

EMPLOYMENT LAW SUMMARY

Wisconsin Minimum Wage Laws

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. Wisconsin law complements federal law and, in some cases, prescribes more stringent or additional requirements that employers must follow. Whenever employers are subject to both state and federal laws, the law that provides the greater protection or that sets the higher standard will apply.

[The Equal Rights Division](#) (ERD), part of the [Wisconsin Department of Workforce Development](#) (DWD), enforces compliance with state's wage and hour laws.

Minimum Wage Rate

The minimum wage rate in Wisconsin is \$7.25 per hour. Employee wages include any compensation given to an employees for their services. Usually, this includes bonuses, commissions and vacation pay. Wages can be fixed or calculated on the basis of time, task, piece, commission or other method.

Opportunity Employees

Individuals can be classified as opportunity employees during the first 90 days of their employment if they are under the age of 20. The wage rate for opportunity employers is \$5.90 per hour.

Tipped Employees

Tipped employees are individuals engaged in an occupation in which they customarily and regularly receive tips and gratuities. Tipped employee wages consist of a service rate plus all the tips these employees receive in the performance of their services.

The service rate in Wisconsin is \$2.33 per hour (\$2.13 for opportunity-tipped employees). Wisconsin law allows employers to pay a lower minimum wage rate to tipped employees because it assumes that the employee's tips will offset the difference between the service rate and the minimum wage rate, thus allowing the employee to receive wages at or above the minimum wage rate.

Employers must subsidize their tipped employees' wages as necessary to ensure that they receive wages that or above state's minimum wage rate. To verify the amount of tips received per employee, state law allows employers to require tipped employees to use an electronic signature or other electronic means that uniquely identifies the employee to acknowledge the counting of tips or other gratuities.

Golf Caddies

The minimum wage rate for golf caddies is based on the number of holes for which they provide their services. Wisconsin law requires employers to pay golf caddies at least \$5.90 for 9 holes and \$10.50 for 18 holes.

Students

Independent colleges and universities can pay wages below the federal minimum wage rate to their student-employees if they are full-time students at the institution where they work and work fewer than 20 hours per week.

Camp Counselors

A camp counselor is an individual employed by a recreational or educational camp, including day camps, to lead, direct and instruct campers in their program and activities. Camp counselors also share responsibility for the total care and well-being of campers.

A recreational or educational camp is a camp operated under trained leadership to contribute to the physical, mental, spiritual and social growth of campers. Campers for these institutions must be under the age of 18 and they must make the camp their residence during the camping period.

The minimum wage rate for camp counselors varies based on whether the camp provides board and lodging to their employees in addition to their wages, as follows:

Board and Lodging Provided	Weekly Minimum Wage Rate	Hourly Rate Equivalent
No	\$350	\$8.75
Board only	\$265	\$6.62
Yes	\$210	\$5.25

Subminimum Wage Licenses

The DWD issues licenses authorizing employers to pay subminimum wage rates in certain circumstances. These licenses set the subminimum wage rate employers can pay to disabled employees and student learners as well as any terms and conditions the DWD imposes to protect all affected employees.

The DWD can deny, suspend, restrict, withhold or refuse to renew a license for:

- Misrepresentations or false statements during application;
- Violations of Wisconsin labor standards;
- Violations of the terms and conditions set by the DWD for the license;
- A change of circumstances that makes having a license no longer necessary;
- Failure to make child, spouse or family support payments; or
- Delinquency on tax payments.

The DWD requires employers to inform employees subject to a subminimum wage license of the terms and conditions set out by the license, both verbally and in writing. An employee's parent or guardian must also be informed when appropriate.

The DWD also sets the expiration date and renewal requirements for each license.

Workers with Disabilities

Workers with disabilities are individuals whose earning capacity is impaired by age or by a physical or mental deficiency or injury. Disabilities that may affect earning or productive capacity include blindness, mental illness, mental retardation, cerebral palsy, alcoholism and drug addictions. Vocational, social, cultural or educational disabilities, chronic unemployment, receiving welfare benefits, school nonattendance, juvenile delinquency and correctional parole or probation are not, by themselves, considered disabilities.

The DWD will approve subminimum wage rate disability licenses after considering, among other things:

- The nature and extent of the employee's disability;
- The wages paid to non-disabled, experienced employees with similar responsibilities; and
- The productivity of the disabled employee compared to the productivity of other employees.

Student Learners

Student learners are students who receive instruction in an accredited school and are employed part-time in a bona fide school training program. The program needs to be authorized and approved by the Department of Public Instruction, the Technical College System Board or a recognized educational body.

Employers can pay student learners a subminimum wage as low as \$5.44 per hour (75% of the applicable wage rate). To obtain a subminimum wage license, an employer must have the educational institution the student-learner is attending file an application with the DWD. The application must, at a minimum, certify that:

- The program is a bona fide school training program;
- The subminimum wage rate is necessary to provide employment opportunities under the program;
- The student is at least 14 years of age (and has a work permit, if under 18 years of age);
- The occupation for which the student will be hired requires a level of skill that can be acquired through a learning period;

- The student will learn more than mere manual dexterity and high production speed in repetitive operations;
- Employing the student will not displace other workers at the establishment;
- Employing the student will not impair or depress the wage rates or working standards established for experienced workers; and
- Issuing the license will not prevent the development of apprenticeship programs.

The DWD may set wage rates below the 75 percent threshold for handicapped student learners if justified by extraordinary circumstances. These rates will be commensurate to the student's abilities.

Minimum Wage Rate Exceptions

While some conditions and specific requirements must be met, Wisconsin minimum wage rate requirements do not apply to:

- Agricultural workers working for an employer that:
 - Paid less than \$20,000 during any quarter of the current or preceding year; or
 - Has fewer than 10 workers for some portion of the day on at least 20 days during the calendar year;
- Casual employees;
- Individuals exempt from minimum wage laws under the FLSA;
- Domestic employees earning less than \$1,000 per quarter during the current and preceding year;
- Real estate agents and sales persons paid solely on commission;
- Individuals working for a nonprofit organization with fewer than 4 employees (working at least 20 days during a calendar year);
- Individuals engaged in the delivery of newspapers (house to house or direct retail sale to the consumer);
- Public employees; and
- Elected officials and their staff.

Notice and Postings

Wisconsin law requires employers to post and maintain updated information regarding the state's minimum wage rate. Employers must also display information regarding regular paydays and the place and time of payment. The DWD has provided a model poster that employers can use to satisfy this requirement.

Prohibited Retaliation

Employers are prohibited from discharging, threatening to discharge or in any other way discriminating against an employee who testifies, is about to testify or assists the DWD in a wage investigation. Employers that retaliate against their employees commit a misdemeanor, punishable by a fine of \$25 for each offense.

More Information

Contact Heffernan Insurance Brokers for additional information on Wisconsin wage and hour laws.

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