organization where the employer-employee relationship does not exist, or where the services rendered are on a voluntary basis
- A head resident or resident assistant by a college or university
- A babysitter
- An outside salesperson
- A nonprofit theater that does not operate for more than seven months in any calendar year

Minimum Wage

The rates for **learners, beginners, and persons under the age of 18 years are not less than 85% of the minimum fair wage** for the first 200 hours of employment and equal to the minimum fair wage thereafter.

Category

Wage Guideline

The exception is institutional training programs specifically exempted by the commissioner of labor.

Hartford, New Haven, Meriden, and New Britain have enacted a “living wage” ordinance that requires all service contractors to pay their workers no less than the living wage. When proposing rates for serving these jurisdictions, staffing firms need to ascertain the current living wage in calculating rates.

The commissioner of labor has also issued some minimum wage orders for the following industries:

- Beauty
- Dry cleaning
- Laundry
- Mercantile trade
- Restaurant
- Hotel industries

Employees working in those industries may be paid **not less than 85% of the minimum wage rate for the first 200 hours of employment.**

Overtime Compensation

Those occupations not covered by the minimum wage law are also not covered by the overtime pay law. In addition, the following occupations are not covered by the overtime pay law:

- Drivers, excluding drivers employed by exempt employers, subject to the jurisdiction of the Interstate Commerce Commission
- Employees of a carrier by air or any other employer subject to the Railway Labor Act
- A seaman
- An announcer, news editor, or chief engineer employed by a radio or television station
- An outside salesperson as defined in FLSA regulations
- An inside sales person whose sole duty is to sell a product or service; whose regular pay rate is more than twice the applicable minimum hourly rate; more than one-half of whose compensation for one month represents commissions on goods or services; and who does not work more than 54 hours per pay period
- A cab driver employed by a taxicab employer, if the driver is paid at least 40% of his recorded fares
- A automobile salesperson, including sales of maintenance and repair services for a licensed new car dealer, whose pay rate is more than twice the minimum wage; more than one-half whose compensation for one month represents commissions on goods or services; and who does not work more than 54 hours per pay period

Category

Wage Guideline

- A milk salesperson paid on commission and working on a route
- Beer truck delivery drivers not paid an hourly basis who are employed by a licensed distributor
- Mechanics who service motor vehicles and farm implements who are employed by a nonmanufacturing employer that sells those vehicles and implements to the same extent that they are exempt from the FLSA
- Agricultural employees
- Uniformed municipal police or fire employees

An employee must be paid at least **1½ times the employee's regular rate of pay for all hours worked in excess of 40 hours per week.**

Computation of overtime pay on a work period of 14 consecutive days is authorized for employees working in hospitals.

The commissioner of labor issued overtime pay-wage orders that govern some industries.

Dry Cleaning Industry

Employees working in the dry cleaning industry and paid on a piece work, commission, or other basis must receive at least the minimum wage for the first 40 hours worked each week. Employees also must receive at least 1½ times the minimum rate or hourly rate, whichever is higher, for all hours worked in excess of 40 hours per week.

Restaurant Industry

Employees working in restaurant and hotel restaurant occupations must be paid at least 1½ times the minimum wage rate for all time worked on the seventh consecutive day. In addition, employees must be paid at least 1½ times their regular rate of pay for all hours worked in excess of 48 in any workweek.

Legal Day's Work

Connecticut does not recognize the concept of a legal day's work.

Maximum Hours

Restrictions on maximum hours are set out in Connecticut's child labor law governing the employment of individuals age 18 or younger.

Meals and Rest Periods

Connecticut law requires that **employers must provide a meal period of at least 30 consecutive minutes** to employees who work for **7½ consecutive hours or more.**

Meal periods must be given **at some time after the first two hours of work and before the last two hours.** An employer and employee may use a written agreement providing for a different schedule of meal periods.

Category

Wage Guideline

Exceptions

Employers are exempt from the 30-minute meal break requirement under the following conditions:

- Compliance would be against public safety.
- The duties of the position can only be performed by one employee.
- The employer employs fewer than five employees on a shift at a single place of business (this exemption applies only to employees on that shift).
- The continuous nature of the employer's operations requires employees to be available to respond to urgent or unusual conditions at all times, and such employees are compensated for break and meal periods.

In addition, the 30-minute meal break provision does not apply to professional employees certified by the State Board of Education to work directly with children.

The 30-minute meal break requirement does not impair collective bargaining agreement provisions.

Breast-Feeding

A nursing mother may express breast milk or breast-feed at her workplace during her meal or break period. An employer must make reasonable efforts to provide a room or other facility for this purpose other than a restroom.

Record-Keeping Requirements

Each employer subject to the minimum wage law must keep true and accurate record of the hours worked by, and wages paid to, each employee at the workplace for **three years**.

Minimum Wage Complaints and Violations

The procedures, remedies, and penalties for collecting unpaid minimum wages are the same as discussed under the wage payment law.

Study Questions

15. Roger is a staffing coordinator for Talented Staffing. He would like to reorganize the office. He has boxes and boxes of employment records. He may discard records that are older than 12 months.
 - a. True
 - b. False
16. Employees who work for 7½ consecutive hours or more must be provided with a meal period of at least one hour.
 - a. True
 - b. False
17. Lisa works for ConCo, which is covered by Connecticut's overtime payment laws. Lisa must be paid at least 1½ times her regular rate of pay for all hours worked in excess of eight hours per day.
 - a. True
 - b. False
18. If an employee brings a civil action in court for failure to pay wages, and wins, can the employee recover three times the full amount of wages due plus attorneys' fees and costs?
 - a. Yes
 - b. No
19. May a Connecticut employer pay 75% of the minimum wage to a new employee who has worked fewer than 200 hours?
 - a. Yes
 - b. No
20. Talented Staffing pays its internal employees on the 15th of every month. If the 15th falls on a Saturday, employees are paid on Friday. If the 15th falls on Sunday, employees are paid on Monday. Is this practice lawful in Connecticut?
 - a. Yes
 - b. No

Noncompete and Other Employment Agreements

The following guidelines refer to noncompete and other agreements.

Category	Guidelines
Noncompete Agreements	<p>The courts of Connecticut will enforce a noncompete agreement only if the agreement imposes reasonable restraints in employment. The courts generally use five criteria to determine the reasonableness of a noncompete agreement:</p> <ul style="list-style-type: none">▪ The duration of the restriction▪ The geographic scope of the restriction▪ The degree of protection afforded to the employer

Category

Guidelines

- The extent to which the restrictions affect the employee's ability to pursue a trade
- The extent of interference with the public's interest

The degree of influence that an employee exerts over the employer's customers is considered in determining what is reasonable. In a recent case, a court upheld a noncompete agreement against a successful sales representative for five years and for the area of the state of Connecticut.

In another recent decision, the court ruled that an employer may require that **an employee sign a noncompete agreement in exchange for continuing employment.**

Other Employment Agreements

Connecticut follows the general rule that employment contracts for an indefinite period can be terminated by either the employer or the employee at any time and for any reason. This is known as the **employment-at-will doctrine.**

However, as many other states, Connecticut recognizes that a contract that differs from this rule **may be adopted either expressly through an employee handbook, in an employment agreement, or through an implied contract.** In other words, an employer can agree through oral statements in a job interview or provisions in an employment agreement or employee handbook to limit its power to terminate an employee, creating a contract when accepted by the employee.

The courts of Connecticut have been liberal in finding that oral statements by an employer can be a binding contract. For example, an employer's statement during a job interview, "just do a good job and we'll take care of you," was interpreted as a binding contract requiring that the employer could only discharge the employee for just cause.

In 1980, the Connecticut Supreme Court recognized a narrow **public policy exception** to the employment at-will rule. This provides that a discharged employee can sue an employer for wrongful discharge if the employee can show that termination was based on some important violation of public policy. Since then, the courts of Connecticut have found wrongful discharge claims valid for violations of state and federal laws. Examples include findings that

- An employee could file wrongful discharge under the Connecticut Free Speech Act where the employee was fired for reporting to his supervisors that certain of the employer's business practices were unfair under federal and state laws against price fixing.

Category

Guidelines

- An employee could file wrongful discharge when he was discharged for questioning his employer's repeated violations of state food and drug laws.

Study Questions

21. When joining Talented Staffing, Carlos was asked to sign a six-month, noncompete agreement. In the state of Connecticut, noncompete agreements are unenforceable.
 - a. True
 - b. False
22. ConCo recently hired Lisa. During Lisa's interview, the manager who interviewed her stated, "Just do a good job and we'll take care of you." Is it possible to consider this statement to be a binding contract requiring ConCo not to fire Lisa except for just cause?
 - a. Yes
 - b. No

Personnel File Access

Connecticut employers are required to permit employees to inspect and, if requested, copy their personnel file not more than seven business days after receiving a written request from an employee. Former employees must be allowed to inspect and copy their personnel files within ten business days of a written request, and that written request must be made within one year of the end of their employment. Employers can satisfy this requirement by mailing a copy of the file to a former employee if the parties cannot agree on a location for the former employee to inspect the file.

Employers must provide employees, within one business day, with copies of any documentation of any disciplinary actions. Employers must immediately provide an employee with a copy of any documented notice of termination.

Additionally, employers must include in any documented disciplinary action, notice of termination, or performance evaluation clear and conspicuous language stating that the employee may submit a written statement of his or her position if the employee disagrees with any information in such documentation. These employee statements are to be kept in the employee's personnel file and included whenever the file is transmitted or disclosed to a third party.

An employer who violates the personnel files law is liable to the Labor Department for a civil penalty of \$500 for the first violation for each individual employee and \$1000 for each subsequent violation

Study Questions

23. Joe has been given a written warning today that will be placed in his personnel file. Joe has requested a copy of the warning. How long does his employer have to provide him with the copy?
- a. 1 business day
 - b. 3 business days
 - c. 7 business days
 - d. 10 business days
24. An employer who violates the personnel files law is liable to the Labor Department for a civil penalty of _____ for the first violation for each individual employee and _____ for each subsequent violation
- a. \$500, \$1000
 - b. \$500, \$2000
 - c. \$1000, \$1000
 - d. \$1000, \$500

Workplace Safety

Connecticut has a safety and health program for public employment only (and not for the private sector). Safety and health in the private sector is governed by the federal Occupational Safety and Health Administration.

Health care employers must develop and implement written workplace violence prevention and response plans, and such employers also must report incidents of workplace violence to local law enforcement agencies.

Drug Testing

Connecticut has an extensive drug-testing law. It requires that drug tests must use a reliable methodology. Positive tests must be confirmed by a second urinalysis drug test that is **separate and independent from the initial test**. The second test must use a gas chromatography and mass spectrometry methodology or another methodology test that the commissioner of public health and addiction services deems reliable.

An employer may not require an employee to submit to a urinalysis drug test unless the employer has reasonable suspicion that the employee is under the influence of drugs or alcohol that may adversely affect the employee's job performance.

Generally, random drug tests are prohibited. Exceptions follow:

- The test is authorized under federal law.
- The employee's service is in a designated high-risk or safety-sensitive occupation pursuant to regulations adopted by the commissioner of labor.
- The urinalysis is conducted as part of an employee assistance program sponsored or authorized by the employer in which the employee voluntarily participates.

A prospective employee may be required to submit to a urinalysis drug test as part of the application procedure provided that

- The prospective employee is informed in writing at the time of application of the employer's intent to conduct a drug test.
- The test is conducted in accordance with the requirements of the drug-testing law.
- The prospective employee is given a copy of any positive urinalysis drug-test result.

Individuals who believe that their legal rights have been infringed under the drug-testing law may bring a civil action or file a complaint with the commissioner of labor.

Study Question

25. Among other things, in order for an employer to require an applicant to submit to a urinalysis drug test as part of the application process, the employer must inform the applicant, in writing, at the time of application of the employer's intent to conduct a drug test.
- a. True
 - b. False

Workers' Compensation

The **Connecticut workers' compensation law** covers almost all employment.

Exceptions

Corporate officers may reject coverage. Coverage is elective for sole proprietors and partners.

"Arising out of and in the course of employment" means an accidental injury happening to an employee or an occupational disease of an employee originating while the employee has been engaged in the line of duty for the employer. This includes injury occurring in the scope of employment both on and off the employer's premises.

For aggravation of a pre-existing disease, compensation will be allowed only **for that proportion of the disability or death due** that may be reasonably attributed to the injury upon which the claim is based.

Coverage is not mandated for casual employees, family members living in the house, out workers (persons who are given supplies for planning, repair, etc. at home), domestics employed less than 26 hours weekly, and officers of fraternal organizations who are paid less than \$100 per year.

Insurance

Employers unable to prove that they can pay benefits directly must ensure their workers' compensation liability through some type of security guaranteeing the performance of the workers' compensation obligation. The employers must insure their liability in a stock or mutual company (formed of employers in the same or similar trade or business, or employers in trades or businesses with substantially similar degrees of hazard of injury to employees, or a combination of these options).

Employers with proven solvency may buy insurance from a private workers' compensation coverage carrier or self-insure.

Benefits

No compensation is payable for total or partial disability from injuries that do not **incapacitate the employee from earning full wages for more than three days**. If the incapacity continues for more than three days but lasts less than seven days, compensation begins on day four. **If the incapacity lasts for seven days, compensation begins from the date of the injury.**

As soon as it has knowledge of an injury, the employer must provide a competent physician or surgeon to attend the injured employee. The employer must furnish medical and surgical aid or hospital or nursing service, including medical rehabilitation services and prescription drugs, as the physician or surgeon deems reasonable or necessary.

An employee's total incapacity pay is reduced while the employee is entitled to receive old-age insurance benefits under the Social Security Act. The amount of each reduced workers' compensation payment must equal the excess, if any, of the workers' compensation payments over the old-age insurance benefits.

An accidental injury, a disability, or a death due to the **use of alcohol or narcotics is not compensable**. Compensation is also not payable if the accident was due to habitual use of alcohol or narcotic drugs.

Complaints and Violations

The employer contesting liability to pay compensation must file notice with the labor commissioner **within 20 days** after the receiving written notice of the claim. If the employer does not file notice within 28 days, the employer must begin paying compensation. The employer may, within one year of receiving written notice of the claim, still challenge liability for the claim.

Injured employees are required to give **immediate notice** of their injuries to the employer. However, failure of notice is excusable.

An employee who is discharged or discriminated against in connection with filing a workers' compensation claim may sue to be reinstated, to receive back wages, and to have benefits re-established.

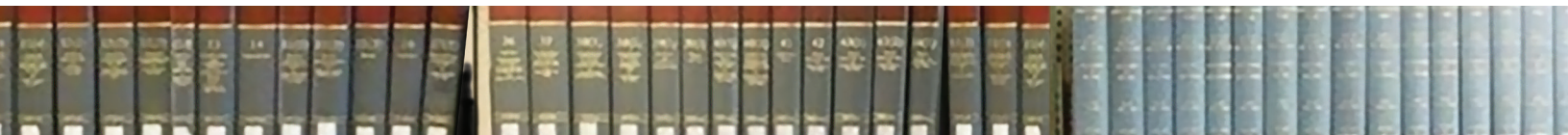
Study Questions

26. Carla fell while working and strained her back. For Carla to be eligible for payment of workers' compensation benefits for the first three days of disability, how long must the incapacity last?
- a. Seven days
 - b. More than seven days
 - c. Three days
 - d. None of the above

27. Henry's intoxication made him fall and injure his leg while working on an assignment with Talented Staffing. Under Connecticut law, is Henry eligible for workers' compensation benefits?
- a. Yes
 - b. No

Answer Key to Study Questions

- | | |
|-------|-------|
| 1. d | |
| 2. b | |
| 3. b | |
| 4. a | |
| 5. b | |
| 6. a | |
| 7. c | |
| 8. a | |
| 9. b | |
| 10. a | |
| 11. b | |
| 12. b | |
| 13. b | |
| 14. a | |
| | 15. b |
| | 16. b |
| | 17. b |
| | 18. b |
| | 19. b |
| | 20. b |
| | 21. b |
| | 22. a |
| | 23. a |
| | 24. a |
| | 25. a |
| | 26. a |
| | 27. b |



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