

VIRGINIA

EMPLOYMENT LAW

Wage and Hour Laws



The Fair Labor Standards Act (FLSA) regulates minimum wage, overtime pay and work hour requirements for most employees. The current federal minimum wage rate is **\$7.25 per hour** for nonexempt employees. The Virginia Minimum Wage Act (VMWA) complements federal law and, in some instances, provides more stringent requirements that employers must follow.

The [Virginia Department of Labor and Industry](#) (VDOLI) investigates wage claims over \$2,500 but defers other claims and questions to the [U.S. Department of Labor](#) (DOL).

STATE RESOURCES

Virginia Department of Labor and Industry
<https://www.doli.virginia.gov/>

U.S. Department of Labor
<https://www.dol.gov/>

Poster

Employers can use this FLSA model [poster](#) to satisfy their posting requirements.

MINIMUM WAGE RATE

The minimum wage rate in Virginia is **\$7.25 per hour** and applies to **employers with at least four employees**. Employees who are immediately related to their employer (father, mother, son or daughter) are not counted as employees for minimum wage purposes.

The VMWA does *not* apply to any individuals exempt from minimum wage requirements by the FLSA. In addition, the VMWA does *not* apply to:

- Boys' camp and Girls' camp employees;
- Caddies on golf courses;
- Domestic service employees working in a private home or charitable institution primarily supported by public funds;
- Farm laborers and employees;
- Individuals participating in a work-study or equivalent program;
- Individuals under the age of 18, working fewer than 20 hours per week and enrolled as full-time students in a secondary educational institution or trade school;
- Individuals who are under the jurisdiction and direction of a juvenile or domestic relations district court;
- Individuals with a physical, mental or intellectual disability;
- Inmates and residents of any state penal corrective;
- Minors under the age of 16, or under 18 if working for a parent or legal guardian;
- Students/apprentices participating in an educational or apprenticeship program;
- Traveling and outside sales personnel; and
- Volunteers working for educational, charitable, religious or nonprofit organizations where an employer-employee relationship does not exist.

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OVERTIME PAY

Overtime pay in Virginia follows the FLSA. In general, employees are entitled to receive **one and one-half times their regular wage rate** for work performed during overtime hours. Contact Heffernan Insurance Brokers for more information on federal guidelines for overtime wages and exemptions.

REGULAR WORK HOURS

Virginia has also adopted FLSA regulations on work hours. The FLSA uses the **40-hour workweek** (seven consecutive calendar days) as the basis to calculate overtime pay. The hours an employee works during one workweek may not offset the hours worked in previous or future workweeks.

The FLSA allows some exceptions to the 40-hour workweek. Contact your Heffernan Insurance Brokers for additional information on these exceptions.

METHOD OF PAYMENT

Virginia law requires employers to pay wages in lawful United States currency. Acceptable means of payment include:

- Cash;
- Check convertible into cash on demand at full face value;
- Direct deposit; or
- Pre-paid debit card, if the employee agrees to this form of payment after receiving full disclosure of all applicable fees.

Wages can include the cost of room and board if these are customarily provided by the employer and they are used by the employee.

FREQUENCY OF PAYMENT

Employers must pay salaried employees **at least monthly** and hourly employees **at least semi-monthly or bi-weekly**.

However, Virginia law allows employers to pay an hourly employee at least once per month if the employee:

- Is enrolled in a work-study or equivalent program or receives weekly wages higher than 150 percent of the average weekly wage for the state; and
- Has individually agreed to be paid monthly.

LAST WAGE PAYMENT

Discharged and resigning employees are entitled to receive their outstanding wages **by the next regular pay day**.

WITHHOLDINGS AND DEDUCTIONS

Employers can withhold a portion of an employee's wages when authorized by law or when requested by the employee. An employee's withholding authorization must be in writing and signed by the employee.

Employers are obligated to provide a statement indicating the amount and purpose of any withholdings when an employee requests it.

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REQUIRED POSTINGS

Employers in Virginia are required to display federal wage and hour posters to notify their employees of their rights in the workplace. Employers can access federal posters on the [DOL website](#).

PENALTIES

Employers that violate Virginia wage and hour requirements are subject to civil and criminal penalties in addition to any order to compensate individuals for any amount of unpaid wages. Other penalties include an amount equal to **one-third of monetary judgment** to cover attorney fees and **8 percent interest** on unpaid wages (accruing from the time when wages should have been paid).

CIVIL PENALTIES

An employer who knowingly fails to pay wages to its employees is subject to a **fine of between \$10 and \$200** and **reasonable attorney fees**.

An employer that knowingly fails to pay an employee wages under the pay period guidelines mentioned above may be fined **up to \$1,000 for each violation**.

CRIMINAL PENALTIES

An employer that willfully and with the intent to defraud fails or refuses to pay employee wages commits a **Class 1 misdemeanor**, punishable by **imprisonment for up to 12 months, a fine of up to \$2,500 or both**. If the amount of wages owed exceeds \$10,000, the employer commits a **Class 6 felony**, punishable by **imprisonment for up to 5 years, a fine of up to \$2,500 or both**.

MORE INFORMATION

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