

# 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. The Rhode Island Minimum Wage Act (the Act) complements federal law and, in some cases, prescribes more stringent or additional requirements that employers must follow. Under the FLSA, when both state and federal laws apply, employers must follow whichever law is most favorable to the employee.

The [Rhode Island Department of Labor and Training](#) (the DLT) monitors and enforces compliance with the state's wage and hour laws.

### Minimum Wage Rate

Employers must pay their employees a wage rate that is at least equal to the state's minimum wage rate. The minimum wage rate in Rhode Island will increase gradually until it reaches \$15 per hour.

Effective Date	Jan. 1, 2022	Jan. 1, 2023	Jan. 1, 2024	Jan. 1, 2025
<b>State Rate</b>	\$12.25	\$13	\$14	\$15

The term "employer" under state law includes any individual, partnership, association, corporation, business trust and any group of persons, acting directly, or indirectly, in the interest of an employer.

### Employees With Disabilities

Rhode Island has repealed the state provision that allowed employers to pay subminimum wages to employees with disabilities. As a result, Rhode Island employers are no longer allowed to pay wages below the state minimum wage rate to individuals "whose earning capacity is impaired by physical or mental disability," even when this practice is still allowed under the FLSA.

### Minimum Wage Rate Exemptions

The following individuals are exempt from Rhode Island's minimum wage rate laws:

- Bona fide executive, administrative and professional employees;
- Caddies on golf courses;
- Domestic service workers employed in or about a private home;
- Federal employees;
- Full-time students under 19 years of age working in a non-profit religious, educational, librarial or community service organization;
- Individuals employed between May 1 and Oct. 1 in a resort establishment that regularly serves meals to the general public and that is open for business not more than six months a year;
- Individuals working for a son, daughter, spouse or parent (if under 21 years of age);
- Individuals working for an educational, charitable, religious or nonprofit organization if:

- An employer-employee relationship does not exist; or
- The services rendered to the organizations are on a voluntary basis;
- Individuals working for an organized camp that does not operate for more than seven months in any calendar year (this exemption does not apply to individuals employed by the camp on an annual, full-time basis. "Organized camp" means any camp, except a trailer camp, having a structured program including, but not limited to, recreation, education and religious, or any combination of these);
  - Newspaper deliverers on home delivery;
  - Pin persons in bowling alleys;
  - Shoe shiners in shoe shine establishments;
  - Theater ushers; or
  - Traveling or outside salespersons.

## Tipped Employee Wages

Rhode Island law allows employers to pay a lower minimum wage rate to tipped employees. A tipped employee is an employee who customarily and regularly receives more than \$30 dollars a month in tips. "Tip" means voluntary monetary compensation received directly or indirectly by the employee for services rendered.

The state allows employers to pay this lower wage, also known as a "cash wage" because it assumes that the employee's tips will be sufficient to offset the difference between the cash wage and the state's minimum wage rate.

The cash wage for tipped employees in Rhode Island is \$3.89 per hour. Employers are required to subsidize a tipped employee's wages if the employee's tips are not enough to enable him or her to earn wages at a rate that is at least equal to the state's minimum wage rate.

Under state law, a tip is the sole property of the tipped employee. Any arrangement between an employer and the tipped employee whereby any part of the tip received becomes the property of the employer is prohibited. Tipped employees must retain all of their tips. However, this requirement does not preclude valid tip pooling or sharing arrangements. Employers must notify their employees of any required tip pooling contribution amount.

Sums distributed to employees from service charges cannot be counted as tips received, but may be used to satisfy the employer's minimum wage and overtime requirements.

When tips are charged on a credit card and the employer must pay the credit card company a percentage on each sale, the employer may deduct that percentage from the employee's tips, provided that the employer notifies the employee of the deduction. This charge on the tip may not reduce the employee's wage below the required minimum wage. The amount due the employee must be paid no later than the regular pay day and may not be held while the employer is awaiting reimbursement from the credit card company.

## Wages for Minors

Minors who are 14 or 15 years of age may receive a minimum wage rate as low as 75% of the state minimum wage rate for the first 24 hours they work during a workweek. The regular state minimum wage rate applies for any hours worked over 24 during the workweek.

## Poster

Employers subject to the Act are required to display a summary of the state's minimum wage laws in a conspicuous, employee-accessible place. The DLT has published a model poster employers can use to satisfy this requirement.

## Enforcement and Penalties

The DLT has the authority to investigate minimum wage complaints and enforce compliance with the Rhode Island's wage laws throughout the state.

### **Criminal Penalties**

Employers that pay wages below the required state minimum wage rate face possible criminal charges punishable by a fine of between \$100 and \$500, imprisonment between 10 and 90 days or both.

In addition, effective Jan. 1, 2024, employers that knowingly and willfully violate wage payment laws may be charged with a felony if the actual value of the unpaid wages exceeds \$1,500. This felony is punishable by imprisonment of up to three years, a fine of up to \$5,000 or both.

## ***Administrative and Civil Penalties***

Employers that violate other state minimum wage laws are subject to an administrative fine of up between \$100 and \$500. Each day of noncompliance will be considered a separate offense. However, starting on Jan. 1, 2024, each pay period of noncompliance will be considered a separate offense and a distinct civil violation, separate and apart from any criminal violation.

This administrative penalty also applies to any employer that fails to cooperate or hinders DLT investigation.

Finally, state law also allows employees to sue their employers for unpaid wages.

## **Prohibited Retaliation**

Rhode Island law prohibits employers from discharging (or in any other manner retaliating against) any employee because the employee:

- Files a complaint because he or she has not been paid wages as required by state law;
- Has caused, or is about to cause, a proceeding to be instituted to enforce his or her right to receive wages as required by state law;
- Has testified, or is about to testify, in a minimum wage enforcement proceeding; or
- Has served, or is about serve, on a wage board.

Employers that retaliate against their employees are subject to a fine of between \$100 and \$500.

## **More Information**

Contact Heffernan Insurance Brokers or visit the [DLT website](#) for more information on Rhode Island's employment laws.

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. © 2020-2023 Zywave, Inc. All rights reserved.