

Massachusetts Wage & Hour Laws

Minimum Wage \$6.75

M.G.L. chapter 151, sections 1 and 2

WHO IS COVERED

The minimum wage law applies to all employees except those in professional service, agricultural and farm work, those being rehabilitated or trained under certain educational, charitable or religious programs, or those engaged in outside sales work, who regularly sell a product or products away from their employers' place of business and do not report to the employers' place of business daily. For further information regarding the state minimum wage, contact the Massachusetts Division of Occupational Safety at (617) 727-3452 and/or visit www.mass.gov/dos.

Wait staff, service employees and service bartenders may be paid the service rate of \$2.63 per hour if they regularly receive tips of more than \$20 a month (\$30 under federal law), and if their average hourly tips, when added to the service rate, are equal to or exceed the basic minimum wage. M.G.L. chapter 151, section 7.

Agricultural employees may be paid \$1.60 per hour. M.G.L. chapter 151 section 2A. For more information regarding agricultural employees, contact the U.S. Department of Labor at (617) 624-6700 and or visit www.dol.gov/esa/whd.

PAYMENT OF WAGES

M.G.L. chapter 149, section 148

Wages (including tips) must be paid within the following time periods:

- **If employed for five or six days in a calendar week:** within six days of the end of the pay period during which the wages were earned;
- **If employed seven days in a calendar week:** within seven days of the end of the pay period during which the wages were earned;
- **An employee who has worked for a period of less than five days (also known as a casual employee):** within seven days of the end of the period.

An employee who resigns his or her employment must be paid in full on the following regular pay day, or in the absence of a regular pay day, no later than the following Saturday. An employee involuntarily terminated from employment, or laid off, must be paid in full on the day of discharge.

Employees who are paid on an hourly basis must be paid weekly or bi-weekly. Employers may not make agreements with employees to be paid in another manner.

EMPLOYERS MUST GIVE EACH EMPLOYEE A PAY STATEMENT SETTING FORTH the name of employer, name of employee, date of check (including the day, month and year), number of hours worked during the pay period, hourly rate, and all deductions or increases made during the pay period. This statement must be provided with each payment of wages.

DEDUCTIONS: No deduction, other than those required or allowed by law and those listed in 455 CMR 2.04(1)(a) and (b), shall be made from the basic minimum wage.

TIPS

M.G.L. chapter 149, section 152A

Tip pooling in which tips are distributed to any person not a wait staff, service employee or service bartender is prohibited.

Total proceeds of a tip or service charge contained in a bill must be remitted only to wait staff employees, service employees or service bartenders in proportion to the service provided by those employees.

Under no circumstances may management employees or owners receive any portion of their employees' tips.

MEAL BREAKS

M.G.L. chapter 149, sections 100 and 101

Employees who work a period of more than six hours are entitled to a 30-minute meal break. Employees must be relieved of all duties during the meal break. Compensation for the 30-minute meal break must be paid if the employee has voluntarily agreed to waive his or her meal break by (1) working through his or her meal break, or (2) agreeing to remain on premises during the meal break.

This law does not apply to: iron works, glass works, paper mills, letterpress establishments, print works, bleaching works or dyeing works.

Exemptions may be granted for other continuous processes in factories, workshops or mechanical establishments, or under other special circumstances.

No meal break deduction may be taken where an employer has duly obtained an exemption.

REPORTING PAY

455 C.M.R. 2.03(1)

When an employee who is scheduled to work three or more hours reports for duty at the time set by the employer, and that employee is not provided with the expected hours of work, the employee shall be paid for at least three hours on such day at no less than the basic minimum wage. This provision shall not apply to organizations granted status as charitable organizations under the Internal Revenue Code.

FAIR LABOR HOTLINES:

Boston: (617) 727-3465
New Bedford: (508) 990-9700
Springfield: (413) 784-1128
Worcester: (508) 792-7600

OFFICE OF ATTORNEY GENERAL

THOMAS F. REILLY



NOVEMBER 2004

Fair Labor and Business Practices Division - One Ashburton Place - Boston, Massachusetts 02108 - www.ago.state.ma.us

CHILD LABOR

M.G.L. chapter 149, sections 60 through 73

Employment permits are required for minors under age 16, and educational certificates are required for minors 16 and 17 years old. Employment permits and educational certificates must be issued for and maintained at the site where the minor is working. Employment permits are issued by the superintendent of schools in the city or town where the minor attends school or lives. For information on obtaining an employment permit or an educational certificate, please contact the Division of Occupational Safety at (617) 727-3452 and or visit www.mass.gov/dos.

TIME AND HOUR RESTRICTIONS*

14-15 YEAR OLD MINORS

14-15 year old minors may NOT be employed:

- during school hours EXCEPT as provided in approved work experience and career exploration programs
- between 7:00 p.m. and 7:00 a.m. EXCEPT from July 1 through Labor Day, when they may work until 9:00 p.m.
- more than 3 hours per day during school weeks, not more than 8 hours per day during weeks when school is not in session
- more than 18 hours per school week EXCEPT in approved work experience and career exploration programs, in which case, they may work 23 hours
- more than 40 hours per week when school is not in session
- more than 6 days per week

16-17 YEAR OLD MINORS

16-17 year old minors may NOT be employed:

- between 10:00 p.m. and 6:00 a.m. EXCEPT in restaurants and race tracks where they may work until midnight on Fridays and Saturdays and during school vacations, except on the last day of vacation
- more than 9 hours per day
- more than 48 hours in a week
- more than 6 days per week

*The Federal Fair Labor Standards Act, enforced by the U.S. Department of Labor, also restricts the employment of minors. This list combines the most restrictive state and federal time and hour requirements.

HAZARDOUS OCCUPATION RESTRICTIONS+

Minors 14-15 years of age are prohibited from certain occupations, industries and tasks. For example, 14-15 year old minors may not work in or around manufacturing facilities or factories, mechanical establishments where machinery is used, on construction sites, in garages or tunnels. Minors 16-17 years of age are prohibited from certain occupations, industries and tasks. For example, they may not work in or around blast furnaces or anywhere explosives are manufactured.

+This is not an exhaustive list. For a complete list of prohibited occupations for minors 14-15 and 16-17 years of age, please contact the Fair Labor and Business Practices Division or visit www.ago.state.ma.us and the U.S. Department of Labor at (617) 624-6700 or visit www.dol.gov.

OVERTIME

M.G.L. chapter 151, section 1A

Employees working more than 40 hours in any work week must be paid at least one and one-half times their regular hourly rate of pay. The overtime rate for employees who receive the service rate must be calculated based upon the basic minimum wage. Certain categories of employment are exempt from the state overtime requirement**, including:

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| (1) as a janitor or caretaker of residential property, who when furnished with living quarters is paid a wage of not less than thirty dollars per week | (11) by a common carrier of passengers by motor-vehicle |
| (2) as a golf caddy, newsboy or child actor or performer | (12) in a hotel, motel, motor court or like establishment |
| (3) as a bona fide executive, administrator, professional person or a qualified trainee for such position earning more than eighty dollars per week | (13) in a gasoline station |
| (4) as an outside salesman or outside buyer | (14) in a restaurant |
| (5) as a learner, apprentice or handicapped person under a special license as provided in section nine | (15) as a garageman, which term shall not include a parking lot attendant |
| (6) as a fisherman or as a person employed in the catching or taking of any kind of fish, shellfish or other aquatic forms of animal and vegetable life | (16) in a hospital, sanatorium, convalescent or nursing home, infirmary, rest home or charitable home for the aged |
| (7) as a switchboard operator in a public telephone exchange | (17) in a non-profit school or college |
| (8) as a driver or helper on a truck with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service | (18) in a summer camp operated by a non-profit charitable corporation |
| (9) in a business which is operated during a period or accumulated periods not in excess of 120 days in a year, and determined by the Director of the Department of Labor and Workforce Development to be seasonal in nature | (19) as a laborer engaged in agriculture and farming on a farm |
| (10) as a seaman | (20) in an amusement park containing a permanent aggregation of amusement devices, games, shows, and other attractions operated during a period or accumulated periods not in excess of one hundred and fifty days in any one year |

**Note that some of these occupations may not be exempt under federal law.

RIGHT TO SUE

M.G.L. chapter 149, section 150

Employees may institute a private suit and obtain back pay and, in some cases, triple damages, attorney's fees and costs for violations of M.G.L. chapter 149, sections 148, 148A, 148B, 150C, 152, 159C, chapter 151, section 19.

INSPECTION OF PAYROLL RECORDS

M.G.L. chapter 151, section 15

Employees have a right to inspect their own payroll records at reasonable times and places. Such records must be kept for two years and must include: a true and accurate record of the name, address and occupation of the employee, of the amount paid each pay period and of the daily and weekly hours worked by the employee.

NO RETALIATION

M.G.L. chapter 149, section 148A, chapter 151, section 19

No employee shall be penalized by an employer or in any way discriminated against because he/she has made a complaint or otherwise sought to enforce rights under the wage and hour provisions of chapters 149 and 151.

WORKPLACE NOTICE: This workplace notice is issued in accordance with the provisions of Massachusetts General Laws M.G.L. c. 151, §16 and the Code of Massachusetts Regulations 455 C.M.R. §2.06(1), which require that employers post it in a conspicuous location.