



**HEALTHY FAMILIES & WORKPLACES ACT (“HFWA”):
Employee Rights to Paid Leave**

Employers in Colorado Must Provide Paid Leave for COVID-19 Needs Through Dec. 31, 2020

- Employers in Colorado must provide paid leave in 2020 to an employee who:
 - (1) has **COVID-19 symptoms** and is seeking a medical diagnosis;
 - (2) is instructed by a government agent or a health provider to **quarantine or isolate** due to COVID-19 risk; or
 - (3) is **taking care of someone else** due to COVID-19 precautions -- either someone ordered to quarantine or isolate, or a child whose school, place of care, or childcare is closed or unavailable.
- Starting in 2021, HFWA requires less paid leave (1 hour per 30 hours worked, with a maximum of 48 hours’ paid leave a year) but covers a wider range of conditions, and adds 32 more hours’ paid leave (80 total) in public health emergencies.

How Much Paid Leave: Up to Two Weeks (80 hours)

- Employees can take **up to 2 weeks** of paid leave: **up to 80 hours**, depending on their weekly hours.
- Paid leave is at the employee’s **regular pay rate**, or can be at $\frac{2}{3}$ **pay for category #3** (care for someone else). The pay rate does not include overtime or bonuses. If pay is all or partly sales-based, paid leave must be either at the employee’s hourly or salaried rate, or at the applicable minimum wage (whichever is higher).
- If an employee already received paid leave in 2020 for COVID-19-related needs, that counts as part of the 2 weeks that HFWA requires, but leave provided for *non*-COVID conditions does not count toward what HFWA requires.

Retaliation or Interference with HFWA Rights

- An employer cannot fire, threaten, or otherwise **retaliate against or interfere with**, an employee who: (A) requests or takes HFWA leave; (B) informs another person about HFWA rights, or supports that person’s exercise of HFWA rights; (C) files a HFWA complaint; or (D) cooperates/assists in an investigation about a potential HFWA violation.
- If an employee’s HFWA complaint, request, or other activity is *incorrect*, an employer need not agree or grant it -- but still cannot fire or take other *action against* the employee for that reason, as long as the employee’s belief was reasonable and in good-faith. Employees *can* face consequences for misusing paid leave or other misconduct.

Coverage: All Employers and Employees, with Limited Exceptions

- **All employers in Colorado, regardless of size**, must provide HFWA paid leave, except the federal government (other government employers are not exempt) and those covered by the federal Railroad Unemployment Insurance Act.
- Employers with **under 16 employees are covered in 2020, but exempt in 2021 (then all employers covered in 2022)**
- Employers providing “equivalent or more” paid leave by collective bargaining agreement are exempt from certain HFWA requirements, as long as they don’t diminish rights, such as anti-retaliation or the right to file a complaint.
- Employee agreements or employer policies **cannot waive HFWA rights**, and are void and unenforceable.

**PUBLIC HEALTH EMERGENCY WHISTLEBLOWER LAW (“PHEW”):
Worker Rights to Express Workplace Health Concerns & Use Protective Equipment**

Worker Rights to Oppose Workplace Health/Safety Violations During Public Health Emergencies

- It is unlawful to retaliate against, or interfere with, the following acts during, and related to, a public health emergency:
 - (1) **raising reasonable concerns**, whether a formal complaint or informally to any person, about workplace violations of government health or safety rules, or about a significant workplace threat to health or safety;
 - (2) **opposing** a violation (of the type in category 1); or
 - (3) **testifying, assisting, or participating** in a proceeding about a violation (of the type in category 1).
- If a worker’s PHEW complaint, request, or other activity is *incorrect*, an employer or other business need not agree or grant it -- but still cannot fire or take other *action against* the worker for that reason, as long as the worker’s belief was reasonable and in good-faith. Workers *can* face consequences for misusing PHEW rights or other misconduct.

Workers Rights to Use Their Own Personal Protective Equipment (“PPE”)

- A worker must be allowed to **voluntarily wear their own PPE**, such as a mask, faceguard, or gloves, if that PPE:
 - (1) provides **more protection** than equipment provided at the workplace;
 - (2) is **recommended** by a government health agency (federal, state, or local); and
 - (3) does not make the worker **unable to do the job**.

Coverage: All Employers and Employees, Plus Certain Independent Contractors

- PHEW uses the terms “**principal**” and “**worker**” (not employer/employee) because it covers independent contractors.
 - (1) Any employer in Colorado, *and* any business in Colorado with *5 or more* independent contractors, is a covered “principal” that must comply with PHEW. The federal government is exempt from this law.
 - (2) An employee *or* an independent contractor at a “principal” is a “worker” covered by PHEW.

COMPLAINT RIGHTS (under both HFWA & PHEW)

- Potential violations can be submitted for investigation to the Division (contact information below).
 - **Failure to provide paid leave** under HFWA is an “unpaid wage” claim that the Division **must** investigate and decide.
 - **Retaliation or interference** with PHEW or HFWA rights is a claim that the Division by law **may** investigate. The Division will review all such claims, and if the decision is *not* to investigate, the Division will inform the claimant.
- Potential violations can instead be filed as lawsuits in court, but only after exhausting these pre-lawsuit remedies:
 - **HFWA**: a court lawsuit (A) cannot be filed *until* the employer is given a written demand and 14 days to respond, and (B) cannot be filed *if* the Division investigates and decides the claim (which parties can appeal).
 - **PHEW**: a court lawsuit cannot be filed without first filing with the Division, then (A) *can* be filed if the Division does *not* investigate, and (B) *cannot* be filed if the Division investigates and *decides* the claim (which parties can appeal).

This Poster summarizes two Colorado workplace public health laws, SB 20-205 (paid leave) and HB 20-1415 (whistleblowing and personal protective equipment). It does not cover other health or safety laws, rules, and orders, including under the federal Occupational Safety and Health Act (OSHA), from the Colorado Department of Public Health and Environment (CDPHE), or from local public health agencies. Contact those agencies for more such health and safety information.

This poster must be displayed where it is accessible to workers, shared with remote workers electronically or on paper, and replaced with the 2021 poster by January 1, 2021.

For more information, or if translations into other languages are needed, contact: Division of Labor Standards and Statistics, coloradolaborlaw.gov, cdle_labor_standards@state.co.us, 303-318-8441 / 888-390-7936.