

# EMPLOYMENT LAW SUMMARY

## Alabama: Wage and Hour Laws



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Federal minimum wage law is governed by the Fair Labor Standards Act (FLSA), which sets the current federal minimum wage rate at **\$7.25 per hour** for nonexempt employees. Alabama has not adopted state-specific laws to regulate minimum wage rates, overtime pay or hours of work. For this reason, the FLSA regulates wage and hour standards in Alabama.

The [Alabama Department of Labor](#) directs individuals to contact the U.S. Department of Labor's [Wage and Hour Division](#) (WHD) with questions or concerns about wage and hour laws. The following information is a general overview of FLSA regulations.

### Minimum Wage

The current federal minimum wage rate is **\$7.25 per hour**. To calculate an employee's wage rate, an employer must include all forms of compensation given to or paid on behalf of the employee, except for:

- Additional compensation for overtime hours, holiday hours or work that falls outside of a schedule set by an employment contract or collective bargaining agreement;
- Compensation for paid time off (such as vacation, illness, holidays and production downtimes);
- Gifts and monetary awards that are not measured by hours worked, productivity or efficiency;
- Irrevocable employee benefit contributions (such as life insurance, health benefits and retirement accounts); and
- Value or income derived from an employer-provided grant or from stock option rights or stock appreciation and bona fide stock purchase programs.

### Subminimum Wage Rates

The FLSA allows employers to hire students, learners, apprentices, messengers and disabled individuals at rates below the minimum wage rate under a special certification program.

### Tipped Employees

The minimum hourly wage for tipped employees—known as a cash wage—is **\$2.13 per hour**. The FLSA defines “tipped employee” as an individual engaged in an occupation in which he or she customarily and regularly receives least **\$30 per month in tips**.

The FLSA allows employers to use a tip credit of **\$5.12 per hour** to reduce a tipped employee’s wage rate requirements because it 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 FLSA requires employers to subsidize a tipped employee’s wages to the extent that the employee’s cash wage and tips are less than the minimum wage rate.

Employers must notify employees at the beginning of their employment that their wages are calculated using tips, a tip credit and a cash wage. The tip credit does not vary for a tipped employee who works overtime hours.

## Overtime Pay

Under the FLSA, there is no limit on the number of hours employees may work in any workweek, but employees must receive **one and one-half times their regular wage rate** for all hours worked over 40 hours in a workweek. The FLSA does not automatically require overtime pay just for working on Saturdays, Sundays, holidays or regular days of rest.

Overtime compensation is calculated on a weekly basis. An employee's workweek is a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. It may begin on any day, at any hour of the day. Different workweeks may be established for different employees or groups of employees.

An employee’s overtime compensation is based on his or her regular rate. An employee’s regular rate represents the average compensation he or she received per hour during a workweek. It can vary from week to week, and may be different from the employee’s contractual rate of pay. To calculate an employee’s regular rate for a specific work period, employers must divide the employee’s total compensation for a workweek by the number of hours the employee worked during that workweek. Averaging hours over two or more weeks is not permitted.

Effective Jan. 1, 2024, gross income does not include compensation received by an hourly wage paid employee for hours worked in excess of 40 hours in a week. Additionally, effective Oct. 1, 2024, employers are required to report the total amount of overtime wages received for work in excess of 40 hours and the total number of employees receiving overtime wages beginning with the January 2024 monthly or quarterly tax return.

## EXEMPTIONS

The FLSA provides various exemptions from minimum wage and overtime pay laws. These exemptions include (but are not limited to):

- Bona fide executive, administrative and professional employees (including teachers and academic administrative personnel in elementary and secondary schools);
- Computer system analysts, programmers, engineers and similarly skilled workers who earn wages of at least \$27.63 per hour and whose primary duties are to apply system analysis techniques and procedures, consult with users, or determine, design, develop, document, analyze, create, test, or modify hardware, software, or system functional specifications;
- Domestic service employees whose compensation is not classified as wages under the Social Security Act or who work for less than eight hours in a workweek; and
- Newly hired employees under 20 years old, during the first 90 consecutive calendar days following their hiring date (as long as the employer does not fully or partially displace other employees’ work hours or benefits to accommodate new hires).
- Marketplace contractors that interface with a marketplace platform in the provision of some service to the public, when certain requirements are met.

## HOURS OF WORK

The FLSA requires employers to pay employees for all hours of compensable work. Federal guidelines apply to help employers determine what is considered compensable time. As an overview, compensable time is time used to satisfy a principal activity and time spent in any activity that is essential and indispensable to fulfill a principal activity. As a result, employers should carefully consider whether their employees must receive wages for waiting time, on-call time, rest and meal periods, and time spent attending lectures, meetings and training periods or traveling.

## NOTICE AND POSTINGS

Unless an exemption applies, employers must post a notice explaining employee rights under the FLSA in a conspicuous place in every work establishment where employees regularly pass by and can easily read it. If an exception applies, employers may modify the model poster provided by the DOL to show the provisions that do not apply.

In addition, employers that have been authorized to use subminimum wage rate certificates must display and make available to employees a poster explaining the general terms and conditions under which subminimum wage rates may be paid. A subminimum wage certificate notice for impaired workers must be displayed in a conspicuous place where impaired workers, their parents or guardians and other workers may read it. If the employer finds it inappropriate to post a subminimum wage rate notice for impaired workers, the employer may satisfy FLSA notice requirements by providing the notice directly to all affected employees.

## **PROHIBITED DISCRIMINATION AND RETALIATION**

Employers may not discharge or discriminate in any manner against an employee who files a complaint or cooperates with the DOL in an investigation or proceeding.

## **MORE INFORMATION**

Contact Heffernan Insurance Brokers or visit the DOL WHD website for more information on wage and hour laws.

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