

Employment Law Summary

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. New Mexico's Minimum Wage Act (MWA) complements federal law and, in some cases, prescribes more stringent or additional requirements that employers must follow. Whenever state and federal laws conflict, employers must follow the standard that provides the highest protection or benefit to their employees.

The New Mexico [Department of Workforce Solutions](#) (DWS) enforces compliance with the MWA across the state.

Minimum Wage Rate

The table below provides an overview of New Mexico's minimum wage rate.

	Jan. 1, 2020	Jan. 1, 2021	Jan. 1, 2022	Jan. 1, 2023
State of New Mexico	\$9	\$10.50	\$11.50	\$12
Tipped Employee	\$2.35	\$2.55	\$2.80	\$3

Employers that furnish food, utilities, supplies or housing to their may deduct the reasonable value of these furnished items from their employees' wages. This provision applies only to employees who are engaged in agriculture.

Tipped Employees

Tipped employee wages are calculated using the employee's tips plus their cash wages. Tipped employees must receive wages that are at least equal to the minimum wage rate. If a tipped employee's tips and cash wage combined do not equal or exceed the applicable minimum rate, the employer must pay the difference to ensure the tipped employee receives wages at or above the state's requirement. A tipped employee is a worker who customarily and regularly receives more than \$30 per month.

Minimum Wage Rate Exemptions

MWA requirements do not apply to:

- Individuals employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;
- Federal and state employees;
- Individuals engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis (the employer-employee relationship does not exist with respect to individuals being served for purposes of rehabilitation by a charitable or nonprofit organization, even when these individuals receive a stipend based upon the value of their work);
- Salespersons or employees who are compensated upon piecework, flat-rate schedules or commission basis;
- Registered apprentices and learners otherwise provided by law;
- GI Bill trainees while under training;

- Seasonal employees working for an employer that has and holds a valid certificate issued annually by the DWS (the certificate must state the job designations and total number of employees to be exempted);
- Agricultural employees (certain conditions apply);
- Individuals engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state; or
- Individuals working for charitable, religious or nonprofit organizations who reside on the premises of group homes operated by these organizations for persons who have a mental, emotional or developmental disability.

Workers With Disabilities

The DWS may issue special minimum wage certificates for individuals who are impaired by a disability. These certificates list the authorized minimum wage rate for affected individuals and the terms and conditions employers must abide by to pay these lower wage rates.

Notice and Postings

Every employer subject to the MWA must display a copy of the act in a conspicuous place on or about the premises where employees subject to the law may easily access and read it. The DWS has provided an official version of this [poster](#) that employers may use to satisfy this requirement.

Prohibited Retaliation

Employers may not discharge, demote, deny promotion to or in any other way discriminate in the terms or conditions of employment against any employee who asserts a claim or right under the MWA. The same protection applies to employees who assist or inform others of their rights and protections under the law.

Enforcement

MWA violations are charged as misdemeanors. Misdemeanors in New Mexico are punishable by a sentence in the county jail for up to one year, a fine of not more than \$1,000, or both a fine and imprisonment at the discretion of the judge.

In addition to the criminal penalties described above, employers that violate the MWA are liable to be ordered by a court to:

- Pay any amount of unpaid or underpaid minimum wages plus interest and an additional amount equal to twice the unpaid or underpaid wages;
- Pay litigation costs, including reasonable attorney fees paid by the defendant (employees will not be required to pay any filing fee or other court costs in these proceedings); and
- Follow any court-ordered injunctive relief, including posting in the place of business a notice describing MWA violations found by the court or a copy of an applicable cease and desist order.

More Information

Contact Heffernan Insurance Brokers for more information on labor and employment laws in New Mexico.

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