

**SUMMARY OF FEDERAL AND STATE  
WAGE AND HOUR LAWS**

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*On the Report:*  
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It is important to note when discussing Federal and State Wage and Hour laws that Federal Law merely present the minimum standards and that it must be read in conjunction with the various States' laws which may impose higher and in some cases much higher standards.

## **I. OVERVIEW OF FEDERAL WAGE & HOUR LAW**

### **A. The Fair Labor Standards Act**

The Fair Labor Standards Act (“FLSA” or the “Act”) is the primary federal law governing wages and hours of employment. The Act regulates the wages and hours of work of employees in both the public and private sector. 29 U.S.C. 201 *et. seq.* The FLSA establishes the minimum wage to be paid to all covered employees, and generally requires employers to pay extra wages for hours that employees work in excess of 40 per work.

The Act does not limit the number of hours which an employer may require an employee to work per week, it simply requires that an employer pay an employee overtime for those hours worked in excess of 40 per week. The Act contains **NO** requirements regarding breaks or mealtimes.

#### **1. Who is covered?**

FLSA coverage is extremely broad. Coverage under the Act can arise in two ways:

a. For Individuals- An employee who is involved in the production of goods for interstate commerce is covered by the Act.

b. For an Enterprise- An enterprise and all its employees are covered if it has two or more employees engaged in commerce or the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, whose annual gross volume of sales made or business done exceeds \$500,000 or the enterprise consists of a hospital, school, college or public agency.

The test for individual coverage examines the employees' duties rather than the nature of the employer's business. If there is enterprise coverage, all the business' employees (except those who are exempt) are subject to the FLSA wage and overtime requirements, regardless of whether each employee's duties involve interstate commerce.

Commerce is defined to include sales of goods and services across state lines, making the FLSA applicable to nearly all employers. The definition of commerce includes insurance, legal services, ideas, software, and stocks as well as commercial goods. 29 C.F.R. §776.20(b). Goods are produced for commerce if intended for trade, transport, transmission, or communication among the states or to any destination outside of a state. 29 U.S.C. §203(b).

## **2. Minimum Wage**

Section 6 of the FLSA requires that all covered employees (not exempt or otherwise qualified for a sub-minimum wage rate) be paid a minimum hourly wage. 29 U.S.C. §206. The statutory minimum wage is \$5.15 per hour. The minimum wage for tipped employees is \$2.13 per hour, plus tips. For individuals under 20 years of age, the minimum wage is \$4.25 per hour for the first 90 days of employment. Full-time students

can be employed at 85% of the minimum wage for one year after receiving a full-time student certification.

The FLSA requires that non-exempt employees receive pay at the rate of at least one-and-one-half times their regular rate of pay for each hour over 40 hours worked in a week. There is no requirement under FLSA that employees receive overtime for working more than a certain number of hours in a single day or simply because they work on a weekend or holiday.

**B. The Equal Pay Act**

The Equal Pay Act, 29 U.S.C. §206(d) (“EPA”), amended the FLSA in 1963. The EPA prohibits employers from discriminating against covered employees on the basis of gender. The Act requires that employers provide equal pay for work that requires comparable skill, effort, and responsibility. Under the Act, the analysis is whether two jobs are substantially equivalent, not whether they are identical.

Pay differentials are permitted under the EPA based upon a seniority system, a merit system, quality of work, or any factor other than gender, such as levels of education or experience. If a violation of the EPA is found, the employer may not reduce the wage of any other employee to remedy an unlawful inequality in the rates of pay. A variety of federal and state laws prohibit discrimination in rates of pay.

**C. The Portal to Portal Act**

Under the Portal to Portal Act, 29 U.S.C. §251 *et seq.*, activities that are performed by an employee before arriving at the workplace and after leaving are not covered by the FLSA. For example, the time that an employee spends commuting to and from work

generally is not compensable, absent a contract providing for such compensation or a custom or practice of the employer to provide compensation for this type of activity.

**D. Record Keeping Under the FLSA**

The FLSA requires employers subject to the Act to maintain and preserve records for covered employees under guidelines established by the regulations. 29 U.S.C. §211(c); 29 C.F.R. §516.1. Records of exempt employees also must be maintained to substantiate the basis for the exemption in case it is challenged in an administrative or judicial forum. For employees covered by minimum wage and/or overtime provisions, employers must maintain records reflecting the following:

1. Name;
2. Home address including Zip Code;
3. Date of birth (if under 19 years old);
4. Sex and occupation;
5. Time of day and day of week on which the employee's workweek begins. If the entire workforce has the same workweek, employers may note this just once for everyone.
6. Regular hourly rate for any week when overtime is worked and overtime is due; basis on which wages are paid; amount and nature of each payment excluded from the regular rate;
7. Hours worked each workday and total hours worked each workweek;
8. Total daily or weekly straight-time earnings (including the straight-time payments for overtime hours);
9. Total overtime "excess compensation" (the "one-half" portion of "time and one half");

10. Total additions to or deductions from wages paid each pay period;
11. Total wages paid each pay period;
12. Date of payment and pay period covered by payment.

Although these requirements are cumbersome for most employers, there is good news for businesses whose employees work a fixed schedule. Instead of daily and weekly lists of hours worked, the record keeper for these businesses simply may maintain a record of the schedule of daily and weekly hours the employee normally works, and just check off those weeks when the employee actually works those hours. For weeks in which more or fewer than the scheduled hours are worked, the exact number of hours worked each day and each week must be recorded.

There are additional recordkeeping requirements for employers who make retroactive wage payments required by the Department of Labor.

The record keeping requirements for exempt personnel are similar to those set forth above for hourly employees. Employers must maintain records reflecting the following for exempt employees:

1. Name;
2. Home address including Zip Code;
3. Date of birth (if under 19 years old);
4. Sex and occupation;
5. Time of day and day of week on which the employee's workweek begins. If the entire workforce has the same workweek, employers may note this just once for everyone.
6. Total additions to or deductions from wages paid each pay period;

7. Total wages paid each pay period;
8. Date of payment and pay period covered by payment;
9. Basis on which wages are paid in sufficient detail to permit calculation of the employee's total remuneration for employment including fringe benefits and perquisites.

Employers should note the following record retention requirements:

Records to be preserved 3 years

1. Payroll records;
2. Collective bargaining agreements;\*
3. Plans, trusts, employment contracts;\*
4. Individual contracts or if not in writing, written memoranda summarizing the terms of each such contract or agreement;\*
5. Any special pre-work agreements relating to the payment of overtime;\*
6. Record of (a) total dollar volume of sales or business, and (b) total volume of goods purchased or received. This can be kept in the form the employer maintains in the ordinary course of the business; no particular format is required.

\* Three years from the last effective date. For example, if the term of an agreement is January 1, 2000 to January 1, 2002, the agreement should have been kept until January 1, 2005.

Records to be preserved 2 years

1. Basic employment and earnings records (i.e., time and earnings cards or records regarding employee production if production determines in whole or in part the pay period earnings);
2. Wage rate tables;
3. Worktime schedules;

4. Order, shipping, and billing records;
5. Records of additions to or deductions from wages paid, including individual employee “accounts,” employee purchase orders, assignments, and all records used by the employer in determining amounts added to or deducted from wages paid.

Records must be “safe and accessible at the place of employment” or at a central office. If at a central office, they must be made available within 72 hours of a demand by the Department of Labor.

## **II. WORK TIME OR HOURS WORKED**

### **A. Hours Worked**

Work time is “all time which the employee is suffered or permitted to work.” 29 U.S.C. §203(g). “Hours worked” also may include idle or waiting time and time spent in incidental activities as well as in productive labor. 29 C.F.R. §§785.1-50. In other words, any time that an employee is engaged in an activity for the benefit of the employer or required to be available for the employer constitutes work time.

### **B. Volunteering**

The FLSA does not apply to truly voluntary activities. However, an employer cannot ask, and an employee cannot offer, to volunteer to perform normal work duties in order to avoid overtime.

### **C. “On-Call” Time**

An employee is considered to be working when required to remain on-call at or near the employer’s premises so that the employee cannot use the time effectively for his or her own purposes. 29 C.F.R. §785.17.



**D. Sleeping Time**

Sleeping time is generally not compensable. There are, however, circumstances in which an employee is considered to be working even though a portion of his time is spent sleeping.

1. Sleep time is considered work time for employees with shifts of less than 24 hours, as long as the employee is on duty and must work when required. 29 C.F.R. §785.21.
2. If an employee is required to be on duty for 24 hours or more, sleeping periods are compensable unless the employee agrees expressly that they are not. Sleep periods can be excluded only if the employer provides sleeping facilities, at least 5 hours of generally uninterrupted sleep are possible, and interruption in sleep to perform work duties are compensated. 29 C.F.R. §785.22.

**E. Rest and Meal Periods**

Rest periods of 20 minutes or less (coffee breaks, etc.) generally are included as hours worked. On the other hand, bona fide meal periods, ordinarily 30 minutes or longer, are excluded from work time as long as the employee is completely relieved from duty.

**F. Travel Time**

1. Generally, travel from home to work is not work time, unless there is a contrary agreement; the employer has a custom of compensating such time; or

the travel is combined with an activity that is indispensable to the employee's primary activities. 29 U.S.C. §254(a); 29 C.F.R. §785.25.

2. Employees who are required to report to work to receive assignments and then drive to various work sites must be paid for time spent commuting from the employer's facility to the work site, but not for time spent in commuting from home to the facility. 29 C.F.R. §§785.25, 785.39.

3. Time spent by an employee traveling as part of his principal activity during the day must be counted as hours worked. 29 C.F.R. §785.38. This includes travel out of town as long as it is part of the regular work day.

4. Overnight trips during non-working hours are non-compensable, unless the employee performs work while engaged in such travel. 29 C.F.R. §785.39.

#### **G. Preparatory and Finishing Activities**

Normally, activities which occur before or after normal work hours are not compensable. This may be altered by an express agreement or if the activities are integral to the performance of the employee's duties.

#### **H. Meetings and Training**

The time spent at meetings or in training activities is compensable if required by the employer. For such time not to count as hours worked the following criteria must be satisfied:

1. the activity occurs outside normal work hours;
2. attendance is voluntary;
3. no work is required during the activity;

4. and the activity does not relate directly to the job.

### **III. ISSUES IN OVERTIME**

Section 7 of the FLSA requires that employees who are not specifically exempt must be paid overtime for each hour worked in excess of 40 in a work week at the rate of one and one-half times their “regular rate of pay.” 29 U.S.C. §207(a). The “regular rate” includes “all remuneration for employment paid to, or on behalf of, the employee.” 29 U.S.C. §207(e); 29 C.F.R. §778.108. To determine the amount of overtime due, two calculations are necessary: the total number of hours worked in excess of 40 for the week and the employee’s regular rate of pay.

#### **A. The Work Week**

The work week is defined as "a fixed and regularly recurring period of 168 hours – 7 consecutive 24 hour periods." 29 C.F.R. §778.105. The employer may designate any seven day period for the work week; a different work week can be designated for each employee.

#### **B. Regular Rate of Pay**

To calculate the regular rate of pay, two questions are critical: (1) what items are properly included in the employee's compensation; and (2) what is the hourly rate.

1. For hourly employees, the regular rate is usually the hourly rate which the employee is paid for the job performed. 29 C.F.R. § 778. Production based bonuses must be included in the regular rate. 29 C.F.R. § 778.209.
2. For salary employees, the regular rate is computed by dividing the salary by the number of hours for which the salary is intended to compensate. 29

C.F.R. § 778.113.

3. The regular rate of a piece worker is generally calculated by adding his total work week earnings and dividing it by the total number of hours worked during the work week. A piece worker who works overtime would be entitled to additional pay at one-half the regular rate of pay for each hour of overtime. 29 C.F.R. §778.111.

In situations where an employee receives compensation at different rates, the weighted average should be used to determine the regular hourly rate of pay. 29 C.F.R. §778.115.

### **C. Exclusions**

The FLSA excludes certain items of remuneration from the regular rate of pay.

Some of the items include:

- Reimbursement for expenses incurred on the employer's behalf;
- Discretionary bonuses;
- Gifts and payments in the nature of gifts made on special occasions;
- Payments made for suggestions or new business contest awards;
- Payments for occasional absences and vacation pay.

29 U.S.C. §207(e).

Overtime must be paid for overtime hours worked regardless of whether overtime is permitted or was authorized. (Beware the loyal employee who regularly works a little late or comes in a little early.) Further, an employee is entitled to overtime even if the employee fails to record the overtime or submits time records that do not accurately

reflect the time worked. (But, the employee will have the burden of proof to overcome the presumption that the time records are accurate.) In light of these considerations, employers should consider adopting written policies requiring employees to receive permission to work overtime and imposing discipline on employees who violate the policies. Similarly, submitting inaccurate time records should result in discipline.

#### **D. Compensatory Time**

Generally, the FLSA requires a monetary payment of one and one-half times an employee's regular rate of pay for all hours worked in excess of 40 each week. Private sector employers (including in New Jersey) may not allow an employee to take compensatory time off in lieu of overtime pay. Compensatory time off is, however, available for public sector employers.

#### **E. Specific Categories of Exemptions**

- 1. Commissioned sales employees** of retail or service establishments are exempt from overtime if more than half of the employee's earnings come from commissions and the employee averages at least one and one-half times the minimum wage for each hour worked.
- 2. Computer professionals:** Section 13(a)(17) of the FLSA provides that certain computer professionals paid at least \$27.63 per hour are exempt from the overtime provisions of the FLSA.
- 3. Drivers, driver's helpers, loaders and mechanics** are exempt from the overtime pay provisions of the FLSA if employed by a motor carrier, and if the employee's duties affect the safety of operation of the vehicles in transportation of passengers or property in interstate or foreign commerce.
- 4. Farm workers** employed on small farms are exempt from both the minimum wage and overtime pay provisions of the FLSA. Young workers employed on small farms, with parental consent, are also exempt from the child labor provisions of the FLSA. For more information on exemptions from the child labor provisions of the FLSA in agriculture, click the

underlined text. Other farm workers are exempt from the FLSA's overtime provisions.

5. **Salesmen, parts men and mechanics** employed by automobile dealerships are exempt from the overtime pay provisions of the FLSA.
6. **Seasonal and recreational establishments:** Employees employed by certain seasonal and recreational establishments are exempt from both the minimum wage and overtime pay provisions of the FLSA.
7. **Executive, administrative, professional and outside sales employees:** (as defined in Department of Labor regulations) and who are paid on a salary basis are exempt from both the minimum wage and overtime provisions of the FLSA.

### **Further Information on Selected Categories**

#### *Administrative Employees*

To qualify for the administrative employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's **primary duty** must be the performance of office or non-manual work **directly related to the management or general business operations** of the employer or the **employer's customers**; and
- The employee's primary duty includes the exercise of **discretion and independent judgment** with respect to **matters of significance**.

**Primary Duty** - Primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.

**Directly Related to Management or General Business Operations** - To meet the "directly related to management or general business operations" requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example from working on a manufacturing production line or selling a product in a retail or service establishment. Work "directly related to management or general business

operations” includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network, Internet and database administration; legal and regulatory compliance; and similar activities.

**Employer’s Customers** - An employee may qualify for the administrative exemption if the employee’s primary duty is the performance of work directly related to the management or general business operations of the employer’s customers. Thus, employees acting as advisors or consultants to their employer’s clients or customers — as tax experts or financial consultants, for example — may be exempt.

**Discretion and Independent Judgment** - In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The term must be applied in the light of all the facts involved in the employee’s particular employment situation, and implies that the employee has authority to make an independent choice, free from immediate direction or supervision. Factors to consider include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in the regulation. The fact that an employee’s decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources.

**Matters of Significance** - The term “matters of significance” refers to the level of importance or consequence of the work performed. An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee’s duties may cause serious financial loss to the employer.

**Highly Compensated Employees** - Highly compensated employees performing office or non-manual work and paid total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.

### ***Outside Sales***

To qualify for the outside sales employee exemption, all of the following tests must be met:

- The employee's primary duty must be making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
- The employee must be customarily and regularly engaged away from the employer's place or places of business.

The salary requirements of the regulation do not apply to the outside sales exemption. An employee who does not satisfy the requirements of the outside sales exemption may still qualify as an exempt employee under one of the other exemptions allowed by Section 13(a)(1) of the FLSA and the Part 541 regulations if all the criteria for the exemption is met.

**Primary Duty** - "Primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.

**Making Sales** - "Sales" includes any sale, exchange, contract to sell, consignment for sales, shipment for sale, or other disposition. It includes the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property.

**Obtaining Orders or Contracts for Services or for the Use of Facilities** - Obtaining orders for "the use of facilities" includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies. The word "services" extends the exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.



**Customarily and Regularly** - The phrase “customarily and regularly” means greater than occasional but less than constant; it includes work normally done every workweek, but does not include isolated or one-time tasks.

**Away from Employer’s Place of Business** - An outside sales employee makes sales at the customer’s place of business, or, if selling door-to-door, at the customer’s home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer’s places of business, even though the employer is not in any formal sense the owner or tenant of the property.

**Promotion Work** - Promotion work may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee’s own outside sales or solicitations is exempt work. However, promotion work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work.

**Drivers Who Sell** - Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. Several factors should be considered in determining whether a driver has a primary duty of making sales, including a comparison of the driver’s duties with those of other employees engaged as drivers and as salespersons, the presence or absence of customary or contractual arrangements concerning amounts of products to be delivered, whether or not the driver has a selling or solicitor’s license when required by law, the description of the employee’s occupation in collective bargaining agreements, and other factors set forth in the regulation.

#### **F. Common Mistakes in Pay and Overtime Calculations**

For salaried employees entitled to overtime pay under the FLSA, employers must be sure to calculate correctly the regular rate of pay by dividing the salary received for each week by the total number of hours in the regular work week, rather than the number of hours actually worked.

For employees paid on a commission or piece rate basis, the employer must ensure

that the regular rate is at least equal to minimum wage.

Some employers provide premium rates of pay for employees who work more than 8 hours per day or on weekends or holidays. The amount of the premium can be counted towards an employer's overtime obligation, leaving the employer only responsible for paying any difference between the premium and overtime. Employers should note, however, that a shift differential (a higher rate paid for less popular shifts) is considered part of regular pay and may not be credited towards overtime pay.

If an employee is docked time for lateness or some other disciplinary infraction, the regular rate of pay must be calculated without considering the deduction and, after considering the deduction, the rate of pay must remain at least equal to minimum wage.

**G. Practices That Can Create Liability For Overtime**

With respect to exempt employees, employers must be careful not to treat them in a manner that removes their status as exempt employees. This is especially true when docking the compensation of an exempt employee. Practices that are likely to create liability on the part of an employer for overtime for exempt employees include:

1. Paying an employee by the hour;
2. Deducting from salary for part-day absences;
3. Deducting from sick leave or vacation time for part-day absences;
4. Linking additional compensation directly to hours worked;
5. Disciplinary suspensions without pay (unless for safety violations of major significance or suspension for a full week);
6. Deducting from salary for jury duty, appearing in court as a witness, or temporary military leave;

7. Suspension without pay for budgetary reasons or required furloughs.

Employers should note that they may not deduct from the salary of an exempt employee for part-day absences during a week, even if the total hours of absence would exceed one day.

Employers may only dock the pay of exempt employees without jeopardizing the exempt status of such employees under the following circumstances:

- Deductions may be made for absences of a day or more for personal reasons other than sickness or accident;
- Deductions may be made for absences of a day or more because of sickness or disability, if the employer has a plan, policy or practice of providing compensation for absences due to sickness or disability;
- An employer may deduct for absences due to sickness or disability if benefits are provided under a government or employer plan;
- An employer may deduct for absences due to an industrial accident if the employee is compensated for loss of salary under a workers' compensation plan and if the employer has a plan for providing compensation for sickness and disability other than that resulting from industrial accidents;
- Deductions may be made for absences of at least one week in length. While no deductions may be made for absences of less than a work week for jury duty, court appearance as a witness, or temporary military leave, the employer may reduce the employee's pay for the week by any jury, witness or military pay received for that week;
- Deductions may be made as a disciplinary measure for significant violations of safety rules (such as those designed to protect other employees);
- An employer may deduct from vacation or sick leave credits if the deductions do not reduce the compensation for any week in which some work is performed.

### **III. ADDITIONAL STATE WAGE AND HOUR LAWS**

#### **A. ALABAMA**

##### Minimum Wage

Currently Alabama does not have a separate minimum wage requirement.

##### Child Labor Laws

Children under 16 may not work more than six days per week or 40 hours per week, or eight hours per day. They cannot be required to work on Sunday. Also, employees who are 14 or 15 years of age may not more than five continuous hours without at least a 30 minute break for meals.

Truck drivers who work a ten-hour day are required to have an eight hour rest after that day.

##### New Hire Reports

Employers are required to report certain information on all new hires, recalls or rehires to the Department of Industrial Relations. Reports are due seven days after hiring. The information required is the employees name, address, social security number, etc.

##### Minors

Minors cannot work more than eight hours a day, six days a week or 40 hours per week. They cannot work between 9:00 p.m. and 7:00 a.m.

## **B. CALIFORNIA**

### Minimum Wage

The basic minimum wage rate in California is \$6.75. (In San Francisco the Minimum Wage is \$8.50.

### Call in Pay

Employees are required to report to work and then report and are not furnished work must receive between two and four hours pay or half the usual scheduled days work. If an employee is required to report for work the second time in any one day and is furnished less than two hours work, the employee shall be paid two hours at the regular rate of pay. While this provision doesn't apply in cases of power outages or acts of God.

### Meal and Rest Periods

Thirty minute meal period after five hours is required. Employees must be given a rest period in the middle of each work period computed at ten minutes for four hours working time. The meal period occurs on the shift beginning or ending between 10:00 p.m. and 6:00 a.m. so facilities shall be available for securing hot food or drink.

Employees who work shifts in excess of a total of eight hours in a workday may voluntarily waive their right to a meal. The waiver must be documented.

### Split Shifts

When an employee works split shifts, one hour's pay at a minimum wage shall be paid.

## Records

Employers shall keep records of each employee, including names, addresses, birth dates, time records showing beginning and ending of work periods, scheduled meal periods and split shift intervals, total wages paid, etc.

## Overtime

Overtime is one and a half times employee's regular hourly pay after an 8 hour day in a 40 hour workweek. Anything over 12 hours in one day would be a rate of double time. If an employee works seven days a week, on the seventh day, the first 8 hours are time and one-half. Anything over 8 hours is double time.

## Pro Rata Vacation

Upon termination of an employee, pro rata vacation and earned vacation should be paid. (There are some legal issues regarding this provision but it is still on the books). The policy of using your vacation or losing it is not permissible under California law. However the employer can prevent an employee from earning additional vacation time once a certain level of unused vacation has accrued.

## **C. COLORADO**

### Minimum Wage

The minimum wage rate is \$5.15 per hour.

### Overtime

Overtime under Colorado law is paid after 12 hours in one day and 40 hours in one week.

**D. FLORIDA**

Minimum Wage

The minimum wage rate is \$6.15 per hour.

Child Labor Laws

Child Labor Laws forbid night work for minors up to 18 years of age. Child labor laws require if an employee works more than four hours continuously, they shall receive a thirty minute break and minors of 16 and 17 cannot work more than eight hours in any day when school is scheduled the following day. When school is in session, minors cannot work more than a 30 hour week. Night work is forbidden for minors up to 18 year of age.

**E. GEORGIA**

Minimum Wage

The minimum wage rate is the same as the federal rate of \$5.15 per hour.

Records

All employers who are subject to provisions of the act must maintain records showing hours worked and wages paid to all covered employees.

Absolute Hour Limitation: 10 hour day or 60 hour week

Day of Rest

If the business operates on Saturday or Sunday, for employees who worship a religion, employers shall make all reasonable accommodations for religious, social and physical needs of the employees?

### Child Labor Laws

Sixteen year olds may not work more than four hours in any day when school is attended.

### Voting Time.

Employees may be permitted to take time off from work not exceeding two hours to vote. This is not required if the employees commenced their work at least two hours after the polls open or end at least two hours before they close.

## **F. ILLINOIS**

### Minimum Wage Rate

There is a minimum wage rate of \$6.50 per hour for employers who employ over 4 people. For all others the federal rate of \$5.15 would apply.

### Day of Rest

At least 24 consecutive hours of rest in every calendar workweek is required and the regular period of rest allowed at the close of each working day.

### Meal and Rest Periods

At least 20 minutes for meal periods beginning no later than five hours after the start of the work period for employees working seven and one-half consecutive hours or longer.

### Records

Employers are required to keep time records showing names and addresses of employees of hours worked by each of them.



### Child Labor

There are many requirements that should be reviewed.

### Paid Deductions

Cash and/or inventory shortages shall not be deducted from employees' pay unless employees' express written consent is given freely at the time the deduction is made. Employer shall also not deduct the cost of purchasing and cleaning uniforms required by the employer from employee's wages unless the employee's written consent is given freely at the time it is made.

### Voting Time

Employees are given two hours between time of opening and closing to vote. Employee should request this before the election day.

## **G. MARYLAND**

### Minimum Wage

The Minimum Wage rate is \$5.15.

### Voting Time

Up to two hours absence from work on election day is required if the employee doesn't have two hours of continuous off duty during the time polls are open. Employees shall furnish proof to employer that the employee voted and shall be paid for that time.

### Toxic Substances Right to Know.

The employer shall compile and maintain chemical information lists that shall contain information for each chemical used in the workplace.

## H. MASSACHUSETTS

### Minimum Wage

The Minimum Wage rate in Massachusetts is \$6.75 per hour.

The Minimum Wage rate in Massachusetts automatically raises itself to be 10 cents more than the rate set in the FLSA if that rate ever rose above the Massachusetts rate.

### Waiting or Call In Pay

Employees who report for work by request or permission of employer must be paid three hours work whether or not they work.

### Records

Records are required for all employees.

### Day of Rest

A 24 hour consecutive hour of rest for each seven consecutive days of work.

### Meal and Rest Periods

No person shall be required to work for more than six hours during a calendar day without at least thirty minutes for meals.

### Special Occupations Motor Transportation

Drivers transporting property are entitled to eight hours off after a twelve hour duty, ten hours off after driving 16 hours out of a 24-hour day.

### Voting Time

Time off first two hours after opening of polls. The employee must make an application for the time off to vote.

**I. MICHIGAN**

The minimum wage rate is \$5.15 per hour and is applicable to employers with 2 or more employees.

**J. NEW JERSEY**

Minimum Wage

The rate in New Jersey is \$5.15.

Records

Employer is required to keep records of employees' hours and wages.

Exemptions for Outside Sales Person

Apply to employees who "customarily and regularly engaged away from employer's place of business in making sales or obtaining orders. Any work of a different nature does not exceed 20% of the hours worked in a workweek. Work performed in conjunction with outside sales, including deliveries and collections is exempt.

**K. NORTH CAROLINA**

Minimum Wage

The minimum wage rate is \$5.15 per hour.

North Carolina automatically adopts the federal minimum wage rate, whatever that may be at any particular time.

**L. OREGON**

Minimum Wage

The minimum wage rate is \$7.25 per hour.

The rate is adjusted for inflation by a calculation using the U.S. City Average Consumer Price Index for All Urban Consumers for All Items. The wage amount established will be rounded to the nearest five cents.

**M. PENNSYLVANIA**

Minimum Wage

The Minimum Wage rate is \$5.15.

Pennsylvania automatically adopts the federal minimum wage rate, whatever that may be at any particular time.

Meal and Rest Periods

Meal and rest periods shall be required. If one works more than five continuous hours, the employee shall receive a 30 minute meal break.

**N. TEXAS**

Minimum Wage

The Minimum Wage rate is \$5.15.

Texas automatically adopts the federal minimum wage rate, whatever that may be at any particular time.

Voting Time

It is unlawful for employer to refuse to allow an employee time to vote.