

COMPARISON OF ADA, FMLA, TENNESSEE WORKERS COMPENSATION

	ADA	FMLA	TN WC
Employers Covered	15 or more E/ee's in 20 wks. in current or proceeding yr.	50 or more E/ee's in 20 wks. in current or proceeding yr.	Generally 5 E/ee's except in construction which is 1 E/ee.
Employee Eligibility Requirements	None, other than meeting ADA definition of handicap.	1) 50 E/ee's within 75 miles; 2) E/ee has worked a total of 12 months; 3) E/ee has 1250 hours of service in 12 months.	Injured on the job in the scope and course of employment.
Condition Causing Protection of Law	1) E/ee has impairment that "substantially limits major life activity" or has history of the same or regarded as same; 2) Despite disability E/ee can perform essential job functions with or without reasonable accommodation.	E/ee has serious health condition that keeps E/ee from performing essential job requirements or birth of child or care of parent, child, or spouse.	Job related injury or illness occurring in the scope and course of employment.
Work Ability Requirement	E/ee able to perform essential job functions with or without reasonable accommodation.	Serious health condition keeping E/ee from performing essential job functions.	Either partially or totally disabled. Can be temporary or permanent.
Leave available	Depends. Reasonable accommodation may include leave of absence.	Yes. 12 wks. either continuous or intermittent.	No, but may be covered by FMLA and no retaliatory discharge, and if not no return to work, no 1.5x cap.

	<i>ADA</i>	<i>FMLA</i>	<i>TN WC</i>
Paid Leave Required	Generally, no.	No.	Yes. 2/3rds of the average weekly wage.
Duration of Leave	Depends on facts of case.	Up to 12 wks. in a 12 month period.	N/A, but FMLA may apply. No retaliatory discharge.
Intermittent Leave or Reduced Work Required	Depends on facts of case.	Yes.	No, but beware of FMLA, retaliatory discharge, and WC caps.
Medical Certification	Yes.	Yes.	Yes.
Benefits During Leave	Not generally, but depends on facts.	Yes for health benefits; must restore other benefits upon return.	No, but FMLA may apply.
Required to Reinstate to former job	Generally yes, but depends on facts.	Generally must restore E/ee to same or equivalent job.	No, but beware of FMLA, ADA, retaliatory discharge, and WC caps.
Light Duty Required	Depends on facts; maybe reasonable accommodation.	No.	No, but could be evidence of retaliatory discharge if provided for other E/ee's.
Anti-retaliation Provisions	Yes.	Yes.	Yes.

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