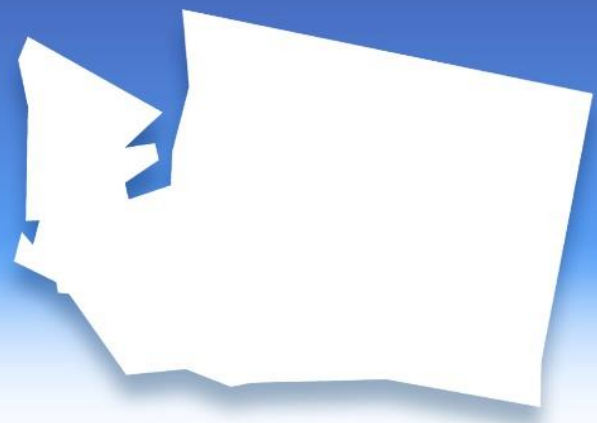


WASHINGTON EMPLOYMENT LAW Overtime Wage Laws



Federal overtime wage payment requirements are governed by the Fair Labor Standards Act (FLSA). In Washington, these requirements are governed by the Washington Minimum Wage Act (WMWA). 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 Washington State [Department of Labor and Industries](#) (L&I) enforces overtime standards throughout the state.

STATE RESOURCES

Washington State
Department of Labor and
Industries (L&I) [website](#)

L&I Publications

- [Minimum wage](#)
- [Overtime and exemptions](#)
- [Rests, meals and schedules](#)
- [Pay requirements](#)
- [Payroll and personnel records](#)
- [Prevailing wage](#)

Workplace Poster

Employers must display this [poster](#) in conspicuous locations within their employees' workplaces.

OVERTIME PAY

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

In general, the WMWA does not place restrictions on the number of hours employees are required to work, so long as an employer's policy regarding work hours does not violate the WMWA. However, any employee who feels that required overtime hours are detrimental to his or her health, safety or welfare can ask the L&I to conduct an investigation.

CALCULATION OF REGULAR RATE

Employers must calculate their employees' regular rate before they can determine applicable overtime wages. An employee's regular rate may vary from week to week and may be different from his or her contractual rate of pay.

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

A **workweek** is a fixed period of **168 hours** or **seven consecutive 24-hour workdays** and can begin on any day of the week and at any hour of the day. It does not need to coincide with a calendar week.

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.

WASHINGTON EMPLOYMENT LAW

Overtime Wage Laws



By contrast, total compensation does **not** include:

- Overtime pay;
- Premiums for working on weekends and holidays;
- Discretionary bonuses;
- Gifts;
- Reimbursements;
- Payment for non-working hours (vacation or sick leave); or
- Show-up or call-back pay.

EXCEPTIONS TO OVERTIME PAYMENT LAWS

The following employee categories are exempt from overtime wage laws:

- Individuals exempt from minimum wage rate requirements;
- Individuals subject to a federal exemption (including FLSA exceptions);
- Farmers, agricultural laborers and other individuals working in connection with:
 - Soil cultivation;
 - Raising or harvesting agricultural or horticultural commodities;
 - Raising, shearing, feeding, caring for, training and managing livestock, bees, poultry and furbearing animals;
 - The operation, management, conservation, improvement or maintenance of farming equipment; or
 - Packing, commercial canning, grading, storing or delivering agricultural or horticultural commodities;
- Sales personnel primarily engaged in selling automobiles, trucks, recreational vessels, trailers, campers, manufactured housing or farm implements to ultimate purchasers when they receive the greater of:
 - Compensation higher than the minimum hourly wage rate and overtime wage rate; or
 - A straight commission, a salary plus commission or a salary plus bonus applied to gross salary.
- Seasonal employees who work for up to 14 workdays per year in concessions and recreational establishments at agricultural fairs;
- Employees subject to the Railway Labor Act who work a voluntary shift to reduce the number of work hours in a workweek;
- Employees requesting time off in place of overtime pay;
- Motion picture projectionists covered by a contract or collective bargaining agreement that regulates the employee's work hours and overtime pay;
- Retail establishment employees who receive regular wages of at least one and one-half times the minimum wage rate, when more than half of the employee's wages are based on commission; and
- Truck and bus drivers subject to the Federal Motor Carrier Act who have a compensation system that regulates overtime pay.

TIME OFF IN LIEU OF OVERTIME COMPENSATION

Employees may request compensating time-off instead of receiving overtime pay. Employers that grant this request are no longer liable to their employees for overtime wages. However, employers may not require, force or coerce their employees to take this option.

PENALTIES

An individual may file a lawsuit against an employer that fails to compensate him or her for overtime work. If an employee is successful in this type of lawsuit, a court may order the employer to pay **reasonable attorney fees** in addition to any **unpaid wages**.

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This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice.

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WASHINGTON EMPLOYMENT LAW

Overtime Wage Laws



MORE INFORMATION

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