An Outline of
LOUISIANA EMPLOYMENT LAW
An Outline of Louisiana Employment Law

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INTRODUCTION

In addition to the complicated maze of federal labor laws and regulations, Louisiana employers must be aware of the state’s requirements in dealing with their employees. These fall into two general categories:

(1) discrimination laws, and

(2) general employer obligations.

Many practical problems are faced by an employer in its efforts to comply with these laws. While this booklet does not attempt to address all of the considerations that employers must deal with under Louisiana state laws, it should assist managers in recognizing potential problems and evaluating the ramifications of employment decisions.
DISCRIMINATION LAWS

Age Discrimination
La. R.S. 23:311 et seq.

This statute prohibits, in businesses employing twenty or more employees, discrimination against individuals forty years of age or older with respect to hiring, segregation, or discharge. A victim of age discrimination can bring suit in a state court seeking back pay, benefits, reinstatement, reasonable attorney’s fees, and court costs.

Disability Discrimination
La. R.S. 23:321 et seq.

Businesses employing fifteen or more employees are prohibited from discriminating against an “otherwise qualified disabled person” who with “reasonable accommodation” can perform the essential functions of the employment position that such person holds or desires. An employer cannot discharge or refuse to hire, promote, or reasonably accommodate an “otherwise qualified disabled person” on the basis of a disability when it is unrelated to the individual’s ability, with reasonable accommodation, to perform the duties of a particular job. A victim of disability discrimination can sue for compensatory damages, back pay, benefits, reinstatement, reasonable attorney’s fees and court costs.

Race, Color, Religion, Sex and National Origin Discrimination
La. R.S. 23:331 et seq.

Businesses employing more than fifteen employees are prohibited from discriminating against individuals on the basis of the individuals’ race, color, religion, sex, or national origin in regard to hiring, discharging, compensation, and privileges of employment. However, it is not unlawful discrimination for an employer to hire and employ individuals on the basis of religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary for the normal operation of that particular business. A victim of discrimination under this statute can recover compensatory damages, back pay, reinstatement, reasonable attorney’s fees, and court costs.
Pregnancy, Childbirth and Related Medical Conditions  
La. R.S. 23:341 et seq.

Businesses employing more than 25 employees are prohibited from discriminating against a female employee affected by pregnancy, childbirth or related medical conditions in regard to discharge, promotion, and privileges of employment. Pregnancy, childbirth or related medical conditions are treated as any other temporary disability. A pregnant employee, upon request, must be allowed to take a leave of absence for a reasonable period of time, not exceeding four months, and shall be entitled to use any accrued vacation leave during this period of time. Further, an employer must grant a female employee’s request for a temporary transfer to a less strenuous or hazardous position for the duration of the pregnancy, if the transfer is recommended by her physician and can be reasonably accommodated. An employer, however, does not have to create new positions or transfer another employee in order to accommodate a request for transfer.

Sickle Cell Trait Discrimination  
La. R.S. 23:351 et seq.

Businesses employing twenty or more employees are prohibited from discriminating against individuals with the sickle cell trait. A victim of sickle cell trait discrimination may file suit in a state court seeking compensatory damages, back pay, benefits, reinstatement, reasonable attorney’s fees and court costs.

Genetic Trait Discrimination: Prohibition of Genetic Discrimination in the Workplace; Privacy  
La. R.S. 23:368

This law provides that a person who is otherwise qualified cannot, on the basis of protected genetic information, be subjected to discrimination in employment. The statute also establishes certain privacy protections related to genetic information.

Garnishments  
La. R.S. 23:731

Discharge or denial of employment because of an employee’s voluntary assignment of earnings or a single garnishment of an employee’s earnings is forbidden, but this does not protect an employee who accumulates three or more unrelated garnishments
within a two-year period. No garnishment resulting from an accident or illness causing an absence of ten consecutive days or more may be considered cause for discrimination.

**Political Activities**

*La. R.S. 23:961*

Employers with twenty or more employees are prohibited from preventing an employee from engaging in politics or from becoming a candidate for public office. Further, the employer may not control or direct the political affiliations of his employees. An individual who violates this statute is subject to damages and a fine of up to $1,000, or imprisonment of up to six months, or both. A firm or corporation which violates this statute is subject to a fine of up to $2,000.

**Labor Investigations**

*La. R.S. 23:964*

It is unlawful to discriminate against an employee who has testified in an investigation or proceeding relative to the enforcement of any of the labor laws of the state of Louisiana. An employer who violates this law may be fined up to $250 or imprisoned up to 90 days, or both. In addition, persons violating this provision may be liable for an additional civil penalty of up to $500, as well as reasonable litigation expenses of up to $7,500.

**Jury Duty**

*La. R.S. 23:965*

Employees called to serve on a grand jury or a jury in criminal or civil cases are protected and, on a showing of discrimination, may be entitled to reinstatement if terminated, plus recovery of all lost wages and benefits. Also, the employer may be fined up to $1,000 for illegally discharging an employee.

Further, employers must grant a leave of absence of up to one day to an employee called for jury duty, with no loss of wages or benefits such as sick, emergency or personal leave. An employer who violates this provision may be required to pay the employee his full wages for one day with no reduction in benefits, as well as a fine of up to $500 for each offense.
Prohibition of Smoking Discrimination Act
La. R.S. 23:966
This act prohibits an employer from discriminating against an individual with respect to discharge, compensation, promotion and privilege of employment on the grounds that the individual is a smoker or nonsmoker. An employer cannot require that an employee abstain from smoking or using tobacco products outside the course of employment. However, an employer may adopt a policy regulating an employee’s use of tobacco at the workplace. An employer who violates this statute can be fined up to $250 for the first offense and up to $500 for any subsequent offenses.

Employee Protection from Reprisal
La. R.S. 23:967
Employers are prohibited from taking “reprisal” against an employee who, in good faith, engages in any of the following acts:

1. reveals or threatens to reveal a workplace act or practice that is in violation of Louisiana law;

2. provides information to or testifies in connection with a public investigation or inquiry into a violation of law; or

3. objects to an employment action or practice that violates the law, or refuses to participate in such an action.

If an employee successfully sues his employer under this statute, he can recover compensatory damages, back pay, lost benefits, and reinstatement, as well as attorney fees and costs. The statute also allows the employer to seek attorney fees and costs if it is found that the employee brought the lawsuit in bad faith.

Right to Work
La. R.S. 23:981 et seq.
Louisiana is a “right to work” state in which all persons are protected in the exercise of their right to freely form, join or assist labor organizations or to refrain from such activity. Thus, no person can be required, as a condition of employment, to become or remain a member of any labor organization. A person who violates this statute
shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding $1,000 and/or imprisonment for no more than 90 days.

**School and Day Care Conference and Activities Leave**  
**La. R.S. 23:1015 et seq.**

An employer may grant an employee leave from work of up to a total of sixteen hours during any twelve-month period to attend, observe, or participate in conferences or classroom activities related to the employee’s dependent children, for whom he is the legal guardian, that are conducted at the child’s school or day care center, if the conferences cannot reasonably be scheduled during non-work hours of the employee. An employer is not required to pay an employee for any time taken as leave. However, an employee is permitted to substitute any accrued vacation time or other appropriate pay leave for any leave taken under this section.

**Workers’ Compensation Act**  
**La. R.S. 23:1361**

The workers’ compensation statute prohibits an employer from refusing to hire or discharging anyone because of a claim for workers’ compensation benefits. Suit may be filed in state court and, if successful, the claimant may be awarded up to one year’s salary, reasonable attorney’s fees, and court costs.

**Military Service Relief Act**  
**La. R.S. 29:401 et seq.**

This statute provides re-employment rights and other benefits for persons who perform service in the uniformed services of the United States. Employers are prohibited from denying initial employment, re-employment, retention in employment, promotion, or a benefit of employment on the basis of membership, application for membership, performance of service, application for service, or obligation to the uniformed services.

Generally, employees who leave their employment to serve in the uniformed services are entitled to reinstatement with the same benefits he or she would have accrued during the period of military service, if the employee gives advance written or verbal notice of service to the employer, the total length of absence is not more than five years, and the employee has submitted a timely application for re-employment. The
timeliness of an employee’s application for re-employment varies with the length of
time the employee was absent due to military service.

**Environmental Whistleblower’s Statute**
**La. R.S. 30:2027**

Employees who, in good faith, report or complain about possible environmental
violations may not be retaliated against in connection with their employment. A
victim of such retaliation may recover triple damages resulting from the action taken
against him, as well as court costs and attorney’s fees.

**Privacy of Genetic Information**
**La. R.S. 40:1299.6**

With the exception of genetic tests specifically mandated to be reported by law, the
results of any prenatal or postnatal genetic tests are confidential medical information
and are excluded from reporting requirements.

**Bone Marrow Donor Leave Act**
**La. R.S. 40:1299.124**

This statute applies to an employer with twenty or more employees. An employer is
required to grant paid leaves of absence to an employee who seeks to undergo a
medical procedure to donate bone marrow. An employer is prohibited from
retaliating against an employee for requesting or obtaining a leave of absence for this
purpose.

**Louisiana Smokefree Air Act**
**La. R.S. 40:1300.251 et seq.**

This act is intended to protect nonsmokers from involuntary exposure to secondhand
smoke in most indoor places open to the public and places of employment. No
employer shall knowingly permit smoking in any enclosed area within a place of
employment. Smoking is still permitted in:

1. Private homes, residences, and cars so long as they are not being used for
   child care;
2. Limousines under private hire;
3. Hotel or motel rooms that are designated as smoking rooms; provided that only 50% of the rooms available for rent to guests are designated as smoking rooms;

4. Any retail tobacco business;

5. Any bar;

6. Outdoor areas of places of employment, unless designated as smokefree by the employer by posting signs;

7. Private and semi-private rooms in assisted care living residences where all of the occupants of the room have requested in writing that they be allowed to smoke in their rooms;

8. Designated smoking areas in gaming establishments;

9. All workplaces of any manufacturer, importer, or distributor of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities;

10. Convention facilities being used for professional meetings and trade shows that are not open to the public that are produced or organized by tobacco related businesses;

11. Designated and well ventilated smoking rooms in a nursing home that permits smoking;

12. A hotel or motel operated by a casino;

13. An outdoor patio, whether or not food is being served;

14. Any state, local, or private correctional facility prior to August 15, 2009. After that date smoking is prohibited.

**Civil Rights Act for Handicapped Persons**
**La. R.S. 46:2251 et seq.**

This act applies to employers with twenty or more employees and makes it unlawful to discriminate on the basis of a handicap against an “otherwise qualified person,” that is one who, with “reasonable accommodation,” can perform the essential functions of the job in question. A handicapped person who believes he has been
discriminated against may sue for damages, attorney’s fees, costs and “any other relief deemed appropriate.”

**Employer Reporting Program**  
**La. R.S. 46:236.14**

Employers must report to the Department of Social Services the hiring of any person to whom the employer anticipates paying earnings and the rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated. This information must be reported no later than 20 days after hiring or rehiring of the employee. An employer who fails to report may be fined a civil penalty which shall not exceed $25.00.

**Louisiana Commission on Human Rights Act**  
**La. R.S. 51:2231 et seq.**

The Louisiana Commission on Human Rights (LCHR) is charged with the responsibility to enforce state anti-discrimination laws that parallel the federal laws. The Commission consists of nine commissioners, appointed by the governor, to serve three-year terms. The LCHR has the power to enforce and adjudicate claims of discrimination.
GENERAL EMPLOYER OBLIGATIONS

Employment References Between Financial Institutions
La. R.S. 6:4

This law protects banks, savings and loan associations or credit unions from liability for providing to similar institutions a written employment reference which includes information reported to federal banking regulators under laws involving theft, embezzlement, misappropriation or other defalcation, provided:

(a) the information is true; and
(b) a copy of the written employment reference is sent to the employee’s last known address.

Payment of Wages to Surviving Spouse
La. R.S. 9:1515

Without a court order, employers may pay to the surviving spouse of a deceased employee wages and benefits due, provided neither spouse has instituted divorce proceedings. If there is no surviving spouse, or if divorce proceedings have been instituted, the employer may pay the wages and benefits to any major child of the deceased employee.

The person receiving payment must fulfill certain formalities, including the execution of a document before two witnesses giving the name, address, date and place of death of the deceased employee, the relationship of the person requesting payment, the name and address of the employee’s surviving spouse or children, if any, and other information as the employer may require. No person will have a claim against the employer for making the payment if the requirements of this statute are met.

Little COBRA – Group Health Insurance Continuation

A group accident and health insurance policy that insures employees or members, and their eligible dependents, for hospital, surgical or major medical insurance on an expense incurred or service basis, other than for specific diseases or accidental injuries only, must provide that employees or members whose insurance for these
types of coverages would otherwise terminate because of termination of active employment or membership are entitled to continue their coverage under the policy. Notification of the continuance privilege must be included in each individual certification of coverage.

Continuation is only available to an employee or member who has been continuously insured under the policy for 3 consecutive months immediately prior to termination of active employment or membership.

Continuation is not available for any person who is or could be covered by any other arrangement of hospital, surgical, or medical coverage within 31 days immediately following the date of termination, or whose insurance terminated because of fraud or because he failed to pay any required contribution for the insurance, or who is eligible for continuation under the provisions of Consolidated Omnibus Budget Reconciliation Act of 1987 (COBRA). The employee cannot be required to pay his contribution amount more often than a monthly basis.

The employee or member must make a written election of continuation, on a form furnished by the group policyholder and pay the first month’s contribution in advance, on or before the date on which the employee or member’s insurance would otherwise terminate.

Continuation of insurance for any person shall terminate on the earliest of the following dates:

1. Twelve months after the date that the employee’s insurance would otherwise have terminated because of termination of employment or membership.
2. The date ending the period for which the employee or member last made his required contribution, if he discontinues his contribution.
3. The date the employee or member becomes or is eligible to become covered for similar benefits under any arrangement of coverage for individuals in a group.
4. The date on which the group policy terminates or the employer terminates participation under the group master policy. The employee may convert
their policy if the termination precedes that on which his actual continuation of insurance would have terminated.

5. The date on which an enrolled member of a health maintenance organization legally resides outside the service area

**Recordkeeping Requirements**  
**La. R.S. 23:14**

Employers are required to keep accurate records of the name, address, and occupation of each employee, along with a record of the daily and weekly hours worked by each employee and a record of the wages paid to each employee each pay period. These records must be kept on file for one year from the date of the record.

**Notices to be Posted**  
**La. R.S. 23:15**

Employers are required to post a notice of those labor laws designated by the Secretary of the Louisiana Department of Labor in conspicuous places upon its premises.

**Group Insurance for Surviving Spouses**  
**La. R.S. 22:215.7**

Each group, blanket or association insurance policy containing provisions for payment of benefits for expenses incurred for hospital, nursing, medical or surgical services, issued or renewed in Louisiana, must include an option for all surviving spouses, 50 years or older, of the deceased employee to continue as a member of a group plan when their eligibility for coverage ceases because of the death of the employee-member.

**Minors**  
**La. R.S. 23:161 et seq.**

The employment of minors under eighteen years of age is strictly regulated. For example, employment of minors in hazardous occupations is forbidden and some minors may only be employed for certain hours after obtaining the appropriate employment certificate. The employer must keep accurate records of the minor’s employment.
Disclosure of Employment Information  
La. R.S. 23:291

This statute protects from civil liability an employer who, in good faith, responds to the request of a prospective employer in providing accurate information about a current or former employee’s job performance or reason for separation. In addition, the statute protects from civil liability employers who rely on information about an employee’s job performance or reason for separation received from a former employer. This includes liability for negligent hiring and negligent retention unless further investigation is required by law.

Payment of Wages  
La. R.S. 23:631 et seq.

Upon the discharge or resignation of an employee, amounts due must be paid on or before the next regular payday, or no later than fifteen (15) days following the employee’s discharge or resignation, whichever comes first.

Failure to pay timely the amount due after demand from the former employee could result in additional liability (above the actual amount due) of up to 90 days’ penalty wages and payment of the employee’s attorney’s fees. Payment of wages is to be made at the place and in the manner which has been customary during employment, except that payment may be sent by mail if properly addressed with the employee’s address as shown in the employer’s records.

Contracts Forfeiting Wages  
La. R.S. 23:634

Employers may not require an employee to sign a contract in which wages are forfeited if the employee is discharged or before completion of the contract.

Fines  
La. R.S. 23:635

Employees may not be assessed fines by their employers but may be assessed actual damages for willfully or negligently damaging the employer’s goods or property, or in cases where the employee is convicted or has plead guilty to the crime of theft of employer funds.
Loans to Employees  
La. R.S. 23:691  
If an employer lends money to an employee, the maximum that may be charged is eight percent simple interest.

Employee Deposits  
La. R.S. 23:891  
If an employee is required to make a deposit for the return of loaned items such as tools or uniforms, he is entitled to interest at the rate of four percent per annum on the amount deposited.

NOTE: Requiring an employee to make a deposit for the return of loaned equipment can violate the Federal Fair Labor Standards Act if the deduction for the deposit reduces an employee’s wages below the minimum wage for the week in which the deduction is made.

Medical and Other Examinations  
La. R.S. 23:897  
Employers are prohibited from charging employees or applicants for the cost of medical examinations (including drug tests), fingerprinting or obtaining any records required by the employer as a condition of employment. The employer may, however, withhold wages to pay for pre-employment exams and drug screens, provided the employee is paid at least $1 over minimum wage and there is no violation of La. R.S. 23:634, which prohibits contracts for the forfeiting of employee wages.

Strikebreakers  
La. R.S. 23:898 et seq.  
It is unlawful for any person not directly involved in a strike or lockout to recruit, hire, secure or furnish striker replacements. This law does not apply to employers directly involved in a strike or to employment agencies as long as they are not primarily engaged in the business of providing striker replacements. Agricultural industries are exempt from these provisions. Additionally, it is unlawful for anyone except common carriers to transport or cause to be transported into Louisiana persons
who are employed to obstruct or interfere by force or threats with peaceful picketing or union organizational activities.

**Non-Competition Agreements**

**La. R.S. 23:921**

Generally, agreements which restrain individuals from pursuing a lawful profession, trade or business shall be null and void. Non-competition agreements are allowed, however, between:

1. the seller and buyer of the goodwill of a business;
2. an agent, servant, or employee and the employer;
3. partners, upon or in anticipation of the dissolution of their partnership; or
4. an employee and employer with respect to any confidential computer programs with which an employee works.

Any permissible non-competition agreement must be limited geographically to a specified parish or parishes, municipality or municipalities, and may not exceed a duration of two years. Further, the Louisiana Supreme Court has held that non-competition agreements may only lawfully restrict an employee or former employee from engaging in his own competing business and/or from soliciting customers of the employer — it may not preclude the employee from being employed by a competitor.

**Employment of Aliens**

**La. R.S. 23:991 et seq.**

This law prohibits employers from hiring, recruiting or referring for employment in Louisiana any alien who is not entitled to lawful residence in the United States except for certain persons engaged in agricultural, dairy or animal caring activities.

**NOTE:** The requirements of this law must be coordinated with the federal immigration laws.
Right of Access to Employer Records Regarding Toxic Substances
La. R.S. 23:1016

Current and former employees, or their designated representative, have a right to access an employer’s records of employee exposures to potentially toxic materials or harmful physical agents.

Required Notice to Employees of the Federal Earned Income Tax Credit

Employers must notify employees who they anticipate will earned $35,000 or less a year, that they are eligible for the Earned Income Tax Credit or the Advance Earned Income Credit and may either apply for the credit on their tax returns or receive it in advance payments during the year. Any written notice provided to the employer by the Internal Revenue Service or the Louisiana Department of Labor for this purpose must be provided to the employee at the time of hiring, and a notice provided by the Louisiana Department of Labor must be posted in the same location as other employee notices required by law.

Access to Medical Records and Personnel Files
La. R.S. 23:1122, 23:1125-6

Louisiana does not require employers to permit employees access to their medical and personnel records. However, under the workers’ compensation statute, if the employee must undergo a medical examination because of a work-related injury, the employee is entitled to receive a copy of the physician’s report within six days after the employer’s receipt of the report.

If an employer otherwise requires an employee to submit to a physical examination, the employee is entitled to receive a copy of the physician’s report within thirty days after the employer receives a written demand from the employee for the report.

Also, whenever an employer monitors or tests an employee for the presence of toxic substances, the employee or his representative must be given access to such employer records “as will indicate such employee’s own exposure to such toxic substances” within thirty days of demand.
Workers’ Compensation Act
La. R.S. 23:1021 et seq.

Every employee who is disabled by an occupational disease as defined in this act or is injured by accident arising out of and in the course of employment is eligible to receive workers’ compensation benefits. The benefits consist of a specified weekly amount and all necessary medical bills.

Defenses to a workers’ compensation claim include:

1. willful intention to injure oneself or another;
2. intoxication, unless the employee’s intoxication resulted from activities in pursuit of the employer’s interest, or in which the employer procured the intoxicating beverage or substance and encouraged its use during working hours;
3. evidence at the time of the accident that the employee had used a non-prescribed controlled substance, either on or off the job; or
4. the injured employee was the initial aggressor in an unprovoked physical altercation (unless excessive force was used in retaliation).

Under the law, workers’ compensation is an exclusive remedy and an injured employee may not sue the employer or co-workers in tort unless the employee’s injuries were the result of an “intentional” act.

Louisiana Employment Security Law
La. R.S. 23:1471 et seq.

Employers who paid wages of $1,500 or more during any quarter in the current or preceding calendar year and had at least one person employed during some portion of a day during 20 separate calendar weeks in the current or preceding calendar year are subject to the Louisiana Employment Security Law which provides unemployment compensation benefits. An experience rating record is established for each employer and updated annually as of June 30th according to the employer’s total wages paid, taxes paid, and benefits paid to its former employees.
Claimants can be disqualified from receiving the benefits if:

1. they leave their job without “good cause”; 
2. they are discharged for misconduct in connection with the work; 
3. they fail to apply for or accept suitable employment; or 
4. they refuse to report for work because they are participating in an active labor strike. 

**NOTE:** Disqualification shall not apply if unemployment is due to a labor lockout.

In addition, employees may be disqualified if the employer proves by a “preponderance of the evidence” that they were discharged for using illegal drugs. In order for drug test results to be used, the employer must maintain a written drug testing policy, and strict guidelines must be followed in conducting testing. Discharge of an employee for refusing to submit to a valid drug test is presumed to be for misconduct. Furthermore, employees receiving wages in lieu of notice of termination, workers’ compensation benefits, or retirement or pension benefits to which an employer has contributed will not receive benefits in any week in which such payment is made.

**Transportation and storage of firearms in privately owned motor vehicles**

*La. R.S. 32:292.1*

Property owners, tenants, public and private employers and business entities shall not prohibit any person who lawfully possesses a firearm from transporting or storing the firearm in a locked, privately-owned motor vehicle in any parking lot, parking garage or other designated parking area. Employers may adopt policies specifying that firearms stored in locked, privately-owned vehicles on property controlled by an employer or business entity be hidden from plain view or in a locked case or container within the vehicle.

This statute does not apply to:

1. Any property where possession of a firearm is prohibited by state or federal law;
2. Any vehicle owned or leased by a public or private employer or business entity and used by an employee in the course of his employment, except for those employees who are required to transport or store a firearm in the official discharge of their duties;

3. Any vehicle on property controlled by a public or private employer or business entity if access is restricted or limited through the use of a fence, gate, security station, signage, or other means of restricting or limiting general public access into the parking areas and one of the following conditions applies:
   (a) The employer or business entity provides facilities for the temporary storage of unloaded firearms.
   
   (b) The employer or business entity provides an alternative parking area reasonably close to the main parking area in which employees and other persons may transport or store firearms in locked, privately-owned motor vehicles.

**Tax Credit for Persons Providing Employment**

*La. R.S. 47:6004*

This law is intended to encourage the employment of previously unemployed Louisiana residents, and recipients of Aid to Families with Dependent Children (AFDC) payments who are participating in Project Independence, The Louisiana Job Opportunities and Basic Skill (JOBS) Program. It provides for a tax credit of $750 for taxable periods beginning on or after January 1, 1992, to Louisiana employers for each new full-time job created and filled by a person who has resided in Louisiana for at least six months and has been unemployed for a continuous period of at least eight weeks.

The created jobs must exceed five percent of the average full-time number of jobs reported by the employer to the Office of Employment Security during the previous year, and the new employee must complete one year of full-time service. The credit applies to all state income and corporation franchise taxes, and may be carried over for a maximum of five consecutive years.
**Drug Testing Guidelines**  
*La. R.S. 49:1001 et seq.*

Employers who drug test either job applicants or employees must comply with the provisions of the Louisiana Drug Testing Statute. These requirements include the use of a laboratory that follows guidelines established by the Substance Abuse and Mental Health Services Administration.

**Unfair Trade Practices Act**  
*La. R.S. 51:1402 et seq.*

Unfair competition involves a balancing of the right of the employee to individual freedom on the one hand and the right of the employer to honest and fair competition and the protection of business assets, property and trade secrets on the other hand. Unfair use of customer lists and other confidential information may be prevented under this law. Generally, however, in the absence of a contrary agreement, an employee is free to compete with his former employer.

**Uniform Trade Secrets Act**  
*La. R.S. 51:1431 et seq.*

The misappropriation of an employer’s trade secrets by an employee may be prevented and damages obtained under this law. ‘Misappropriation’ is defined as “acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means.” ‘Trade secret’ means “information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

1. derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

2. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”
Employment-at-Will
La. Civ. Code 2747 and 2749

Louisiana recognizes the employment-at-will doctrine which permits termination of the employment relationship by either the employer or the employee at any time for any or no reason unless it is in violation of a federal, state or local statute, or violates an employment agreement for a definite period of time. If an employment contract for a definite period of time exists, an employer must have “cause” to discharge the employee.
CONCLUSION

The employment relationship exists in a highly regulated environment. Today’s employer, large or small, faces potentially serious monetary liability under the Louisiana labor laws. In order to remain competitive, employers must find ways to reduce their exposure to charges, claims, lawsuits, etc. We recommend that management conduct an annual labor relations “check up” to discover in advance those practices or procedures which may expose it to liability.

The material contained in this booklet raises numerous and complex issues. If you have specific questions, please contact any attorney in the firm’s Labor and Employment Practice Group.
McGlinchey Stafford, PLLC is a national law firm providing expertise in a wide variety of legal practice areas. Founded in New Orleans, Louisiana in 1974, the firm’s more than 150 attorneys counsel clients from eight offices across five states: Louisiana, Mississippi, New York, Ohio and Texas. Key areas of practice include business, labor and employment, consumer finance, government, healthcare, litigation and public finance law.

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