

Minimum Wage

Federal minimum wage law is governed by the Fair Labor Standards Act (FLSA). The current federal minimum wage rate is **\$7.25 per hour** for nonexempt employees. The Indiana Minimum Wage Law (IMWL) complements federal law and, in some cases, prescribes more stringent or additional requirements that employers must follow. Whenever employers are subject to both state and federal laws, the law that provides the greater protection or that sets the higher standard will apply. The [Wage and Hour Division](#) (WHD), part of the Indiana Department of Labor, enforces and investigates minimum wage violation claims.

Minimum Wage Rate

Indiana has adopted the federal minimum wage rate of **\$7.25 per hour** as the state standard.

Employee wages are defined as the entire amount of compensation the employee receives for his or her labor or services. This includes bonuses, commissions and vacation pay. Wages can be fixed or based on time, task, piece, commission or other method.

Subminimum Wage Rates

The IMWL allows tipped employees and workers in training to receive subminimum wage rates.

Tipped Employees

In Indiana, the hourly minimum wage for tipped employees—also known as a cash wage—is **\$2.13 per hour**. This is because the IMWL assumes that the employee's tips will offset the difference between the cash wage and the minimum wage rate, enabling the employee to receive wages at or above the minimum wage rate.

The IMWL requires employers to subsidize a tipped employee's wages each time the employee's tips are insufficient to meet minimum wage rate requirements.

Training Wage

Indiana law also allows employers to pay a wage of **\$4.25 per hour** during the **first 90 days** of a worker's employment if the worker is under 20 years of age.

Minimum Wage Rate Exemptions

Indiana minimum wage rate requirements apply to employers not covered by the FLSA and may vary for individuals covered by a collective bargaining agreement. In addition, the IMWL provides exceptions for:

- Minors under 16 years of age;
- Independent contractors;
- Executive, administrative and professional employees who have the authority to employ or discharge workers and earn at least \$150 per week;
- Workers paid on commission;
- Agricultural workers;
- Physically or mentally disabled individuals who work for nonprofit organizations that exist primarily to provide therapy, rehabilitation or employment for disabled individuals;
- Outside sales personnel;
- Individuals who work for their parent, spouse or child;
- Individuals performing services outside the scope of their employer's trade or business;
- Individuals who provide companionship services to the aged and infirmed and are employed by an employer or agency other than the family or household receiving their services;
- Members of any religious order and volunteers performing services for a religious or charitable organization;
- Student nurses employed by a hospital or nursing training school while enrolled and regularly attending classes;
- Funeral director and embalmer apprentices and students working for licensed funeral directors or embalmers;
- Medical interns and resident physicians who are employed by a licensed hospital and have completed a four-year course in an approved medical school;
- Students working for the school, college or university in which they are enrolled and regularly attend classes;
- Insurance producers and solicitors who are paid solely on commission;
- Individuals working for a camp, recreational establishment or guidance facility operated by a charitable, religious or educational nonprofit organization;
- Any employee subject to the regulations of the Interstate Commerce Commission; and
- Individuals not employed for more than four weeks in any four consecutive three-month periods.

Notice and Postings

Indiana law requires employers to post and maintain updated information regarding the state's minimum wage rate. The WHD has provided a [model poster](#) that employers can use to satisfy this requirement.

Prohibited Practices

Indiana law prohibits employers from discriminating and retaliating against their employees.

Wage discrimination

Employers cannot pay a lower wage rate to an employee solely based on the employee's sex. Wage rate discrimination occurs when an employer pays different wages to employees of opposite sex who work in the same establishment, under similar working conditions and perform work that requires equal levels

of skill, effort and responsibility. However, employers can pay different wage rates to employees based on seniority, merit or any system that measures the quality or quantity of production.

Employers cannot reduce employee wages to avoid wage discrimination.

Retaliation

Employers cannot discharge, discipline, penalize or in any other manner discriminate against an employee that demands that his or her wages be paid as required by the IMWL or that initiates, participates in or cooperates with a wage investigation. The same applies to individuals who testify, are about to testify in, cooperate with the WHD in a wage investigation or exercise any other right under Indiana law.

Systematic Discharges

Employers that consistently discharge employees within four weeks of their hire to replace them without work stoppage commit a Class A infraction.

Discrimination against Nursing Mothers

Indiana law requires employers with 25 or more employees to provide nursing mothers with a reasonable location, other than a toilet stall, where they can express breast milk in privacy during any work break.

In addition, employers must make every reasonable effort to:

- Provide a refrigerator or other cold storage space for keeping milk that has been expressed; or
- Allow the employee to provide her own portable cold storage device until the end of the employee's work day.

Under this law, employers are not held liable for any harm caused by the expressing of milk or the storage of expressed milk, except in cases of willful misconduct, gross negligence or bad faith.

Penalties

Employers that retaliate against an employee, violate minimum wage payment requirements, fail to post the required notice or fail to keep appropriate wage payment records commit a Class C infraction punishable by **a fine of up to \$500**. However, if the violation was intentional or with knowledge, employers commit a Class A infraction punishable by **a fine of up to \$10,000**.

Subsequent violations may result in a Class B misdemeanor, punishable by **imprisonment for up to 180 days, a fine of up to \$1,000 or both**.

More Information

Contact Heffernan Insurance Brokers for more information on wage payment laws in Indiana.