

# EMPLOYMENT LAW SUMMARY

## Maine 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. Maine law also imposes state wage payment requirements. When federal and state laws are different, the law that is more favorable to employees will apply.

The Maine [Department of Labor](#) (MDOL) enforces compliance with payment requirements throughout the state.

### Frequency and Manner of Payment

Maine defines “wages” as compensation paid to an employee in the form of the legal tender of the United States and checks on banks convertible into cash on demand. “Wages” includes:

- The reasonable cost to the employer who furnishes the employee board or lodging; and
- Compensation paid through a direct deposit system, automated teller machine card or other means of electronic transfer as long as the employee can either make an initial withdrawal of the entire net pay without additional cost to the employee or choose another means of payment that involves no additional cost to the employee.

Private sector employers must pay each employee wages at regular intervals. These intervals may not exceed 16 days. In addition, employers must set and notify employees of established payday. Employers must also notify employees at least 30 days in advance of any payday changes.

On payday, wages must be paid in full to each employee who has earned them. Each payment must include all wages earned within eight days of the payment date. Payments that fall on a day when the business is regularly closed must be paid no later than the following business day. An employee who is absent from work at a time fixed for payment must be paid as if the employee was not absent.

Different requirements apply to public sector employees and school personnel.

### Direct Deposit

Under state law, employers may not charge a fee for paying employee wages through direct deposit. “Direct deposit” means the transfer of wages through electronic funds directly into an employee’s account in an accredited financial institution designated by the employee.

### Recordkeeping

Employers must keep a true record showing the date and amount paid to each employee.

In addition, employers must keep a daily record of the time worked by each employee unless the employee is paid a salary that is fixed without regard for the number of hours worked. These records must be accessible to any MDOL representative at any reasonable hour.

Under state law, a corporation, contractor, person or partnership may not, by a special contract with an employee or by any other means, exempt itself from state wage payment requirements. However, exemptions to recordkeeping requirements apply to:

- Individuals working for family members;
- Salaried employees; and
- Employees of a cooperative corporation or association if they are a stockholder of the corporation or association unless the employee requests the association or corporation to pay those employees in accordance with Maine's wage payment laws.

## Wage Statements

Employers must furnish a wage statement to each employee with each payment of wages. The statement must clearly show the date of the pay period, the hours, total earnings and itemized deductions.

An employer making payment by direct deposit or other means of electronic transfer must provide each employee with an accurate record of the transfer, including:

- The date of the pay period,
- The hours worked during that period;
- Total earnings and itemized deductions; and
- Information on when the transfer is made.

If the record is provided in an electronic format, employers must also provide a method by which the employee may have ready access to the information and print it without cost to the employee.

## Wage Assignments

Wage assignments are valid only between the parties to the assignment unless they are recorded by the clerk in the office of the secretary of state. Wage assignments are not valid against employers unless they have actual notice of the assignment.

Wage assignments executed for child support obligations have an absolute priority over all previously filed orders against earnings and any other assignment of wages entered after July 24, 1984.

## Last Payment of Wages

State law requires employers to pay employees leaving employment in full no later than the employee's next established payday. In addition, the law provides that "whenever the terms of employment or the employer's established practice include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned."

Overcompensations may be withheld if authorized by law. Loans or advances against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee.

On April 5, 2022, Maine [amended](#) its wage payment laws to clarify how employers should treat unused vacation time upon separation of employment. These amendments will become effective on Jan. 1, 2023. The amendments require employers to pay all unused, accrued paid vacation on and after Jan. 1, 2023, on cessation of employment. However, exceptions apply to:

- Employers with 10 or fewer employees;
- Public employers (including the University of Maine System, the Maine Community College System, school administrative units and any other political body or political or administrative subdivision); and
- Provisions for final wage vacation pay governed by a collective bargaining agreement.

## Penalties

Employers that violate wage payment laws are subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.

## Civil Liability

In addition, employers that violate wage payment laws are liable to their employees for the amount of unpaid wages and health benefits. If successful in these lawsuits, prevailing employees may recover:

- Unpaid wages or health benefits;
- A reasonable rate of interest on unpaid wages or health benefits;

- The costs of the lawsuit, including reasonable attorneys' fees; and
- An additional amount equal to twice the amount of unpaid wages as liquidated damages.

If the wages are clearly due without a bona fide dispute, remedies are available to the employee eight days after the due date for payment. If there is a bona fide dispute at the time payment is due, remedies become available to the employee eight days after demand when the wages are, in fact, due and remain unpaid.

The action for unpaid wages or health benefits may be brought by either the affected employees or by the MDOL. The MDOL is further authorized to supervise the payment of the judgment, as well as collect the judgment on behalf of the employees and any additional applicable fines.

## Wage Theft Remedies

In addition to the enforcement measures mentioned above, Maine considers the violation of wage payment laws as wage theft. Under the state's wage theft laws, the MDOL or any person injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of the suit, including reasonable attorneys' fees. The MDOL may also order an employer to cease its business operations if the agency:

- Determines that the employer has committed wage theft; or
- Has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months, and:
  - The practice or policy resulting in the wage theft affects 10 or more employees; or
  - The wage theft is equal to or greater than twice an employee's average weekly wage.

In these situations, the MDOL will provide affected employers with notice and an opportunity to be heard three business days before the effective date of a cease operations order. The issuance of a cease operations order constitutes final agency action. The MDOL will issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by the imposition of a cease operations order has 10 days from the date of its service to make a request for a hearing. The hearing must be held within seven business days of the request. The hearing officer will issue a decision within five business days of the hearing. The MDOL can halt the issuance of a cease operations order if the employer provides acceptable evidence that it has paid the unpaid wages and benefits owed and has implemented wage payment practices and policies that comply with state law.

## More Information

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

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2022 Zywave, Inc. All rights reserved.