

# EMPLOYMENT LAW SUMMARY

## Tennessee Wage and Hour Laws



The federal Fair Labor Standards Act (FLSA) regulates minimum wage, overtime pay and work hours for most employees. Tennessee has largely adopted federal law as the state standard for wage and hour requirements.

This document presents specific Tennessee state law requirements that apply in place of, or in addition to, the FLSA. When federal and state law differ, employers should follow the law that provides the highest benefit or protection to the employee. The Division of Labor Standards of the [Tennessee Department of Labor and Workforce Development](#) (the Department) enforces these standards throughout the state.

### Minimum Rate and Overtime Pay

Tennessee follows federal minimum wage rate and overtime payment requirements. This means that the current minimum wage rate for nonexempt employees in Tennessee is \$7.25 per hour. Similarly, employees in the state must receive one and one-half times their regular wage rate for all hours worked over 40 in a workweek.

Under state law, any employer that fails to inform or misrepresents wage rates to its employees commits a Class C misdemeanor punishable by a fine of up to \$1,000.

However, at its discretion, the Department may issue a warning for the first offense if the violation was unintentional. Similarly, the Department may adjust the penalties for second or subsequent offenses, or it may decide to file civil and criminal charges for a repeated violation.

State law also prohibits local governments from imposing wage or employee benefit mandates on private employers.

### ***Employees with Disabilities***

Tennessee does not have a state minimum wage exemption for employees with disabilities. As a result, employees with disabilities in Tennessee must receive wages at or above the minimum wage rate.

### Notice and Postings

Tennessee law requires employers to inform individuals of their wage rates before allowing them to work in, about, or in connection with any workshop or factory. In addition, employers must post and maintain notices of paydays in at least two conspicuous places where employees can see them as they go to and from work.

While Tennessee law does not explicitly require employers to display a poster with minimum wage rate regulations, the U.S. Department of Labor (DOL) has provided a [model poster](#) that employers must display in a conspicuous place where employees regularly pass by and can see it. This provision does not apply to domestic service and agricultural operations.

### Wage Payment

Tennessee law requires private employers with five or more employees to pay wages in lawful United States currency by check, draft, electronic fund transfer or prepaid debit card.

- **Checks and Drafts:** Wage checks and drafts must be valid negotiable instruments, payable upon presentation at a bank or other established place of business without discount, exchange or collection cost to employees.
- **Prepaid Debit Cards:** Employers may use prepaid debit cards to pay their employee's wages if they can ensure that each employee can make at least one withdrawal or transfer per pay period without incurring any costs for the entire amount contained on the card. In addition, employers must:
  - Disclose to their employees all applicable fees associated with a prepaid debit card program;
  - Give their employees a choice between the prepaid debit card and an electronic fund transfer; and
  - Explain to their employees how the prepaid debit card system works before the employees choose to use this method of payment.

### ***Frequency of Payment***

Tennessee law requires private employers with five or more employees to establish and maintain regular paydays. Paydays must take place at least monthly. Employers that pay wages monthly must provide all employee wages and compensation earned and unpaid prior to the first day of any month no later than the fifth day of the succeeding month.

Employers may also pay employees twice per month. The earning period determines the deadline employers must follow to pay employee wages and compensation.

- Wages earned between the 1st and the 15th day of the month must be paid by the 5th day of following month
- Wages earned between the 16th and the last day of the month must be paid by the 20th day of following month

### ***Payments to Tipped Employee***

Under state law, tipped employees are entitled to receive their tips by the close of business on the day the tip was received or collected. However, employers may also distribute tip payments to employees at a time when wages are regularly paid.

Tennessee law prohibits employers from reducing a tipped employee's earned tips if the tips come from mandatory service charges or are collected from customers, members or patrons. Employers that violate state tip payment laws commit a Class C misdemeanor punishable by a fine of up to \$50, imprisonment for up to 30 days or both. The state may consider each failure to pay an employee's tip wages as a separate offense.

Lastly, Tennessee law prohibits marketplace platforms from keeping tips intended for marketplace contractors. This law has great applicability for gig economy workers and the companies that hire these individuals.

### ***Withholdings and Deductions***

Tennessee law prohibits employers from withholding wages or using other tactics to compel employees to purchase supplies at the employer's store. Any violation of this provision is a Class C misdemeanor punishable by a fine of up to \$50, imprisonment up to 30 days or both.

Otherwise, employers in Tennessee may withhold from an employee's wages any deductions required by law, including employee health insurance premium contributions and wage advancement recovery amounts. Wage advancement recovery includes employer-generated loans and employee use of a company card for personal business. Employers can deduct these costs from an employee's wages only when:

- The employee has signed a written agreement authorizing the employer to withhold the recovery amount;
- The employer has in its possession, at the time of the recovery, a copy of the signed agreement; and
- The employer notifies the employee, in writing, 14 days before the deduction takes place that the employee owes money to the employer, the employee's wages will be offset if the amount owed is not paid before the payday and that the employee has the right to contest the deduction with a sworn affidavit.

For purposes of withholding and deduction requirements, wages include commissions, bonuses, incentive program rewards and tips.

### ***Last Payment of Wages***

Under state law, employers may choose to pay an employee's final wages on the next payday or 21 days after the date of separation. There are no exemptions from this provision. Final wages include vacation time and compensatory time owed to the employee.

## **Wage Payment Penalties**

Tennessee considers most wage payment violations Class B misdemeanors punishable by a fine of between \$100 and \$500 per infraction. The fines may be between \$500 and \$1,000 per infraction if the violation was willful.

However, if the Department determines that the violation was unintentional, it has the discretion to issue a warning instead of a fine for the first offense. In addition, the Department has the discretion to impose fines for second or subsequent offenses and to file civil and criminal charges against a noncomplying employer.

## **Breaks and Rest Periods**

Tennessee law also requires employers to provide 30-minute rest or meal break periods for employees who are scheduled to work for at least six consecutive hours.

The rest period in these instances may not be programmed during or before the first hour of scheduled work activity. Employers with a workplace environment that provides ample opportunity to rest, or take appropriate breaks, throughout the workday are exempt from this requirement.

Under state law, any rest and break period violation is a Class B misdemeanor and is punishable with a fine of between \$100 and \$500. In addition, an employer that willfully violates work hour requirements is subject to a fine of between \$500 and \$1,000 for each offense. Each violation will be considered a separate offense.

## **Breastfeeding Breaks**

State law requires employers with one or more employees to provide reasonable unpaid breaks to employees who need to express breast milk for their infant children. This requirement applies each time employees need to express milk. If possible, these breaks must run concurrently with any break time already provided for these employees.

Employers are also required to make reasonable efforts to provide a room (or other location) where employees can express milk in privacy. This room or location must be in close proximity to the employee's work area and cannot be a toilet stall. However, employers are not required to provide breastfeeding breaks if doing so unduly disrupts their operations.

## **Veteran's Day**

Tennessee requires employers with one or more employees are required to allow veteran employees to have the entirety of Veteran's Day (November 11) as a non-paid holiday if they provide their employers with:

- At least one-month's written notice of their intent to have the entirety of that day as a non-paid holiday; and
- Proof of their veteran status (DD Form 214 or other comparable certificate of discharge from the armed forces).

"Veteran employees" includes former members of the U.S. armed forces and members (former or current) of a Reserve or a Tennessee National Guard unit that was called into active military service of the United States.

Employers may deny providing the entirety of Veteran's Day as a non-paid holiday if they determine that their veteran employees' absence, either alone or in combination with other veteran employees, will impact public health or safety, or cause them significant economic or operational disruption.

State law provides employers sole discretion to determine whether providing time off from work to veteran employees on this holiday causes significant economic or operational disruption.

## **Enforcement**

Effective July 1, 2024, employees and independent contractors have three years to file civil actions for unpaid wages for hours worked, overtime, minimum wage, salary, bonuses, commissions or other compensation owed. The time limitation applies to any causes of action for breach of contract, unjust enrichment, or quantum merit for unpaid wages for hours worked, overtime, minimum wage, salary, bonuses, commissions or other compensation.

## **Prohibited Retaliation**

Tennessee law prohibits employers from discharging or terminating employees solely because they refuse to participate in or remain silent about activities that violate federal or state law. Employees may file a lawsuit against employers that violate this prohibition. Remedies include damages, reasonable attorney fees and court costs. Individuals bringing the lawsuit bear the responsibility of proving that the discharge or termination was discriminatory.

However, Tennessee law discourages employees from initiating frivolous lawsuits aimed to harass or cause needless costs to their employers. Tennessee courts have the authority to curtail these lawsuits by imposing fines on offending parties and requiring them to cover court expenses and reasonable attorney fees.

## **More Information**

Contact Heffernan Insurance Brokers for more information on employment laws in Tennessee.

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