

DELAWARE

Labor Laws

POSTER COMPLIANCE DATE 01/2022

Minimum Wage

Department of Labor, Division of Industrial Affairs

MINIMUM WAGE

Regular Rate:

effective: 06-01-15 - \$8.25/hour
effective: 01-01-19 - \$8.75/hour
effective: 10-01-19 - \$9.25/hour
effective: 01-01-22 - \$10.50/hour
effective: 01-01-23 - \$11.75/hour
effective: 01-01-24 - \$13.25/hour
effective: 01-01-25 - \$15.00/hour

EMPLOYEES WHO RECEIVE TIPS

The minimum cash wage payable to employees who receive tips is \$2.23 per hour, effective 10/1/96.

The employer must be able to prove that the employee received the balance of the full minimum rate in tips.

NOTE: Delaware's minimum cash wage for tipped employees is greater than the cash wage required by federal law. Employers must pay Delaware's higher rate.

Tips may not be taken or retained by an employer except as required by law. Tip-pooling is permitted (under certain conditions) in an amount not to exceed 15% of the actual tips received by the employee.

MINIMUM WAGE EXEMPTIONS:

- Employees in agriculture.
- Employees in domestic service in or about private homes.
- Employees of the United States Government.
- Outside commission paid salespeople.
- Bona fide executives, administrators, and professionals.
- Employees engaged in fishing and fish processing at sea.
- Volunteer workers (for educational, religious or non-profit organizations).
- Junior camp counselors employed by non-profit summer camp programs.

RECORD KEEPING REQUIREMENTS:

Employers must keep records (including rate of pay, hours worked, and amount paid for each employee for three (3) years.

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NOTICE: This state has its own minimum wage law. Employers are also required to display the federal Employee Rights Under the Fair Labor Standards Act posting, which indicates the federal minimum wage. Where federal and state rates both apply to an employee, the U.S. Department of Labor dictates that the employee is entitled to the higher minimum wage rate.

THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY.

Child Labor

Department of Labor, Division of Industrial Affairs

CHILD LABOR

General Provisions:

- The minimum age for employment is 14.
- Work Permits are required for all employed minors under the age of 18.
- Employers are required to keep Work Permits on file for each employed minor.
- A new Work Permit is required when a minor changes employers.

Provisions for Individuals 14 and 15 Years of Age:

MINORS 14-15 YEARS OF AGE SHALL NOT WORK:

- Before 7:00 a.m. or after 7:00 p.m. - except from June 1st through Labor Day when the evening hour shall be extended to 9:00 p.m.
- More than four (4) hours per day on school days
- More than eight (8) hours per day on non-school days
- More than eighteen (18) hours in any week when school is in session for five (5) days
- More than six (6) days in any week
- More than forty (40) hours per week; and
- More than five (5) hours continuously without a non-work period of at least thirty (30) consecutive minutes.

Specific Provisions for Individuals 16 and 17 Years of Age:

- Not more than twelve (12) hours in a combination of school and work hours per day
 - Must have at least eight (8) consecutive hours of non-work, non-school time in each twenty-four (24) hour period
 - May not work more than five (5) hours continuously without a non-work period of at least thirty (30) consecutive minutes.
- For a list of Prohibited Occupations, contact:

The Delaware Department of Labor, Division of Industrial Affairs, Office of Labor Law Enforcement at any of the addresses listed.

This poster provides only general information regarding the provisions of Delaware's Child Labor Laws. The requirements of state law do not affect an employer's obligation to comply with any provisions of federal law.

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Wage Payment

Department of Labor, Division of Industrial Affairs

PAYMENT OF WAGES

EMPLOYERS OF FOUR (4) OR MORE EMPLOYEES ARE REQUIRED TO:

Notify employees in writing at the time of hire:

1. Rate of Pay
2. Day, hour and place of payment
3. Employer's fringe benefits policies

Notify employees in writing of any reductions in the rate of pay, and any changes in the day, hour or place of payment or benefits.

Furnish each employee with a pay statement showing:

1. Amount of wages due;
2. Pay period covered by the payment;
3. Amounts of deductions (separately specified) which have been made from the wages;
4. Total number of hours worked in pay period (for employees who are paid at an hourly rate).

PAYMENT OF WAGES

- Wages must be paid at least once each month.
- Employees must be paid all wages within seven (7) days from the close of each pay period [with some exceptions, see §1102(b)].

If the payday falls on a non-work day, payment shall be made on the preceding work day.

If an employee is not present on the regular payday, payment shall be made on the next regular workday that the employee is present or by mail (only if requested by the employee).

Wages may be paid to a bank account designated by an employee (upon the employee's written request).

Wages may be paid in cash or by check (provided that suitable arrangements are made by the employer for cashing at a bank or other business establishment convenient to the workplace).

Whenever an employee quits, resigns, is discharged, suspended or laid off, the wages earned shall be paid on the next regularly scheduled payday(s) either through the usual pay channels or by mail (if requested by the employee) as if employment had not been suspended or terminated.

UNLAWFUL DEDUCTIONS:

Employers are not permitted to deduct or withhold wages for:

1. Cash or inventory shortages;
2. Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount owed and the repayment schedule);
3. Damaged Property
4. Failure to return employer's property.

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Workers' Comp.

Department of Labor, Division of Industrial Affairs

WORKERS COMPENSATION

IMPORTANT THINGS TO DO IN CASE OF INJURY

THE EMPLOYER SHOULD:

Carry Workers' Compensation insurance coverage. Provide all necessary medical, surgical, and hospital treatment from the accident date. Every employer shall keep a record of all injuries received by employees and make a report within ten (10) days thereof in writing to the Office of Workers' Compensation. Ascertain the average weekly wages of the employee and provide compensation in accordance with the provisions of the law, for disability beyond the third day after the accident. All agreements as to

compensation must be submitted to the Office of Workers' Compensation for approval.

THE EMPLOYEE SHOULD:

Immediately notify the employer in writing of accidental injury or occupational disease and request medical services. Failure to give notice or to accept medical services may deprive the employee of the right to compensation. Give promptly to the employer, directly or through a supervisor, notice of any claim for compensation for the period of disability beyond the third 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 on their behalf. In case of failure to reach an agreement with the employer in regard to compensation under the law, file an application with the Industrial Accident Board for a hearing on the matters at issue within two (2) years of the date of accidental injury or one (1) year of knowledge of a diagnosis of an occupational disease or an ionizing radiation injury. All forms can be obtained from the Office of Workers' Compensation.

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Meal Breaks

Department of Labor, Division of Industrial Affairs

BREAKS

All employees must be offered a meal break of at least 30 consecutive minutes if the employee is scheduled to work 7.5 or more hours per day. Must be after the first 2 hours of work and before the last 2 hours of work.

This rule does not apply when:

- The employee is a professional employee certified by the State Board of Education and employed by a local school board to work directly with children.
- There is a collective bargaining agreement or other employer-employee written agreement which provides otherwise.

Rules have been issued granting exemptions when:

- Compliance would adversely affect public safety.
- Only one (1) employee may perform the duties of a position.

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Discrimination

Department of Labor, Division of Industrial Affairs

Discrimination

Employers are prohibited by state law from discriminating against employees because of their RACE; COLOR; NATIONAL ORIGIN; SEX (INCLUDING PREGNANCY); RELIGION; DISABILITY; AGE (40+); GENETIC INFORMATION; SEXUAL ORIENTATION; GENDER IDENTITY; MARITAL STATUS; MEMBERSHIP IN VOLUNTEER EMERGENCY RESPONDER ORGANIZATION (VOLUNTEER FIREFIGHTERS, AMBULANCE PERSONNEL, LADIES AUXILIARY); VICTIM OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; FAMILY CARE RESPONSIBILITIES; REPRODUCTIVE HEALTH DECISIONS; and RETALIATION FOR INITIATING A COMPLAINT OF EMPLOYMENT DISCRIMINATION, OR OPPOSING OR PARTICIPATING IN THE INVESTIGATION OF A DISCRIMINATORY EMPLOYMENT PRACTICE. Employers of four (4) or more employees, labor organizations, employment agencies and joint labor management committees for apprenticeship or training are covered by this law.

SEXUAL HARASSMENT: Sexual harassment of employees, applicants, apprentices, staffing agency workers, unpaid interns, and independent contractors is unlawful. Sexual harassment can be unwelcome sexual advances, requests for sexual favor, or other verbal or physical conduct of a sexual nature when (1) the employee is expected to submit to such conduct; or (2) the employee's submission to or rejection of such conduct is used as the basis for employment decisions; or (3) such conduct has the effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive working environment. If the harassment is by a supervisor, the employer may be responsible even if the employee has not complained.

If the harassment is by a fellow worker or non-employee, employers are responsible if the employee complained to the employer and the employer has taken no action to stop or correct the sexual harassment. Effective January 1, 2019, employers must distribute the Department of Labor Sexual Harassment Informational worksheet to all employees. Employers with 50 or more employees must provide interactive sexual harassment training to all new employees, and every two years after.

DISABILITY: Employers are prohibited by state law from discriminating against any employee because of disability. State law requires the employment and advancement of qualified individuals with a disability who, with or without reasonable accommodation, can perform the essential functions of a job.

PREGNANCY: Employers must provide reasonable accommodations to employees with respect to pregnancy, childbirth, lactation and related conditions. Employers may not deny job applicants a position based on the need for a pregnancy-related workplace accommodation, make unnecessary changes to a pregnant employee's job functions or require a pregnant employee to take paid or unpaid leave when a reasonable accommodation would permit the employee to continue working.

ANY PERSON: who believes he or she has been discriminated against should contact the Delaware Department of Labor, Office of Discrimination at (302) 761-8200.

A Charge of Discrimination must be filed within 300 days of the alleged unlawful employment practice.

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Whistleblowers

Department of Labor

Chapter 17. Whistleblowers' Protection

§ 1701. Short title.

This chapter may be cited as the "Delaware Whistleblowers' Protection Act" (74 Del. Laws, c. 361, § 1.)

§ 1702. Definitions.

As used in this chapter:

- (1) "Employee" means a person employed full or part-time by any employer, and shall include, but not be limited to, at-will employees, contract employees, independent contractors, and volunteer firefighters as defined in § 6651(c) of Title 16.
- (2) "Employer" means any person, partnership, association, sole proprietorship, corporation or other business entity, including any department, agency, commission, committee, board, council, bureau, or authority or any subdivision of them in state, county or municipal government. One shall employ another if services are performed for wages or under any contract of hire, written or oral, express or implied.
- (3) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.
- (4) "Public body" means all of the following:
 - a. A state-wide elected official, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government or employee of them;
 - b. A legislator or employee of the legislative branch of state government;
 - c. An elected official of a county, city, or school district or employee of them;
 - d. A law-enforcement agency or employee of that law-enforcement agency; and
 - e. A federal agency or employee of that federal agency.
- (5) "Supervisor" means any individual to whom an employer has given the authority to direct and control the work performance of the affected employee or any individual who has the authority to take corrective action regarding the violation of a law, rule or regulation about which the employee complains.
- (6) "Violation" means an act or omission by an employer, or an agent thereof, that is:
 - a. Materially inconsistent with, and a serious deviation from, standards implemented pursuant to a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect employees or other persons from health, safety, or environmental hazards while on the employer's premises or elsewhere; or
 - b. Materially inconsistent with, and a serious deviation from, financial management or accounting standards implemented pursuant to a rule or regulation promulgated by the employer or a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect any person from fraud, deceit, or misappropriation of public or private funds or assets under the control of the employer.

(74 Del. Laws, c. 361, § 1.)

§ 1703. Protection.

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment:

- (1) Because the employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, a violation which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false; or
- (2) Because an employee participates or is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action, in connection with a violation as defined in this chapter; or
- (3) Because an employee refuses to commit or assist in the commission of a violation, as defined in this chapter; or

- (4) Because the employee reports verbally or in writing to the employer or to the employee's supervisor a violation, which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false. Provided, however that if the report is verbally made, the employee must establish by clear and convincing evidence that such report was made; or
- (5) Because an employee reports or is about to report to a public body, to the employer or the employee's supervisor, verbally or in writing any noncompliance or an infraction which the employee knows or reasonably believes has occurred or is about to occur, of Chapter 80 of Title 15 unless the employee knows or has reason to believe the report is false; or participates or is requested to participate in an investigation, hearing, trial or inquiry, of a person or entity other than employee, regarding noncompliance or an infraction of Chapter 80 of Title 15; or refuses to participate or assist in the noncompliance or an infraction of Chapter 80 of Title 15.

(74 Del. Laws, c. 361, § 1; 79 Del. Laws, c. 344, § 1)

§ 1704. Relief and damages.

- (a) A person who alleges a violation of this chapter may bring a civil action for appropriate declaratory relief, or actual damages, or both within 3 years after the occurrence of the alleged violation of this chapter.
- (b) An action commenced pursuant to subsection (a) of this section may be brought in Superior Court in the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business.
- (c) As used in subsection (a) of this section, "damages" means damages for injury or loss caused by each violation of this chapter.
- (d) A court, in rendering a judgment in an action brought under this chapter, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, expungement of records relating to the disciplinary action or discharge, actual damages, or any combination of these remedies. A court may also award, as part of a judgment in an action brought under this chapter, all or a portion of the costs of litigation, including attorneys' fees, if the court determines that such an award is appropriate.

(74 Del. Laws, c. 361, § 1.)

§ 1705. Collective bargaining.

This chapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

(74 Del. Laws, c. 361, § 1.)

§ 1706. Exemption.

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with § 1703 of this title.

(74 Del. Laws, c. 361, § 1.)

§ 1707. Notices requirement.

An employer shall post notices and use other appropriate means to keep the employer's employees informed of their protections and obligations under this chapter.

(74 Del. Laws, c. 361, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1708. Burden of proof.

The burden of proof in any action brought under this chapter shall be upon the employee to show that the primary basis for the discharge, threats, or discrimination alleged to be in violation of this chapter was that the employee undertook an act protected pursuant to § 1703 of this title.

(74 Del. Laws, c. 361, § 1.)

It is unlawful to retaliate against an employee because (s)he has made a complaint or given information to the Dept of Labor about possible labor law violations. EMPLOYERS ARE REQUIRED BY LAW TO DISPLAY THIS OFFICIAL POSTER IN A PLACE ACCESSIBLE TO EMPLOYEES AND WHERE THEY REGULARLY PASS. Violations of Delaware Labor Laws could result in fines of up to \$10,000 per violation.

NOTICE: Employers must contact their local unemployment office or the state agency responsible for unemployment compensation to receive the official Unemployment Insurance posting. Employees should contact their local unemployment office for information on how to claim unemployment benefits. THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT FULFILL THIS STATE'S UNEMPLOYMENT INSURANCE POSTING REQUIREMENT.


Department of Labor
Division of Industrial Affairs

FOX VALLEY OFFICES
4425 NORTH MARKET STREET - 3RD FLOOR
WILMINGTON, DE 19802
(302) 761-8200

GEORGETOWN AMERICAN JOB CENTER
8 GEORGETOWN PLAZA, SUITE 2
GEORGETOWN, DE 19947
(302) 856-5230

BLUE HEN CORPORATE CENTER
655 S Bay Road, Ste. 2H
DOVER, DE 19901
(302) 422-1134

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ONLINE Go to: JKeller.com/LLPverify
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