

EMPLOYMENT LAW SUMMARY

Kansas: Wage Payment Requirements



Because You're Different

Several federal laws regulate wage payments, including the Fair Labor Standards Act (FLSA), the Davis-Bacon Act and the Service Contract Act. Kansas law also imposes state wage payment requirements. When federal and state laws are different, the law that is more favorable to the employee will apply.

The [Kansas Department of Labor](#) (KDOL) enforces wage payment standards throughout the state.

METHOD OF PAYMENT

Kansas law requires employers to pay wages in lawful United States currency with cash, check, electronic fund transfer (direct deposit) or payroll card. Employers that elect to pay wages through electronic fund transfer must offer an alternative payment method as a default for employees that do not designate a financial institution to receive their wages.

Employers that elect to pay wages using a payroll card must allow their employees the means of accessing and withdrawing the entire amount of their wages at no cost, **at least once per pay period**. Employers using payroll cards may not retain any interest in wages paid by electronic funds transfer, other than the right to correct inadvertent overpayments. Employers may not charge their employees initiation, loading or participation fees for the program. However, employers can charge their employees for the cost of replacing a lost, stolen or damaged payroll card.

Employers that pay employee wages through electronic fund transfer or payroll card must educate their employees regarding the use of a direct deposit or payroll card program through a forum or by distributing educational information. This requirement must be fulfilled at least 30 days prior to implementing either payment program.

FREQUENCY OF PAYMENT

Employers must pay employee wages **at least once per calendar month**, on pre-established paydays. Regular paydays must generally be **within 15 days** after the end of the period, unless otherwise established by federal law.

However, Kansas laws do not restrict an employer from paying wages to its employees at earlier days or at more frequent intervals.

LAST PAYMENT OF WAGES

State law directs employers on how to make the last wage payment for deceased employees and individuals who are separated from employment.

DECEASED EMPLOYEES

Employers must follow the guidance provided by probate proceedings when paying a deceased employee's last wages. As a default, in the absence of actual notice of probate proceedings, employers may pay a deceased employee's wages, upon demand, to the employee's survivors in the following order:

- The employee's spouse;

- The employee's adult children (over the age of 18) in equal shares;
- The employee's father;
- The employee's mother;
- The employee's siblings (in equal shares); or
- The person to whom funeral expenses are due.

EMPLOYMENT SEPARATION

Employment separation occurs through discharge or resignation. Employers must pay an individual who is discharged or who resigns his or her last wages no later than **the next regular pay day**. Employers can use regular payment channels (cash, check, electronic fund transfer or payroll card) or they can send the last payment by postmarked mail, if requested by the employee.

Employers that willfully fail to pay an employee's last wages as required by Kansas law may be required to compensate the former employee with a late payment penalty. The late payment penalty is the lower of:

- 1 percent of all unpaid wages for each day the wages remain unpaid (except for Sundays and legal holidays); or
- 100 percent of the unpaid wages.

For the purpose of calculating this penalty, a former employee's last wages are considered to be paid late **eight days after** the payment was due. In addition, the number of late days does not continue increasing after a petition of bankruptcy for an employer that is adjudicated bankrupt.

WAGE DISPUTES

In case of a dispute over the amount of wages due to an employee, employers must unconditionally pay the uncontested amount of the employee's wages.

Paying and accepting uncontested wages does not strip any party of their right to pursue any and every legal right they are entitled to contest the remaining balance. Any release required or attached to the payment of uncontested wages is a violation of state law and will be considered null and void.

WITHHOLDINGS AND DEDUCTIONS

Employers may not withhold all or a portion of an employee's wages unless the withholding or deduction is authorized by law or by the employee.

AUTHORIZED DEDUCTIONS AND WITHHOLDINGS

Common deductions authorized by law include taxes, union dues, FICA contributions, garnishments and court-ordered deductions (such as child support). State law also authorizes wage deductions for medical, surgical or hospital service when these deductions are openly, clearly and in due course recorded in the employer's books. In addition, employers can withhold or deduct funds from an employee's wages without obtaining the employee's signature for:

- Employer-provided medical, surgical or hospital care;
- Correcting wage overpayments resulting from the employer's error (deduction cannot exceed overpayment);
- Recovering cash advances made upon an employee's written request; and
- Cash expense allowances or advances that are not justified by an expense receipt.

The KDOL will consider that an employee has authorized a deduction or withholding only after the employee has received a notice and an explanation of the deduction or withholding. Employers are required to obtain their employee's signatures before making any deduction or withholding. Common deductions authorized by employees include funds for:

- Participation in savings plans;
- Charitable donations;
- Retirement plan contributions;
- Repaying employer loans;
- Compensating the employer for purchasing employer goods or services; • Recovering the cost of employer-provided equipment and property;
- Adjusting a payroll overpayment; and

- Paying labor organization dues or service fees, unless prohibited by law.

Employer-provided equipment and property may include work tools, personal protective equipment (PPE), uniforms, computers, electronic devices, mobile phones, proprietary information (such as client or customer lists and intellectual property), security information and access keys and cards.

Employers must record each withholding accurately. In addition, wage deductions and withholdings cannot reduce an employee's gross wages below the minimum wage rate, unless authorized by law. Employers may not derive any financial gain from wage deductions.

UNAUTHORIZED DEDUCTIONS AND WITHHOLDINGS

Unauthorized deductions and withholdings from employee wages include deductions for:

- Cash and inventory shortages;
- Breakage;
- Returned checks or bad credit card sales;
- Losses to employers resulting from burglaries, robberies or alleged negligent acts; and
- Unnecessary uniforms, special tools or special equipment (not required to perform work duties and are customarily supplied by the employer).

STATEMENTS

Employers must, upon request, provide each employee with an itemized statement of deductions made from the employee's wages. Typically, an itemized statement shows:

- Gross wages earned;
- All withholdings and deductions for that pay period;
- Net wages earned;
- The inclusive dates of the period; and
- The employer's name and address.

MORE INFORMATION

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

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