



FUBA
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FLORIDA EMPLOYERS NOW MUST REPORT INDEPENDENT CONTRACTORS HIRED BY THEIR BUSINESS

Under a new Florida law effective October 1st, Florida employers must report independent contractors they hire to the Florida New Hire Reporting Center.

Florida employers have been required to report newly hired *employees* within 20 days of hiring to the New Hire Reporting Center. This requirement was designed to help the state collect child support. Reporting independent contractors (non-employees) was not part of this requirement, but this has changed with the new law.

Starting October 1, 2021, in addition to reporting newly hired employees, businesses must report to the State of Florida's directory of new hires any independent contractor that it pays \$600 or more in a calendar year (basically, anyone your business issues a tax form 1099 to).

If your business already reports new hires to the New Hire Reporting Center, the process for reporting independent contractors is the same. If you pay an individual who is not an employee \$600 or more in a calendar year for services provided in the course of your trade or business, you will need to report:

- The independent contractor's name, address, Social Security Number

- The date the independent contractor first provided services to your business
- The name, address, and FEIN of your business

Reports are due within 20 days of when your business pays the independent contractor or when your business signs a contract with them, whichever is earlier.

You can report newly hired employees and independent contractors electronically or you can file a paper form by either mail or fax. The website to report new hires or to print forms is: **servicesforemployers.floridarevenue.com**.

If your business has hired independent contractors this year, you should immediately review how much they have been paid so far in 2021 and determine if they will meet the \$600 threshold before the end of 2021. As soon as they reach \$600 in payments from your business, it triggers the requirement to report them within 20 days. Also, if your business is considering hiring new independent contractors, you need to determine if signing the contract will trigger the \$600 reporting threshold.

If you have a payroll service that already reports your new employees to the state for your business, you need to determine if they are going to report your independent contractors or if your business will have to report them.

If you have questions, you can call the Florida New Hire Reporting Center at 888-854-4791 or visit the website listed above. Or you can call our offices at 800-262-4483 and ask for Karen or Mallory.

CAN FLORIDA EMPLOYERS REQUIRE EMPLOYEES TO GET VACCINATED?

At this time, the answer is yes, employers can require their employees to be vaccinated against COVID-19. There is no Florida law that prohibits private employers from requiring employees, vendors, and independent contractors to be vaccinated or to provide documentation of their vaccination. Also, there is no Florida law that prohibits employers from requiring employees to wear masks while at work.

The rules are different for customers of a business. A law in effect since September 16th gives the state the ability to fine businesses up to \$5,000 for each patron or customer who is required to show proof of vaccination.

The rules may change in the future, but for now Florida employers are allowed to require employees to be vaccinated.

DOES YOUR BUSINESS SELL TOBACCO OR NICOTINE PRODUCTS?

Effective October 1, 2021, it is illegal for businesses to sell tobacco, electronic cigarettes, and nicotine/vaping products to anyone under 21 in Florida.

Retail stores selling nicotine products, such as vape shops, are now required to get a permit from the state Department of Business & Professional Regulation (DBPR) to sell nicotine products. Stores must also place signs at their checkout counters that says selling tobacco products, nicotine products, or nicotine dispensing devices to persons under 21 is against Florida law.

These signs, as well as the permit application, are available from the DBPR's website at: myfloridalicense.com/DBPR/abt/informational_buletins/RetailSalesofTobaccoandNicotine.pdf.

DO EMPLOYEES GET OVERTIME IN WEEKS WITH A PAID HOLIDAY?

Question: I pay my employees for holidays (like Thanksgiving Day or Christmas Day) that fall during the work week, even though my business is closed and the employees do not have to work. If I pay my employees for 8 hours on the holiday when the business is closed, do those 8 hours count as time worked and entitle employees to overtime pay if they work more than 40 hours the other days of that week?

Answer: The short answer is no. Overtime is only earned on hours the employee actually worked. If an employee is paid but is not actually working (for example, a paid holiday, paid sick leave, etc.), that time is not counted as time at work, so those hours are not counted towards the 40-hour cap. A paid day off when your business is closed due to a holiday (8 hours in the above example) does not count as work, because the employee was given the day off and was not at work.

This means that in a holiday week, if employees are paid for the holiday and do not actually work that day, they can work up to 40 hours *on the remaining days in that work week* before you have to pay them overtime.

Keep in mind that businesses in Florida are not required to pay employees on workdays when the business is closed, like a holiday. Employers are only obligated to pay employees for hours they actually work, unless your company's policy manual provides for paid holidays. This article only addresses employers who choose to pay employees for holidays when the business is closed.