

The Wisconsin Department of Workforce Development administers a number of labor standards laws which vary considerably in their coverage and requirements.

Employers covered by these standards also may be subject to similar federal laws and regulations as well. In cases where the laws contain different requirements and the state regulations are more stringent, the department is required by law to enforce the state regulations. Federal laws do not preempt state regulations in these cases.

This publication summarizes Wisconsin's labor standards requirements that were in affect at the time this pamphlet was published. Requirements may change due to changes in state laws or rules, or as a result of judicial or administrative interpretations. The Equal Rights Division can explain any changes, which may have occurred since this pamphlet was printed.

Subjects are listed below in alphabetical order.

### **LABOR STANDARDS SUBJECTS**

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Employment of Minors / Serving Liquor  
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Penalties & Enforcement  
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Not all workers are protected. How these various labor standards apply in specific cases depends on some or all of the following conditions:

- Type of industry
- Type of work performed
- How employed (contract, commission, etc.) and
- Worker's age

### **BUSINESS CLOSING LAW**

Employers with 50 or more employees in the state who decide to conduct a business closing or mass layoff are required to give 60 days' notice to DWD, affected employees, unions representing affected employees and the highest official of the town, village or city in which the employer is located.

## **CESSATION OF HEALTH CARE BENEFITS**

Employers with 50 or more employees in the state must provide 60 days' notice to any affected employees, retirees, or their dependents, when they decide to cease providing health care benefits.

This provision applies to situations where employers completely eliminate their entire package of health care benefits for broad categories of workers or retirees. It does not apply to employment termination of individuals or to modifications of continuing plans.

## **EMPLOYMENT OF MINORS**

**Minors under age 11 cannot be employed at any time. Minors age 11 to 13 may be employed in only very limited types of work.**

**The state requires every employer who hires a minor (any person under 18), or who permits a minor to work at any "gainful occupation," to obtain a valid work permit, issued by the state, for that minor.** The only exceptions are agricultural work, apprenticeships, domestic service, public entertainment, and volunteer work for non-profit organizations.

Minors also are protected by laws and regulations which restrict their hours of labor, the time of day they may work, and the types of work they may do, depending on their ages.

Because of the length and complexity of these rules, please refer to the "The Wisconsin Employment of Minors Guide" ([DWD-ERD-4758](#)) for more details. The guide is published by the Equal Rights Division.

The complete child labor rules (Chapter DWD 270) may be obtained online at <http://legis.wisconsin.gov/rsb/code/dwd/dwd270.pdf>.

## **EMPLOYMENT OF MINORS / SERVING LIQUOR**

Wisconsin restricts the employment of minors under age 18 wherever liquor is sold, with certain exceptions.

Minors 14 years and older may be employed in:

- Establishments where liquor is dispensed if the youth are not involved in serving, selling, giving away or otherwise dispensing liquor. These jobs may be in such establishments as hotels, motels, summer resorts, clubhouses, bowling alleys and restaurants. Minors in this age group may work as bus boys or girls in clearing tables, or as waiters or waitresses but can not take drink orders, and liquor must be handled and served by an adult.
- Stores and wholesale warehouses in which liquor is sold only in sealed packages for consumption off the premises, if the minor does not make the sale and a licensed operator is present all times the minor is working.

There are additional state laws and local ordinances which restrict the access of minors to places where beer and liquor is present. They are administered by other agencies and questions should be directed to those agencies.

## **EMPLOYER RETALIATION AGAINST WORKERS**

Employers are prohibited from retaliating against any employee who:

- Files a complaint;
- Attempts to enforce a right under certain statutes;
- Testifies in a case; or
- Assists in a case

under the state's labor standards laws, such as child labor, minimum wage, hours of work and overtime, wage payment and collection, and prevailing wage rate laws.

This law's protections also apply if an employer takes an adverse employment action against an employee because the employer believes the employee has exercised any of the above rights. Persons who need

further information concerning protection under the state's retaliation provisions should contact the Equal Rights Division.

## **FAIR EMPLOYMENT**

The Wisconsin Fair Employment Law prohibits discrimination in all areas of employment against any qualified person because of sex, race, disability, age (40 and over), creed, color, national origin, ancestry, sexual orientation, marital status, arrest and conviction record, military status, use of lawful products and genetic testing. The Fair Employment Law also regulates the use of honesty tests by employers. Copies of Wisconsin's Fair Employment Law ([ERD-8925](#)) may be obtained online at [http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd\\_8295\\_pweb.pdf](http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd_8295_pweb.pdf).

## **FAMILY AND MEDICAL LEAVE LAW**

Wisconsin's Family and Medical Leave Law covers employers with 50 or more permanent employees. Employees of those employers who have been employed for the prior 52 weeks, and have worked at least 1,000 hours during that period may be eligible for protected leave. For covered employees, the law requires that employees be allowed six weeks of leave for the birth or adoption of a child; two weeks of leave to care for a parent, child or spouse with a serious health condition; and two weeks of leave for the employee's own serious health condition. Copies of the law ([ERD-8300](#)) may be obtained online at [http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd\\_8300\\_p.pdf](http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd_8300_p.pdf).

## **MEAL PERIODS**

Employers are not required to provide meal periods to adult employees. The law recommends, however, that employers provide 30 minutes or more for a meal period. Employers **must** provide meal periods to employees under age 18 who work shifts longer than 6 hours.

Meal periods provided to minors must be at least 30 minutes in length and reasonably close to the usual meal times of 6:00 a.m., 12 noon, 6 p.m. and 12 midnight, or near the middle of the shift.

### **No minor may be employed for more than 6 consecutive hours without a meal period.**

Employers must pay all employees for "on duty" meal periods. An "on duty" meal period is one where the worker is not provided at least 30 consecutive minutes free from work, or where the worker is not free to leave the employer's premises.

Employers are not allowed to require that meals be accepted as part of a worker's wages.

## **MEDICAL EXAMINATIONS**

Employers may require applicants for employment or employees to take medical examinations. The employer must pay the cost of examinations required as a condition of being hired or remaining employed.

## **MINIMUM WAGE**

Wisconsin sets minimum hourly wage rates employers must pay workers.

The Wisconsin law applies to all private and public employers, including non-profit organizations, regardless of whether they are covered by the federal minimum wage law. State and local units of government are also covered.

A separate minimum wage rate exists for employees who receive tips or gratuities from patrons. Employers may pay wages under the schedule for "tipped employees" if they can establish by payroll records that, when tips and wages are added together at the end of a pay period, they at least equal the general minimum wage rate. Deductions also may be made for board and lodging, within limitations, which vary by type of employment.

Subminimum wages are authorized only to employers licensed by the department who employ persons with disabilities, operate rehabilitation facilities, or participate in bona fide student-learner programs.

The rates set for such employees are fixed in relation to their ability, as determined by the department.

Subminimum wages also may be paid to student-employees of private colleges and universities for the first 20 hours of work each week. After that limit, the full minimum wage must be paid.

Minimum wage rates and rules are revised periodically by administrative rule.

### **ONE DAY OF REST IN SEVEN LAW**

The law provides that all employees in covered establishments must be given 24 consecutive hours of rest in each calendar week.

However, the law does not require that the day of rest be given every 7 days. For example, an employer may legally schedule work for 12 consecutive days within a two-week period if the days of rest fall on the first and last days of the two-week period.

The "One Day of Rest" Law exempts certain specific employment in factories and commercial establishments from coverage. The department can explain to you which jobs are exempted.

Employers are permitted to ask the department to waive provisions of this law in unusual circumstances. Waivers generally are granted if representatives of the employer and the employees make the request jointly.

### **OVERTIME PAY REQUIREMENTS**

Workers, regardless of age, must be paid 1-1/2 times the regular rate of pay for all hours worked in excess of 40 hours per week, if employed by factories, mercantile establishments, restaurants, hotels, motels and resorts, beauty parlors, retail and wholesale stores, laundries, express and transportation firms telegraph offices and telephone exchanges.

Exempted from overtime pay requirements are certain administrative, executive, and professional employees; certain outside sales and commissioned employees; taxi cab drivers; certain employees of motor carriers who are covered by federal regulations; parts persons, salespersons, service writers, or mechanics employed by motor vehicle dealers; and apprentices receiving classroom instruction.

**Other than under the Prevailing Wage Laws (see below), there is no required daily overtime pay for adults.**

Whether daily overtime must be paid to minors under age 18 depends on whether the work is agricultural or nonagricultural, if school is in session, and the age of the minor. For additional information, please see the "Employment of Minors Guide" ([ERD-4758](#)).

The federal Fair Labor Standards Act includes federal minimum wage, overtime, and child labor requirements. It is administered by the U.S. Dept. of Labor, Wage and Hour Division, and may set requirements that differ from state law. **It is the responsibility of the employer to comply with both laws.**

For further information about the FLSA, contact the:

U S DEPARTMENT OF LABOR  
WAGE & HOUR DIVISION  
740 REGENT ST  
SUITE 102  
MADISON WI 53715

Phone: (608) 441-5221

### **PENALTIES AND ENFORCEMENT**

There are different penalties for violating different laws and rules. In general, however, violators may be assessed between \$10 and \$100 a day for each day of each violation of most of Wisconsin's labor standards

laws. The department may ask the Wisconsin Department of Justice to seek these penalties in court if attempts to resolve the labor standards dispute have failed.

In addition, employers may be required to pay any wages that may be due employees because of the violation.

Employers may also be penalized for employing a minor without a work permit or violating other child labor regulations.

Furthermore, if a minor was injured or died in the course of work, the employer may be liable for double compensation under Wisconsin's Workers' Compensation Law if it employed the minor without a work permit. It may be liable for treble compensation if the minor was injured while employed in a job prohibited by statute, regardless of whether a work permit was issued.

### **PERSONNEL RECORDS OPEN TO THE EMPLOYEE**

Employers must permit employees to inspect certain personnel documents within 7 working days of a request. Employers may require that the request be in writing. Employees also have the right to obtain copies of these documents. Please refer to Wis. Stat. § 103.13 for more detailed information.

### **THE PREVAILING WAGE LAWS**

Wisconsin's Prevailing Wage Laws require the payment of wages on public works projects that are representative of the wages normally paid to workers on similar private projects in the area. The division conducts an annual survey to determine the wage rates that prevail on public works projects that are bid or negotiated by the state or any unit of local government. Division staff inspect employers' payroll records to ensure that workers are properly classified, that they are receiving the appropriate prevailing wage rate and that they are receiving overtime for work performed in excess of the prevailing hours of labor. These laws require the payment of daily overtime for all covered work performed in excess of 10 hours per day. Premium pay is also required for covered work performed on Saturdays, Sundays, and six major holidays. Contact the Equal Rights Division for further information.

### **PRIVATE EMPLOYMENT AGENCIES**

The department licenses applicant paid fee private employment agencies operating in the state, and sets standards for them in their fees, advertising, bonding and periodic reporting on activities.

Employer paid fee agencies must register with the department annually even though they are not regulated under the law.

Temporary help agencies, labor union hiring halls, theatrical and booking agencies and employment counselors are not subject to this law.

Applicant paid fee agencies which meet state standards are issued a license to operate. The Equal Rights Division can tell you whether or not a private employment agency is licensed or registered with the department.

### **RECORDS WHICH EMPLOYERS MUST KEEP**

Employers must keep the following time and payroll records for at least 3 years for each employee:

- Name and address
- Date of birth
- Dates employment began and ended
- Time work began and ended each day
- Total hours worked daily and weekly
- Rate of pay for each payroll period
- Wages paid each payroll period
- Amount and reason for each deduction
- Output of employee, if paid on other than a time basis.

In addition, the time each meal period began and ended must be recorded when meal periods are required for employees, or when meal periods are deducted from work time. This information is not required when work is such that production or business activity ceases on a regularly scheduled basis.

## **REST PERIOD/COFFEE BREAKS**

State law does not require that brief rest periods, or coffee breaks, be provided to employees. Such matters are to be determined between the employer and the employee.

Rest periods or breaks of less than 30 consecutive minutes are considered work time, and employers may not deduct from a worker's wages for them.

## **SEATS FOR WORKERS**

State law requires that manufacturing, mechanical and commercial establishments provide seats for workers when they are not actively engaged in work duties.

## **SICK LEAVE**

Employers are not required by Wisconsin law to grant sick leave to their workers, whether with pay or without. There are special exceptions in the Family and Medical Leave Law.

## **TERMINATION NOTICES**

Unless termination of employment is covered under the notification requirements found in the Business Closing Law, there is no requirement either the employer or the employees give any notice. See the Business Closing Law section.

## **VACATION**

Employers are not required by Wisconsin law to grant vacations to their workers, whether with pay or without. Such matters are determined entirely by written or unwritten agreements between the employer and the employee. However, where such benefits have been agreed upon, the department may take action as part of a wage claim.

## **WAGE CLAIMS**

Employees have the right to file a wage claim with the department for unpaid wages if there is a dispute with the employer in the amount of wages owed, or if an employer fails to pay the wages agreed upon for time actually worked. If the employer refuses to pay wages earned on the established payday, the employee should request payment.

If the employee does not receive the payment after 6 days, the employee may file a claim with the department. Once a claim is filed, the department will seek to resolve the matter with the employer.

The department may take action on the following types of wage claims:

- Salaries
- Severance pay
- Commissions
- Dismissal pay
- Holiday pay
- Bonuses
- Illegal deductions from wages
- Vacation pay
- Supplemental unemployment compensation benefits when required under a binding collective bargaining agreement.
- Other similar advantages agreed upon between the employer and the employee, or provided to employees as an established policy.

The department may **not** have authority to take legal action on some claims, including:

- Unpaid bills owed to the employee
- Claims by independent contractors
- Claims already filed in court
- Out-of-state employers, in some cases.

Union members who wish to file wage claims will be advised by the department to exhaust contractual remedies available through the union before filing a claim.

Persons filing a claim for wages must do so on a form furnished by the department's Equal Rights Division. There is a 2-year statute of limitations on the collection of wage claims. **Wages must be claimed within 2 years of the date earned.**

### **WAGE DEDUCTIONS**

Employers are required to state clearly on each employee's paycheck, pay envelope or other accompanying paper the number of hours worked, the rate of pay, and the amount of, and reason for, each deduction.

The only exception is where the employee has requested a deduction for personal reasons. In those cases, the deduction may be labeled "miscellaneous" or similarly disguised.

Employers may use a reasonable coding system in listing all deductions.

Employers can only deduct for loss, theft, damage, or faulty workmanship as provided under Wis. Stat. § 103.455.

### **WAGE PAYMENT AND COLLECTION**

**Employers must pay all workers at least once a month.** Employers engaged in logging operations and farming are exempted from this requirement, but must pay no less often than at regular quarterly intervals.

Employees who quit or are discharged from their jobs must be paid in accordance with the employer's established payroll schedule.

### **WEIGHT LIMITS**

Wisconsin law does not set any limits on the amount of weight that employees can be required to lift or carry in their jobs. Employers are required to carry workers' compensation insurance. For further information, contact the Worker's Compensation Division at (608) 266-1340.

To file claims or complaints, or to obtain more information about any of these provisions, contact the department's Equal Rights Division at either of these locations.

## **EQUAL RIGHTS DIVISION**

819 N 6th ST  
MILWAUKEE WI 53203  
414-227-4384  
414-227-4081 (TTY)

PO BOX 8928  
MADISON WI 53708  
608-266-6860  
608-264-8752 (TTY)

Offices are open 7:45 to 4:30 p.m. Monday through Friday.

**Department of Workforce Development is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format or need, it translated to another language, please contact us in Madison at (608)264-8752 or in Milwaukee at (414) 227-4081.**

**Website: <http://dwd.wisconsin.gov/er/>**