

EMPLOYMENT LAW SUMMARY

Maine Minimum Wage and Overtime Laws



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. Maine's minimum wage laws complement federal law and, in some cases, prescribe more stringent or additional requirements that employers must follow. Whenever both state and federal laws apply, the law that is more favorable to the employee applies.

The Maine [Department of Labor](#) (MDOL) enforces compliance with minimum wage laws throughout the state.

Minimum Wage

Employers in Maine are required to pay their employees wages that are at least equal to the state's minimum wage rate. Employers cannot contravene this requirement with a special employment contract or by any other means.

Under state law, the MDOL must increase the state's minimum wage rate to reflect increases in the cost of living. This increase is measured by comparing the consumer price index for urban wage earners and clerical workers (CPI-W) for the northeast region as published by the U.S. Department of Labor's Bureau of Labor Statistics. Minimum wage increases are rounded to the nearest multiple of 5 cents.

However, in the event the federal minimum wage is increased above the state rate, Maine's minimum wage rate will increase to the same amount, effective on the same date as the federal minimum wage. Inflation updates will apply to this new rate thereafter.

The table below provides an overview of Maine's minimum wage rate over the last few years. The state minimum wage rate also determines the service rate and overtime salary exemption threshold.

Effective Date	Jan. 1, 2022	Jan. 1, 2023	Jan 1, 2024
Minimum Wage	\$12.75	\$13.80	\$14.15
Tipped Employees	\$6.38	\$6.90	\$7.08
Weekly Overtime Exemption Threshold	\$735.59	\$796.17	\$816.35

Tipped Employees

Tipped employees, also known as service employees, are employees engaged in an occupation in which they customarily and regularly receive at least \$175 a month in tips or gratuities.

Under state law, a tipped employee's wages may be calculated using a cash wage, a tip credit and the employee's tips or gratuities. The cash wage in Maine is adjusted each year, as shown in the table above. The tip credit is the difference between the state minimum wage rate and the cash wage. The tip credit in Maine is 50% of the state's minimum wage rate. Employers that use a tip credit must prove that their tipped employees' tips, when combined with the cash wage, are sufficient to enable the employees to earn wages that are at least equal to the state's minimum wage requirements. Under the law, employers must make up the difference if their employees' tips and cash wages are insufficient to meet the minimum wage requirement.

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in a customer's bill or charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

Employers may not deduct any amount from employee tips charged to a credit card, including, but not limited to, service fees assessed to the employer in connection with the credit card transaction.

Advance Notice

Employers that wish to use a tip credit and pay a cash wage to their tipped employees must inform their employees in advance that they will receive a cash wage. The advance notice must include the following information either orally or in writing:

- The amount of the cash wage the employer will pay the tipped employee;
- The amount of tips that will be credited as wages toward the minimum wage (the tip credit);
- A statement indicating that the amount of tips to be credited as wages will not exceed the value of the tips actually received by the employee;
- A statement that all tips received by the employee will be retained by the employee, except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips;
- A statement indicating that the tip credit will not apply to any employee who has not been informed by the employer of the provisions for a tip credit; and
- Any amount the employee must contribute to participate in a tip pooling arrangement, if applicable.

Tip Pooling and Service Charges

State law allows service employees to participate in tip pooling arrangements if:

- The tip pool only includes service employees and complies with FLSA requirements; or
- The tip pooling arrangement is among a group where all employees in the group are paid at least the minimum hourly wage (employers cannot use the tip credit). Employers (including managers and supervisors) may not receive tips from these tip pool arrangements.

In addition, employers in banquet or private club settings must notify their customers if they add a service charge that does not represent a tip for service employees. However, these employers may use some or all of any service charge to meet their obligation to compensate all employees at the rate required by the state's minimum wage laws.

Overtime

Unless specifically exempted, employees must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than 1.5 times their regular rate of pay. The regular rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performed and does not include any sums excluded from the definition of "regular rate" under the FLSA. Employers have the right to allow or deny overtime, but if overtime is worked, it must be paid regardless of whether it was authorized.

Finally, unless an exemption applies employers may not require their employees to work more than 80 hours of overtime in any consecutive two-week period.

White Collar Exemptions

In agreement with FLSA requirements, state law recognizes overtime pay exemptions for employees who work in a bona fide executive, administrative or professional capacity. Both state and federal law requires that these individuals satisfy these three requirements:

- Salary basis test: Employees regularly receive a predetermined amount of compensation each pay period;
- Salary level test (threshold): The salary must be at least equal than the state salary threshold;
- Duties test: Employee job duties match the duties specified by law for the executive, administrative and professional employee exemptions.

As shown in the table above, the salary level amounts are updated annually.

Other Exemptions

Additional overtime exemptions apply to:

- Automobile mechanics, automobile parts clerks, automobile service writers and automobile salespersons; amount of the cash wage the employer will pay the tipped employee;
- Mariners;
- Public employees, except those employed by the executive or judicial branch of the state;
- The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distributing of:
 - Agricultural produce;
 - Meat and fish products; and
 - Perishable foods.
- Individuals employed, directly or indirectly, for or at an egg processing facility that has over 300,000 laying birds must be paid overtime in accordance with this subsection;
- Drivers or driver's helpers who are not paid hourly and are subject to the provisions of federal transportation overtime laws; and
- Public employees employed by the executive or judicial branch of the state engaged in fire protection activities, as defined and covered by federal laws.

Exemptions

Minimum wage exemptions do not apply to:

- Individuals employed in agriculture unless they perform services for or on a farm with over 300,000 laying birds;
- Employees whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;
- Taxicab drivers;
- Counselors, junior counselors, counselors-in-training or employees under the age of 18 working for licensed organized camps and similar seasonal recreation programs that are operated as or by nonprofit organizations;
- Individuals employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life or in the first processing, canning or packing such marine products at sea as incident to or in conjunction with such fishing operations, including the going to and returning from work and including employment in the loading and unloading when performed by any such employee;
- Home workers who are not subject to any supervision or control by any person whomsoever, and who buy raw material and make and complete any article and sell the same to any person, even though it is made according to specifications and the requirements of some single purchaser;
- Members of the family of the employer who reside with and are dependent upon the employer;
- Salaried employees who work in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3,000 times the state's minimum hourly wage or the annualized rate established by the U.S. Department of Labor under the FLSA, whichever is higher; or
- Sentenced prisoners in the actual execution of a term of incarceration imposed in Maine or any other jurisdiction for a criminal offense (some exceptions apply).

Workers With Disabilities

The MDOL will not issue special certificates authorizing employers to pay employees with disabilities wages at a rate that is lower than the state minimum wage rate. In addition, any special certificate authorizing the payment of less than minimum wage to a person with a mental or physical disability issued under state or federal law is without effect.

As a result, employers in Maine may not pay less than the minimum wage to employees with a mental or physical disability.

Recordkeeping

State law requires employers to keep a true and accurate record of the hours worked by each employee and of the wages paid to them. These records must be preserved by the employer for a period of at least three years.

Enforcement

The MDOL also has the authority to issue any rule or regulation necessary to enforce or facilitate the administration of and compliance with the state's minimum wage laws.

In addition, the MDOL may, and upon written complaint, will have the authority to enter the place of business or employment of any employer or employees in the state for the purpose of:

- Examining and inspecting wage payment records; and
- Copying any or all of these records as deemed necessary or appropriate.

All information received is considered confidential and may not be divulged to any other person or agency except as may be necessary for the enforcement of the law.

Penalties

Employers that fail to comply with state minimum wage requirements are liable to their employees for any amount of unpaid wages. Employees may sue their employers for minimum wage violations and recover unpaid wages, an amount equal to the unpaid wages as liquidated damages and lawsuit costs, including reasonable attorney fees.

In addition, minimum wage violations are punishable by a fine of not less than \$50 nor more than \$200.

Employers that discharge or in any other manner discriminate against employees who make a complaint to the director or the county attorney concerning a minimum wage violation may be subject to a fine of not less than \$50 nor more than \$200.

Finally, the state attorney general's office may institute injunction proceedings in the Superior Court to enjoin further violations.

More Information

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

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