

COLORADO EMPLOYMENT LAW

Overtime Wage Laws



Federal overtime wage payment requirements are governed by the Fair Labor Standards Act (FLSA). In Colorado, these requirements are governed by the Colorado Wage Act (CWA). Under both laws, employees must receive **one and one-half times** their regular wage rate for all hours worked in excess of 40 hours in a workweek.

The [Colorado Department of Labor and Employment](#) (CDLE) enforces these overtime requirements throughout the state.

STATE RESOURCES

Colorado Department of Labor and Employment (CDLE) [website](#)

Colorado Wage Act

Text of the Colorado Wage Act is available [here](#).

Wage Protection Rules

Text of the CDLE's Wage Protection Rules is available [here](#).

FAQs and Fact Sheet

The CDLE provides answers to frequently asked questions ([FAQs](#)) and this [fact sheet](#) about the Colorado Wage Act.

CALCULATING THE REGULAR RATE OF PAY

Employers must calculate their employees' regular rate of pay before they can determine any applicable overtime wages.

An employee's **regular rate of pay** is the actual rate he or she receives for a standard, non-overtime workweek. This number may vary from week to week and may be different from the employee's contractual rate of pay.

Under Colorado law, a **workweek** is a fixed period of **168 hours, or seven consecutive 24-hour workdays**. A workweek may begin on any day of the week and at any hour of the day and does not have to coincide with a calendar week.

To calculate an employee's regular rate for a specific workweek, an employer must divide the employee's **entire compensation** for the workweek by the **number of hours the employee worked** during that period.

An employee's **entire compensation** includes his or her hourly rate and any shift differential, minimum wage tip credit, non-discretionary bonuses, production bonuses or commissions. However, entire compensation does **not** include:

- Business expenses;
- Bona fide gifts;
- Discretionary bonuses;
- Employer investment contributions; or
- Payment for non-working hours (such as vacation, sick leave or jury duty pay).

To determine the **number of hours an employee works** during a workweek, an employer must consider any time during which the employee was subject to the employer's control. This includes any time the employee is:

COLORADO EMPLOYMENT LAW

Overtime Wage Laws



- Allowed to work (regardless of whether he or she is required to work);
- Waiting for a job assignment;
- Waiting to begin work;
- Cleaning or performing other “off the clock” duties; or
- Traveling under the request, control or direction of the employer (excluding normal commuting time to and from work).

OVERTIME PAY

Colorado law requires employers to compensate their employees with **one and one-half times** their regular wage rate for any overtime hours worked. Overtime hours are hours worked in excess of either:

- 40 hours in a workweek;
- 12 hours in a workday; or
- 12 consecutive hours, without regard to the starting and ending time of the workday (not counting meal periods where employees were relieved of all work duties).

The hours an employee works during one workweek may **not** be averaged with the hours worked during any other workweek.

The overtime wage rate for an employee working in two or more positions must be calculated using the regular wage rate for the position that caused the employee to work overtime or using a weighted average method as described in the FLSA.

During a bona fide emergency, employers may require minors to work over eight hours in a workday or 40 hours in a workweek. In these cases, employers must keep specific records to prove the existence of a bona fide emergency. Minors who work overtime are entitled to receive one and one-half times their regular wage rate as compensation for any overtime hours worked.

EXEMPTIONS FROM OVERTIME PAYMENT LAWS

Hospitals and nursing homes may seek agreements with employees to pay overtime based on work over 80 hours in a 14 consecutive day period, and over eight hours per day, as prescribed by the FLSA.

In addition, the following employees are exempt from Colorado’s overtime payment laws:

Industry	Affected Employees	Exemption
Automobile, truck or farm implement (retail) dealer	Salespersons, parts-persons and mechanics	Full exemption
Aircraft, trailer or boat (retail) dealer	Salespersons	Full exemption

COLORADO EMPLOYMENT LAW

Overtime Wage Laws



Industry	Affected Employees	Exemption
Retail or service industry	Sales employees paid on commission who receive: <ul style="list-style-type: none">• At least 50 percent of wages from commission sales;• A regular wage rate of at least one and one-half times the minimum wage rate; and• More than 75 percent of their annual wages from retail or service sales.	Full exemption
Ski industry	Employees who: <ul style="list-style-type: none">• Perform duties directly related to ski area operation for downhill skiing or snowboarding; or• Provide food and beverage services at on-mountain locations. Excludes ski area employees performing duties related to lodging.	Partial exemption: overtime pay is not required for work over 40 hours per workweek. However, overtime pay is required for work performed over 12 hours during a workday.
Medical transportation industry	Employees who are scheduled to work 24-hour shifts	Partial exemption: these employees are exempt from the 12 hour overtime requirement, provided they receive overtime wages for hours worked over 40 hours per workweek.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on wage payment and work hour laws in Colorado.