

EMPLOYMENT LAW SUMMARY

Kansas: Minimum Wage Laws



Because You're Different

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 Kansas Minimum Wage and Maximum Hours Law (KMWMHL) 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 for the employee will apply.

The [Kansas Department of Labor](#) (KDOL) enforces and investigates minimum wage violation claims.

MINIMUM WAGE RATE

The minimum wage rate in Kansas is **\$7.25 per hour**. Employees that are exempt from the federal minimum wage may not be exempt from the state minimum wage. Employers should review federal and state minimum wage exceptions carefully.

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

The rights provided to employees by the KMWMHL cannot be violated, set aside or waived by mutual agreement.

ALLOWANCES

The KDOL allows employers to use wage allowances when calculating an employee's wage rate. A wage allowance is a credit that employers can use to offset employee wages. Permissible allowances include the reasonable cost of customary, employer-provided meals or lodging.

SUBMINIMUM WAGE RATES

The KMWMHL allows handicapped workers, patient-laborers, learners, apprentices and tipped employees to receive wages at a rate below the state minimum wage rate. Employers that wish to pay subminimum wages may be required to first obtain a permit from the KDOL. The KDOL reserves the right to revoke any approved permit if it is abused or, in the case of apprentices and learners, if the employer has no intention to employ the worker beyond three months without a justifiable reason.

DISABLED WORKERS AND PATIENT-LABORERS

Employers with a subminimum wage permit can pay their handicapped workers and patient-laborers a wage rate as low as **85 percent** of the current minimum wage rate (\$6.16 per hour). These permits are valid for **one year**.

A handicapped worker is an individual who is disadvantaged by reason of age or physical or mental disability. A patient-laborer is a person who is confined to a state institution or hospital who, under medical orders, has been assigned to perform services within the institution where he or she is confined.

Most employers must secure a permit for each handicapped worker or patient-laborer. However, state vocational rehabilitation agencies, state institutions, state hospitals and county or city hospitals can apply for blanket permits.

APPRENTICES AND LEARNERS

Employers with a wage rate permit can pay their apprentices and learners a minimum wage as low as:

- **80 percent** of the minimum wage rate (\$5.80 per hour) **during the first and second months of employment**; and
- **90 percent** of the minimum wage rate (\$6.52 per hour) **during the third month** of employment.

Employers must pay apprentices and learners a wage rate at least equal to the state minimum wage rate **after three months** of employment. To receive a subminimum wage permit for apprentices or learners, employers must:

- Submit a written application;
- Certify that the learners and apprentices are not part of a formalized apprenticeship program approved by the Kansas apprenticeship council or the bureau of apprenticeship and training;
- Describe the type and kind of training each apprentice or learner will receive;
- Certify that each apprentice or learner will continue employment after completing their training;
- Agree to keep a copy of the subminimum wage permit;
- Agree to never hire more than one learner or apprentice per every five regular employees (employers with fewer than five employees may still hire one learner or apprentice); and
- Certify that no apprentice or learner will be hired as a part-time employee (fewer than 40 hours per week).

TIPPED EMPLOYEES

The hourly minimum wage rate for tipped employees in Kansas is **\$2.13 per hour**. A tipped employee is an individual who is engaged in an occupation in which tips or gratuities are customarily exchanged for services and who receives **at least \$20 per month** in tips.

The KMWMHL allows employers to use a lower minimum wage rate for tipped employees because it assumes that the employee's tips will be sufficient to enable the employee to receive wages at or above the state's minimum wage rate. Employers are required to subsidize a tipped employee's wages each time the employee's tips are insufficient to meet the state's minimum wage rate requirements.

MINIMUM WAGE RATE EXEMPTIONS

Kansas minimum wage rate requirements do not apply to:

- Individuals covered by the FLSA (or any other federal minimum wage regulation);
- Federal employees;
- Agricultural employees;
- Administrative employees;
- Executive employees and supervisors;
- Professional employees;
- Outside sales personnel paid on commission;
- Minors employed on an occasional or part-time basis;
- Domestic employees in or about private homes;
- Bona fide volunteers working for nonprofit organizations; and
- Unified school district employees working at least 50 percent of their time in an executive, administrative or professional capacity.

NOTICE

An employer is required, upon request (or as required by a collective bargaining agreement), to notify an employee in writing of his or her rate of pay and the date and place of payment. The employer must also notify employees, upon request (or as required by a collective bargaining agreement), of any changes to their wage rate or time and place of payment. Notice can be in writing or through a posted notice.

Notification requirements are the same for employment practices and policies regarding vacation pay, sick leave and any other benefit to which an employee is entitled.

Employers must also provide, upon request, itemized wage deduction statements for each pay period.

PROHIBITED WAGE DISCRIMINATION

Employers may not pay different wages to their employees on the basis of sex. Wage rates for employees of the opposite sex must be comparable when employees perform work that requires equal levels of skill, effort and responsibility under similar working conditions. However, Kansas law allows employees to pay different wages to their employees on the basis of:

- Seniority;
- Merit;
- Quantity or quality of production; or
- Any other legal factor other than sex.

Employers may not reduce an employee's wages to correct an issue of wage discrimination.

PROHIBITED RETALIATION

Employers are prohibited from retaliating against any employee that files a complaint or assists the KDOL in a wage investigation. Employers that retaliate against employees may be required to pay a **fine of between \$250 and \$1,000**.

WAGE INVESTIGATIONS

The KDOL has the authority to enter and inspect a place of business only upon receiving a written complaint from an employee who works there. During an investigation, employers must provide to the KDOL any and every book, register, payroll or other record that in any way relates to employee wages and hours of work. Kansas law authorizes the KDOL to copy any of the documents previously mentioned as necessary or appropriate. During an investigation, the KDOL is also authorized to interview employees.

Employers that do not cooperate with the KDOL during a wage investigation may be subject to court orders and, if applicable, court-ordered sanctions.

Any action related to a wage investigation taken by the KDOL may be reviewed, appealed and contested through the state's judicial system.

PENALTIES

Employers that violate Kansas minimum wage laws may be required to pay a **fine of between \$250 and \$1,000**.

In addition, employees may sue their employers directly (or indirectly through the KDOL) to recover any amount of unpaid wages. In these cases, employers may be required to cover the employee's court costs and reasonably attorneys' fees. Any agreement between an employer and its employees that violates state law is void and cannot be used as a defense in court.

MORE INFORMATION

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

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