

EMPLOYMENT LAW SUMMARY

Texas: 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 Texas Minimum Wage Act (TMWA) complements federal law and, in some cases, prescribes more stringent or additional requirements for employers. Whenever employers are subject to both state and federal laws, the law that provides the greater protection for the employee applies.

The Labor Law Section of the [Texas Workforce Commission](#) (TWC) enforces and investigates minimum wage violation claims.

MINIMUM WAGE

The TMWA has adopted the federal minimum wage rate of **\$7.25 per hour** as the state standard.

To calculate an employee's wage rate, an employer may include the cost of meals and lodging that it customarily provides for the employee. However, employers that include the cost of meals and lodging must also report these costs in the employee's earning statements.

EXCEPTIONS

Employers (except agricultural employers) may pay wages below the minimum wage rate if they are exempt from contributing to the Texas Unemployment Compensation Fund. In addition, employers are exempt from paying the minimum wage to:

- Bona fide executive, administrative and professional employees;
- Outside sales personnel and collectors paid on commission;
- Closely-related employees (an employer's brother, sister, brother-in-law, sister-in-law, child, spouse, parent, guardian, son-in-law, daughter-in-law or ward);
- Students;
- Dairy farmers;
- Livestock production operation employees (including any activity necessary or useful to the raising of livestock, regardless of the size or type of location);
- Babysitters;
- Domestic employees providing services in or about a private home, including individuals that furnish personal care for a resident of the home;
- Inmates;
- Religious, charitable or nonprofit organization employees;
- Amusement park employees working for a park that operates for up to seven months in a year or earns at least two-thirds of its total income in a six-month period;
- Sheltered workshop employees; and
- Patients or clients of a state mental health facility (after certain requirements are met).

Sheltered workshops are nonprofit charitable organizations engaged in evaluating, training, and providing employment services for disabled individuals. Sheltered workshop employees are exempt from minimum wage laws when the workshop complies with federal regulations.

Students are exempt from minimum wage laws when they are either:

- Under age 20 and are regularly enrolled in a high school, college, university or vocational training program; or
- Under age 21, have a disability, participate in vocational rehabilitation and are part of a cooperative school-work program.

Exemptions do not apply to agricultural workers paid on a piece rate basis.

TIPPED EMPLOYEES

In Texas, a tipped employee is an individual who receives at least **\$20 per month in tips**.

A tipped employee is entitled to receive wages at the minimum rate, but the employer need only pay him or her **\$2.13 per hour** as long as this wage rate, when added to the employee's tips, enables the employee to receive total wages at or above the minimum wage rate. The \$5.13 difference between the tip rate and the minimum wage rate is called a **tip credit**. An employer may use this tip credit only after notifying the employee. The tip credit does not vary for tipped employees who work overtime hours.

OVERTIME PAY

Overtime pay in Texas follows FLSA regulations. In general, employees are entitled to receive one and one-half times their regular wage rate for work performed during overtime hours. For more information on federal guidelines to calculate overtime wages and for federal exemptions to overtime payments contact Heffernan Insurance Brokers.

POSTING REQUIREMENT

Employers must display a summary of minimum wage requirements in a conspicuous place where employees normally pass by and can read it. Because Texas law follows federal law, employers must display the [FLSA Minimum Wage Poster](#).

PENALTIES

Employers that violate wage laws may be subject to employee lawsuits, and may be required to compensate their employees for any **unpaid wages, reasonable attorney fees** and **court costs**. Employers are exempt from these lawsuits if employees wait more than **two years** from the date when wages were due to begin a lawsuit.

RETALIATION PROHIBITED

Texas law prohibits employers from retaliating against any employee who files a claim for violations of minimum wage laws.

Employers that retaliate with malice or with reckless indifference towards the employee may be liable for **unpaid wages, interest on unpaid wages, a punitive fine of between \$50,000 and \$300,000, attorney fees** and **court costs**.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on work hour laws in Texas.

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