

MISSOURI EMPLOYMENT LAW Overtime Wage Law



Federal overtime wage payment laws are governed by the Fair Labor Standards Act (FLSA). In Missouri, overtime wage payments are controlled by the Missouri Minimum Wage Law (MMWL).

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. Whenever state and federal laws conflict, the law that is more favorable to the employee applies.

The Missouri [Department of Labor and Industrial Relations](#) (DOLIR) enforces overtime standards throughout the state.

STATE RESOURCES

Missouri Department of Labor & Industrial Relations (DOLIR) [website](#)

The DOLIR provides the following information to help employers comply with wage and hour laws:

- [Prevailing Wage](#)
- [Minimum Wage](#)
- [Tipped Employees](#)
- [Penalties & Records Retention](#)
- [Filing a Minimum Wage Complaint](#)
- [Publications and Forms](#)
- [FAQs](#)

CALCULATION OF AVERAGE HOURLY WAGE

Employers must calculate their employees' average hourly wage before they can determine applicable overtime wages. An employee's average hourly wage can vary from week to week and may be different from the employee's contractual rate of pay.

To calculate an employee's average wage rate for a specific workweek, employers must divide the employee's **total compensation** for a workweek by **the number of hours the employee worked** during that period.

Generally, an employee's total compensation includes non-discretionary bonuses, non-overtime premium payments (lump sums paid regardless of the number of hours worked) and on-call pay. In contrast, total compensation does *not* include:

- Overtime pay;
- Premiums for working on weekends and holidays;
- Discretionary bonuses;
- Gifts;
- Payment for non-working hours (vacation or sick leave); and
- Payments made due to a bona fide profit-sharing plan or trust, if the payments are determined without regard to hours of work, production or efficiency.

A **workweek** in Missouri is a **fixed seven-day period**. Employers can set a workweek to begin on any day of the week and at any hour of the day, without coinciding with a calendar week. Once established, employers cannot change or manipulate an employee's workweek to evade the requirements of the MMWL.



OVERTIME PAY

The MMWL requires employers to compensate their employees at **one and one-half times** their average wage rate for any hours worked in excess of 40 hours in a workweek.

EXCEPTIONS TO OVERTIME PAYMENT LAWS

The following categories of employees are exempt from overtime laws:

- Agricultural workers;
- Amusement and recreational business employees (overtime is required for hours worked over 52 in a workweek);
- Employees exempt from overtime wage payment requirements under the FLSA;
- Bona fide executive, administrative or professional employees;
- Volunteers engaged in activities for educational, charitable, religious or nonprofit organizations;
- Foster parents;
- Individuals who work for less than four months in a resident or day camp for youth;
- Individuals who work for an educational conference center operated by an educational, charitable or nonprofit organization;
- Individuals working for an educational organization who receive tuition, housing and assistance with other educational fees in lieu of payment;
- Domestic employees who occasionally work on or about a private residence for up to **six hours** on each occasion;
- Disabled individuals working for sheltered workshops that are certified by the Department of Elementary and Secondary Education;
- Casual babysitters;
- Employees subject to Part A (Rail) of Federal Interstate Transportation laws;
- Casual or intermittent golf caddies, newsboys and individuals in similar occupations;
- Individuals paid on commission (in whole or in part) whose hours and place of employment are not substantially controlled by the employer;
- Government employees;
- Employees working for service or retail businesses with **less than \$500,000** in annual gross sales;
- Inmates in correctional facilities; and
- Any individual employed in connection with the publication of any weekly, semiweekly or daily newspaper with a circulation of **fewer than 4,000** within the county or counties contiguous to where the paper is published.

PENALTIES

Employers may be charged with a **class C misdemeanor** if they:

- Pay their employees less than the overtime wage rate for all overtime work hours;
- Hinder the DOLIR in a wage investigation;
- Fail to post a summary of these laws for their employees;
- Retaliate against an employee for submitting a complaint or assisting the DOLIR in a wage investigation; or
- Otherwise violate Missouri's wage laws.

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Employers are only liable for actions that are filed **within two years** of when the violation takes place. In addition, employees can recover up to **twice the amount of unpaid wages** and **reasonable attorney's fees**, as may be allowed by a jury.

MORE INFORMATION

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