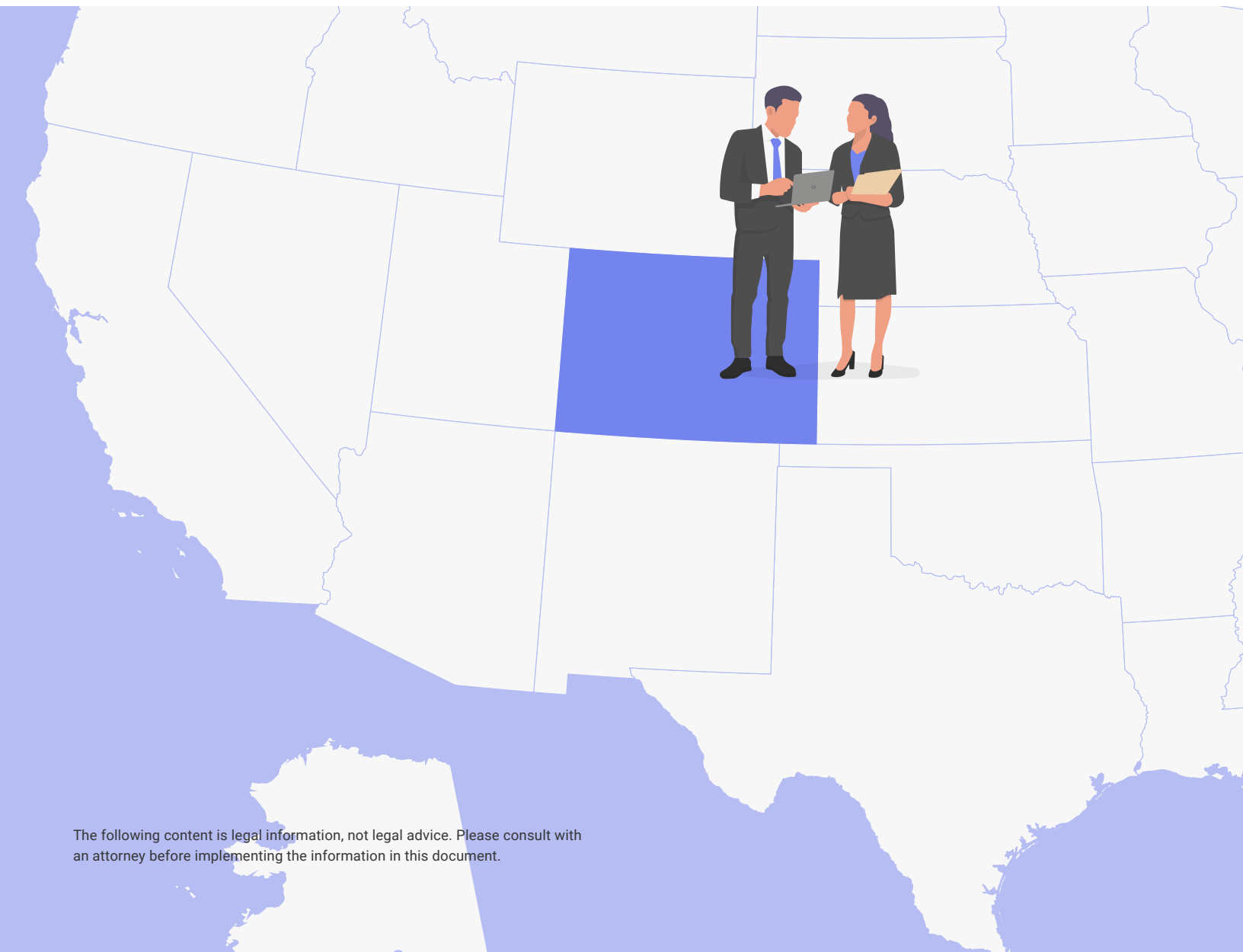









New Hire Considerations: Colorado




This guide will help companies understand the employment law implications of hiring employees in a state where they have not previously had employees. When companies hire employees in a new state, there are employment registrations (such as reporting to the state department of labor, and registering for unemployment insurance), tax regulations (such as



withholding and sales tax registrations), state-specific employment policies, signage requirements, and other employment law considerations.





Consideration	Information	Action
<p>Colorado Employment Registration</p>   	<p>Obtain a registered agent in Colorado</p> <p>To register as a foreign corporation (below), employers need a registered agent in Colorado.</p> <ul style="list-style-type: none"> A registered agent is an individual or a company that is the official point of contact in the state to receive service of process, legal and state documents, and relay these communications to the employer. Colorado law requires the registered agent to have a physical address in Colorado. The registered agent can be either an individual or an entity. An entity appointed to serve as a registered agent must have a usual place of business in Colorado, and foreign (outside of Colorado) entities must also have authority to transact business in Colorado. <hr/> <p>Register to transact business in Colorado</p> <p>Any foreign corporation is required to obtain a certificate of foreign entity authority with the Colorado Secretary of State before transacting business in the state. (Colorado Code § 7-90-801)</p> <ul style="list-style-type: none"> The Secretary of State FAQs asks but does not clearly answer whether companies have an employee working remotely in Colorado need to register and directs employers to consult Colorado Code § 7-90-801 and indicates that “other agencies may require [the company] to register.” However, the registration for unemployment insurance and wage withholding requires companies to register to do business. <p>Register with the Secretary of State</p> <ul style="list-style-type: none"> Register online at the Secretary of State, select “File a Business Document”, select “File a form to create a NEW record,” and select “Foreign entity” to complete the Statement of Foreign Entity Authority form. Employers must submit the entity name, entity type, jurisdiction, principal office address, date the business started in Colorado, registered agent information, date the filing becomes effective, email address for reminders, and filer information. <hr/> <p>Report new employee to the Colorado State Directory of New Hires</p> <p>All employers in Colorado must electronically report each newly hired or recalled employee to the Colorado State Directory of New Hires within twenty days from the date of hire or reemployment.</p> <ul style="list-style-type: none"> A newly hired employee is defined as an employee who has not previously been employed by the employer or was previously employed by the employer but has been separated from such employment for at least 60 consecutive days. <p>Employers must submit the employer’s name, address, employer identification number, employee’s name, address, social security number, date of birth, and date of hire.</p> <p>Many payroll companies handle this reporting, so employers should consult their payroll company prior to reporting.</p>	<p>Obtain a registered agent</p> <hr/> <p>Register to do business in Colorado</p> <hr/> <p>Report new hire to the Colorado State Directory of New Hires</p>

Consideration	Information	Action
Colorado Employment Registration (cont.) 	<p>Register for unemployment insurance</p> <p>Any employer that employs one or more persons in Colorado is required to register.</p> <ul style="list-style-type: none"> Register for a Colorado Unemployment Account Number online through MyBizColorado or by mailing a Registration Form (this is the same registration to obtain a wage withholding account and a sales tax license). 	<p>Register for unemployment insurance account number</p>
	<p>Report unemployment insurance account number to payroll company, if applicable</p> <p>Payroll companies generally handle periodic unemployment insurance filings once the account is created.</p>	<p>Report unemployment insurance account to payroll provider</p>
	<p>Obtain workers' compensation insurance</p> <p>Employers with one or more employees must obtain workers' compensation insurance in Colorado.</p> <p>Workers' compensation insurance can be commercial insurance or employers can be self-insured.</p> <p>If an employer already has workers' compensation coverage, the employer should contact the broker to update the workers' compensation policy.</p>	<p>Obtain workers' compensation coverage or update the policy</p>
Colorado Tax Registration 	<p>Register for a Wage Withholding Account number online through MyBizColorado (this is the same registration to obtain unemployment insurance and a sales tax license) or can mail a Sales Tax / Wage Withholding Account Application.</p> <p>Employers must obtain a wage withholding account if they pay wages to at least one employee in the state of Colorado and the employee is a Colorado resident, whether working inside or outside of Colorado, or the employee is a nonresident of Colorado performing services in Colorado.</p> <p>Employers must submit Colorado account number (from the Department of Revenue), business name, proof of identification, employer identification number, type of organization, physical address, mailing address, first date of payroll, name of payroll provider, and filing frequency.</p>	<p>Register for income tax withholding account</p>
	<p>Obtain the completed state income tax withholding form from employee</p> <p>Obtain a completed Employee Withholding Certificate from the employee for withholding state taxes.</p>	<p>Obtain the completed state income tax withholding form from the employee</p>

Consideration	Information	Action
<p>Colorado Tax Registration (cont.)</p>  	<p>Register for sales tax license</p> <p>In Colorado, employers must collect sales tax from sales in Colorado if there is a sufficient nexus between the employer and the state. A nexus can be established by a physical presence in the state or economic threshold by having a certain amount of revenue or number of transactions in the state. If an employer has an office, sales room, warehouse, or other place of business, has or independent contractors or other representatives in Colorado soliciting business, the employer has a physical presence in Colorado and must collect and remit sales tax to the state. If an employer has \$100,000 in sales in the previous or current calendar year in Colorado, the employer meets the economic threshold and must collect and remit sales tax to the state.</p> <ul style="list-style-type: none"> • If the employer does not already pay sales taxes in Colorado because of an economic nexus, having an employee in Colorado will establish a physical presence, and the employer will need to pay sales taxes. • Even if an employer has a sales tax nexus in the Colorado, the employer may not owe sales tax if what the employer is selling is not taxable. In Colorado, services are generally not taxable. A license is not required for employers engaged exclusively in the business of selling services which are exempt from taxation. <p>Register for a Sales Tax Account</p> <ul style="list-style-type: none"> • Register online through MyBizColorado (this is the same registration to obtain a wage withholding account or unemployment insurance) or by mailing a Sales Tax / Wage Withholding Account Application. • Employers must submit Colorado account number (from the Department of Revenue), business name, proof of identification, employer identification number, type of organization, physical address, mailing address, type of sales, and license start date. • Most Colorado sales tax licenses are valid for a two-year period and expire at the end of each odd-numbered year. 	<p>Register for a sales tax license</p>
<p>Colorado Employment Policies</p> 	<p>Employees in Colorado must be provided the following types of employment benefits, and Colorado has specific requirements regarding the terms and conditions of the benefits:</p> <ul style="list-style-type: none"> • Civil Air Patrol and Volunteer Service in Disaster Leave • Domestic Violence Leave (50 Employees) • FMLA (Paid Family and Medical Leave Insurance Act) • Jury Duty Leave • Lactation Accommodation Policy • Meal and Rest Breaks • Military Service Leave • Paid Sick Leave (Colorado Healthy Families and Workplaces Act) • Voting Leave • Witness Duty Leave <p>Employers can generate state-specific policies that comply with these laws in the SixFifty Employee Handbook Toolset.</p>	<p>Review employee handbook for compliance</p> <p>Update policies or add new leave policies as needed</p>

Consideration	Information	Action
Colorado Employment Implications	<p>Colorado is an at-will employment state, so employees can be terminated with or without notice or cause.</p>	
 	<p>In Colorado, there may be limitations on whether an employer can enter a non-compete with an employee. The SixFifty Employee Contracts Toolset can help employers understand the limitations of non-competition and non-solicitation provisions.</p> <p>In Colorado, non-compete provisions with a time one year or less are often enforced if the restriction is protecting a legitimate business interest and the other terms and conditions of the non-compete are reasonable.</p> <p>In some states, employers must provide advance notice to an employee (such as in an offer letter) that the employee will be asked to sign a non-compete or non-solicitation provision.</p>	<p>Ensure non-compete provisions comply with Colorado law</p>
	<p>The minimum wage in Colorado is \$12.56 per hour.</p>	<p>Confirm the employee is paid at least the minimum wage</p>
	<p>The determination of whether an employee is exempt or nonexempt is a complicated analysis based on the specific facts and circumstances and governed by Colorado Overtime and Minimum Pay Standards Order #37. Each state has specific rules that are typically based on whether the employee is paid on an hourly or salary basis, the employee's wages, and the employee's job duties.</p>	
	<p>Employers in Colorado are required to pay a non-exempt employee overtime equal to 1.5x the employee's regular rate of pay if the employee works more than 40 hours per week, 12 hours per workday, or 12 consecutive hours without regard to the starting and ending time of the workday (excluding meal periods), whichever results in the greater payment of wages. Colorado Overtime and Minimum Pay Standards Order #37.</p>	<p>Review the applicable overtime laws</p>
	<p>In Colorado, employers must pay employees at least once per month or every thirty days, whichever is longer, and on regular paydays no later than ten days following the close of each pay period unless the employer and the employee mutually agree on any other alternative period of wage or salary payments.</p>	<p>Confirm the payroll practices meet the payment frequency standards in Colorado</p>
	<p>Consider whether the employer's insurance benefits can extend coverage to employees in Colorado.</p>	<p>Consider whether insurance extends coverage to employees in Colorado</p>
	<p>COVID-19 health and safety regulations differ by state, county, and city. Consider which COVID-19 regulations affect the employee.</p>	<p>Consider COVID-19 laws that affect the employee</p>

Consideration	Information	Action
Colorado Signage  	<p>Colorado law requires that employers post the following signage in a conspicuous near the actual locations where the employees' services are performed:</p> <ul style="list-style-type: none"> • Comps Order #38 (Overtime and Minimum Wage) (available in English, Amharic, Arabic, Burmese, Dari, French, Kinyarwanda, Nepali, Rohingya, Russian, Simplified Chinese, Somali, Spanish, Swahili, and Vietnamese) • Colorado Notice of Paydays Poster • Colorado Paid Leave & Whistleblower Poster (available in English, Amharic, Arabic, Burmese, Dari, French, Kinyarwanda, Nepali, Rohingya, Russian, Simplified Chinese, Somali, Spanish, Swahili, and Vietnamese) • Colorado Anti-Discrimination Law (available in English or Spanish) • Colorado Unemployment Security Act (available in English or Spanish) • Workers Compensation Act (available in English or Spanish) • Notice to Employer of Injury • Notice of Paydays <p>Unlike the federal signage requirements, Colorado has not indicated how to post signage for exclusively remote employees. Employers should consider following the guidance from the United States Department of Labor regarding electronic posting that indicates posting the notices on a company intranet or other site, is an acceptable substitute for the posting requirement if (1) all of the employer's employees exclusively work remotely, (2) all employees customarily receive information from the employer via electronic means, and (3) all employees have readily available access to the electronic posting at all times.</p>	Post or distribute required signage