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Since 1953

# VIRGINIA Labor Laws

POSTER COMPLIANCE DATE 07/2021

## Minimum Wage

Department of Labor and Industry, Labor Law Division

### Minimum Wage

**Minimum Wage Increases to  
\$9.50 per hour**

Effective May 1, 2021

#### Tipped Employees

Tips plus wages must now meet Virginia's minimum wage of \$9.50 per hour

#### Beginning May 1, 2021, training wages may be increased

The complete training wage regulation is available on the Virginia Town Hall website, <https://townhall.virginia.gov/>

Training Wages:

- Applies to employees younger than 20 years of age
- Is restricted to the first 90 days of employment

#### For More Information, please visit :

- VA LIS: <https://lis.virginia.gov/cgi-bin/leg604.exe?201+sum+SB7>
- VA definitions: <http://law.lis.virginia.gov/vacode/title40.1/chapter3/section40.1-28.9/>
- VA min wages: <http://law.lis.virginia.gov/vacode/title40.1/chapter3/section40.1-28.10/>
- FLSA: <https://www.law.cornell.edu/uscode/text/29/chapter-8>

#### Questions? Contact the Labor Law Division

Phone: 804-786-2706  
Fax: 804-371-6524  
E-mail: [laborlaw@doli.virginia.gov](mailto:laborlaw@doli.virginia.gov)  
Website: <https://www.doli.virginia.gov/>

## EITC

Department of the Treasury, Internal Revenue Service

### Life's a little easier with



earned income tax credit

EITC is for people who work for someone else or own or run a business or a farm. To qualify, you must have low to mid income and meet the following rules.

- Must have earned income
- Must have a Social Security number that is valid for employment issued on or before the due date of the return (including extensions)
- Cannot have investment income, such as interest income, over a certain amount
- Generally must be a U.S. citizen or resident alien all year
- May not file as married filing separately
- May not be a qualifying child of another person
- May not file Form 2555 or 2555-EZ (related to foreign earned income)
- Must have a qualifying child if you do not have a qualifying child, you must:
  - be at least age 25 but under age 65 at the end of the year,
  - live in the United States\* for more than half the year, and
  - not qualify as a dependent of another person.

To claim the EITC, you have to file a federal tax return even if you owe no tax and are not required to file. File your tax return as soon as you have all the information you need about how much you earned. However, refunds for returns claiming the EITC can't be issued before mid-February. This delay applies to the entire refund, not just the portion associated with the EITC.

EITC provides a boost to help pay your bills or save for a rainy day.

#### Just imagine what you could do with EITC.

#### Do you want help with the EITC?

- Go to [www.irs.gov/eitc](http://www.irs.gov/eitc) for free information and to check out the interactive EITC Assistant to see if you qualify for the credit and estimate the amount of your EITC.
- Visit a Volunteer Income Tax Assistance (VITA) site for free tax help and preparation. Go to [www.irs.gov/VITA](http://www.irs.gov/VITA) or call 1-800-906-9887 to find a site.
- Use FreeFile at [www.irs.gov/FreeFile](http://www.irs.gov/FreeFile) for free online filing through commercially available tax preparation software.

Errors can delay the EITC part of your refund until corrected. If the IRS audits your return and finds an error in your claim of the EITC, you must pay back the amount of the EITC you received in error plus interest and penalties. You may also have to file Form 8862 for future claims. And, if the IRS finds your incorrect claim was due to recklessness or intentional disregard of laws or regulations or fraud, we may ban you from claiming the EITC for 2 years or 10 years, depending on the reason for the error.

\*U.S. military personnel on extended active duty outside the United States are considered to live in the United States while on active duty.

## PUBLICATION 962

Publication 962 (EN-SP) Catalog Number 34506V  
Department of the Treasury Internal Revenue Service [www.irs.gov](http://www.irs.gov)

REV. 09/2019

## Workers' Comp.

### WORKERS' COMPENSATION NOTICE

The employees of this business are covered by the Virginia Workers' Compensation Act. In case of injury by accident or notice of an occupational disease:

- THE EMPLOYEE SHOULD:**
- Immediately give notice to the employer, in writing, of the injury or occupational disease and the date of accident or notice of the occupational disease.
  - Prominently give to the employer and to the Virginia Workers' Compensation Commission notice of any claim for compensation for the period of disability beyond the seventh day after the accident. In case of fatal injuries, notice must be given by one or more dependents of the deceased or by a person in their behalf.
  - In case of failure to reach an agreement with the employer in regard to compensation under the act, file application with the Commission for a hearing within two years of the date of accidental injury or first communication of the diagnosis of an occupational disease.
  - If medical treatment is anticipated for more than two years from the date of the accident and no award has been entered, the employee should file a claim with the Commission within two years from the date of the accident.
- NOTE:** The employer's report of accident is not the filing of a claim for the employee.
- THE VIRGINIA WORKERS' COMPENSATION COMMISSION**  
333 E. FRANKLIN ST.  
RICHMOND, VIRGINIA 23219  
1-877-664-2566  
[www.workcomp.virginia.gov](http://www.workcomp.virginia.gov)
- Every employer within the operation of the Virginia Workers' Compensation Act MUST POST THIS NOTICE IN A CONSPICUOUS PLACE in his place of business.

Form VWC1

# VIRGINIA Labor Laws

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## Non-compete

## Code of Virginia

### \$ 40.1-28.7:8. Covenants not to compete prohibited as to low-wage employees; civil penalty.

A. As used in this section:

"Covenant not to compete" means a covenant or agreement, including a provision of a contract of employment, between an employer and employee that restrains, prohibits, or otherwise restricts an individual's ability, following the termination of the individual's employment, to compete with his former employer. A "covenant not to compete" shall not restrict an employee from providing a service to a customer or client of the employer if the employee does not initiate contact with the customer or client.

"Low-wage employee" means an employee whose average weekly earnings, calculated by dividing the employee's earnings during the period of 52 weeks immediately preceding the date of termination of employment by 52, or if an employee worked fewer than 52 weeks, by the number of weeks that the employee was actually paid during the 52-week period, are less than the average weekly wage of the Commonwealth as determined pursuant to subsection B of § 65.2-500. "Low-wage employee" includes interns, students, apprentices, or trainees employed, with or without pay, at a trade or occupation in order to gain work or educational experience. "Low-wage employee" also includes an individual who has independently contracted with another person to perform services independent of an employment relationship and who is compensated for such services by such person at an hourly rate that is less than the median hourly wage for the Commonwealth for all occupations as reported, for the preceding year, by the Bureau of Labor Statistics of the U.S. Department of Labor. For purposes of this section, "low-wage employee" shall not include any employee whose earnings are derived, in whole or in predominant part, from sales commissions, incentives, or bonuses paid to the employee by the employer.

B. Any employer that violates the provisions of subsection B as determined by the Commissioner shall be subject to a civil penalty of \$10,000 for each violation. Civil penalties owed under this subsection shall be paid to the Commissioner for deposit in the general fund.

F. If the court finds a violation of the provisions of this section, the plaintiff shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorney fees from the former employer or other person who attempts to enforce a covenant not to compete against such plaintiff.

G. Every employer shall post a copy of this section or a summary approved by the Department in the same location where other employee notices required by state or federal law are posted. An employer that fails to post a copy of the section or an approved summary of this section shall be issued by the Department a written warning for the first violation, shall be subject to a civil penalty not to exceed \$250 for a second violation, and shall be subject to a civil penalty not to exceed \$1,000 for a third and each subsequent violation as determined by the Commissioner. Civil penalties owed under this subsection shall be paid to the Commissioner for deposit in the general fund.

The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and to pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation. 2020, cc. 948, 949, § 40.1-28.7:7.

## Unemployment Ins.

### Virginia Employment Commission

#### NOTICE TO WORKERS

Every day many unemployed workers tell us that unemployment insurance is due them "because they have paid for it." This is not true in Virginia. There are no deductions from your paycheck for unemployment insurance. Employers' taxes are deposited in a trust fund from which unemployment insurance benefits are paid. Do not confuse unemployment insurance with Old Age and Survivors Insurance to which both you and your employer contribute.

#### YOU MAY APPLY FOR UNEMPLOYMENT INSURANCE BENEFITS IF:

- You are totally unemployed, or
- You are working at reduced wages and hours,

#### IF TOTALLY UNEMPLOYED, ON A TEMPORARY LAYOFF, OR IF WORKING REDUCED HOURS:

The first week you are unemployed, register for work, and file a claim for benefits. You can file your claim online at [www.vec.virginia.gov](http://www.vec.virginia.gov) or by calling our Customer Contact Center at 1-866-832-2363. If you are totally unemployed you must register for work online at [www.vawc.virginia.gov](http://www.vawc.virginia.gov).

#### TO BE ELIGIBLE FOR BENEFITS, THE LAW REQUIRES THAT YOU:

- File a claim with the Virginia Employment Commission.
- Have earned sufficient wages from employers who are subject to the Virginia Unemployment Compensation Act or any other State within your Base Period.

- Must be unemployed through no fault of your own.
- Must be able and available to work and making an active search for work.
- Continue to report as instructed by the Virginia Employment Commission.

You cannot be paid unemployment benefits until you have filed your claim and have met all of the eligibility requirements. To speed payment of benefits, you should file your claim as soon as you become unemployed or your hours are reduced. If you have any questions about your rights and responsibilities under the Virginia Unemployment Compensation Act, visit our website, [www.vec.virginia.gov](http://www.vec.virginia.gov) or call our Customer Contact Center at 1-866-832-2363.

#### THE LAW REQUIRES EMPLOYERS TO POST THIS NOTICE IN A PLACE VISIBLE TO ALL WORKERS.

An Equal Opportunity Employer/Program  
Auxiliary aids and services are available upon request to individuals with disabilities.

This notice is available in Spanish. Direct requests to:

EMPLOYER ACCOUNTS UNIT  
PO Box 1358  
RICHMOND, VA 23218-1358  
VEC-B29

REV. 04/2015

## Department of Labor and Industry

# Job Safety and Health Protection

THE VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) LAW, BY AUTHORITY OF TITLE 40.1 OF THE LABOR LAWS OF VIRGINIA, PROVIDES JOB SAFETY AND HEALTH PROTECTION FOR WORKERS. THE PURPOSE OF THE LAW IS TO ASSURE SAFE AND HEALTHFUL WORKING CONDITIONS THROUGHOUT THE STATE. THE VIRGINIA SAFETY AND HEALTH CODES BOARD PROMULGATES AND ADOPTS JOB SAFETY AND HEALTH STANDARDS, AND EMPLOYERS ARE REQUIRED TO COMPLY WITH THESE STANDARDS. THESE STANDARDS MAY BE FOUND AT THE FOLLOWING WEB ADDRESS: [http://www.doli.virginia.gov/doli\\_regulations/doli\\_regulations.html](http://www.doli.virginia.gov/doli_regulations/doli_regulations.html). YOU MAY ALSO CONTACT THE DEPARTMENT OF LABOR AND INDUSTRY OFFICES LISTED BELOW TO RECEIVE PRINTED COPIES OF THE VIRGINIA UNIQUE STANDARDS AND OBTAIN THE NAMES OF PUBLISHERS OF THE FEDERAL IDENTICAL STANDARDS.

#### Employers

Each employer shall furnish to each of his employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to his employees, and shall comply with occupational safety and health standards issued under the law.

#### Employees

Each employee shall comply with all occupational safety and health standards, rules, regulations and orders issued under the law that apply to his own actions and conduct on the job.

#### Inspection

The Law requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the VOSH inspector for the purpose of aiding the inspection.

Where there is no authorized employee representative, the VOSH inspector must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

#### Citation

If upon inspection VOSH believes an employer has violated the Law, a citation alleging such violations will be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected.

The VOSH citation must be prominently displayed at or near the place of alleged violation for three days or until the violation is corrected, whichever is later, to warn employees of dangers that may exist there.

#### Proposed Penalty

The Law provides for mandatory penalties against private sector employers of up to \$13,277 for each serious violation and for optional penalties of up to \$13,277 for each other-than-serious violation. Penalties of up to \$13,277 per day may be proposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the Law may be assessed penalties of up to \$132,764 for each such violation.

Public Sector employers, all departments, agencies, institutions or other political subdivisions of the Commonwealth, are subject to the penalty provisions of 16VAC 25-50-260.

Criminal penalties are also provided for in the Law. Any willful violation resulting in the death of an employee is punishable, upon conviction, by a fine of not more than \$70,000 or by imprisonment for not more than six months, or by both. Subsequent conviction of an employer after a first conviction doubles these maximum penalties.

#### Voluntary Activity

Voluntary efforts by the employer to assure its workplace is in compliance with the Law are encouraged. Voluntary Safety and Health Consultation and Training Programs exist to assist employers. These services may be obtained by contacting the Virginia Department of Labor and Industry addresses below.

#### Recordkeeping

Employers now have a new system for tracking workplace injuries and illnesses. OSHA's new recordkeeping log (Form 300) is simpler to understand and use. Using a question and answer format, the revised recordkeeping rule provides guidance for recording occupational injuries and illnesses and explains how to classify specific cases. Smaller employers (10 or fewer employees) are exempt from most requirements. To see if your industry is partially exempt, visit the OSHA Website at [www.osha.gov/recordkeeping/pub3169/text.html](http://www.osha.gov/recordkeeping/pub3169/text.html).

#### Accident Reporting

All fatalities must be reported to VOSH within eight (8) hours. All injuries or illnesses that result in an in-patient hospitalization, amputation or loss of an eye must be reported to VOSH within twenty-four (24) hours. Failure to report may result in significant monetary penalties.

## VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

U.S. DEPARTMENT OF LABOR  
OSHA REGIONAL ADMINISTRATOR  
THE CURTIS CENTER, STE 740 WEST  
170 SOUTH INDEPENDENCE MALL WEST  
PHILADELPHIA, PA 19106-3309  
(215) 861-4900

<http://www.doli.virginia.gov>

## OCCUPATIONAL SAFETY AND HEALTH OFFICE LOCATIONS

**Headquarters** Main Street Centre 600 EAST MAIN STREET, SUITE 207, RICHMOND, VIRGINIA 23219 (804) 371-2327