

## Handbook Highlight from the Montana Municipal Officials Handbook

### 3.706 The Montana Wrongful Discharge From Employment Act

Montana's wrongful discharge statute provides the following: (1) an employee can be discharged **only for good cause** after completing the employer's probationary period; however, during an employee's probationary period, employment may be terminated for any reason considered sufficient by the terminating party; (2) employers that have written personnel policies **must follow those policies in making a discharge**; (3) an employee who wins a wrongful discharge suit may collect lost wages and fringe benefits for a period of up to four years from the date of discharge; and (4) arbitration is encouraged to save the expense of lawsuits, and an employer may benefit if it offers arbitration to a discharged employee.

By enacting this statute, Montana has *eliminated employment-at-will* as to discharges, since an employee can no longer be terminated merely at the will of the employer. Wrongful discharge will exist in **three types of situations**:

1. If the discharge is in **retaliation for refusing to violate public policy or reporting a violation by the employer**;
2. If the discharge is **not for good cause** and the employee has completed the probationary period; or
3. If the discharge involved an **employer's violation of its own written personnel policies**.

The good cause requirement for discharges means that employers must be prepared to **document all terminations**. Good cause is defined as reasonable, job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason. The exact language of this law is found at:

[http://leg.mt.gov/bills/mca/title\\_0390/chapter\\_0020/part\\_0090/section\\_0040/0390-0020-0090-0040.html](http://leg.mt.gov/bills/mca/title_0390/chapter_0020/part_0090/section_0040/0390-0020-0090-0040.html).

*LGC special note: to show just cause, management must show that the employee violated a specific policy, rule, performance requirement, or standard of employment AND that the employee knew about the policy, rule, performance requirement, or standard of employment.*