

Your Rights Under the Oklahoma Minimum Wage Act

40 O.S. § 197.1 et seq.

State Minimum Wage

\$5.85 per hour

Effective July 24, 2007

\$6.55 per hour as of July 24, 2008

\$7.25 per hour as of July 24, 2009

It shall be unlawful to employ workers in any industry or occupation within the State of Oklahoma under conditions of labor detrimental to their health or morals and it shall be unlawful to employ workers in any industry within the State of Oklahoma at wages which are not adequate for their maintenance. Except as otherwise provided in the Oklahoma Minimum Wage Act, no employer within the State of Oklahoma shall pay any employee a wage of less than the current federal minimum wage for all hours worked.

WHO IS AN EMPLOYER?

40 O.S. § 197.4(d) - "Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons, hiring more than ten full-time employees or equivalent at any one location or place of business; provided, however, if an employer has less than ten full-time employees or equivalent at any one location or place of business but does a gross business of more than One Hundred Thousand Dollars (\$100,000.00) annually, said employer shall not be exempt under the provisions of this act. This act shall not apply to employers subject to the Fair Labor Standards Act of 1938, as amended, and who are paying the minimum wage under the provisions of said act, nor to employers whose employees are exempt.

WHO IS AN EMPLOYEE?

40 O.S. § 197.4 (e) - "Employee" includes any individual employed by an employer but shall not include:

For more information, call or write:



Oklahoma Department of Labor

**www.labor.ok.gov
888-269-5353**

**4001 N. Lincoln Blvd.
Oklahoma City, OK 73105
(405) 528-1500**

**440 S. Houston, Suite 300
Tulsa, OK 74127
(918) 581-2400**

HOW DO TIPS AFFECT MINIMUM WAGE?

40 O.S. § 197.16 - To compute the minimum wage of any employee coming within the purview of this act, credit toward the minimum required wage must be given for any tips or gratuities, meals or lodging received by the employee up to but not exceeding fifty percent (50%) of said wage.

HOW DO UNIFORMS AFFECT MINIMUM WAGE?

40 O.S. § 197.17 - Business establishments that furnish uniforms to their employees may take credit against the minimum wage in an amount equal to the reasonable cost of furnishing the uniforms.

WHAT IS THE CIVIL PENALTY FOR VIOLATIONS?

40 O.S. § 197.8 - The Commissioner, after investigation, shall promptly make his finding in writing as to whether or not

- (1) An individual employed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;
- (2) Any individual employed in domestic service in or about a private home;
- (3) Any individual employed by the United States government;
- (4) Any individual working as a volunteer in a charitable, religious or other nonprofit organization;
- (5) Any newspaper vendor or carrier;
- (6) Any employee of any carrier subject to regulation by Part I of the Interstate Commerce Act;
- (7) Any employee of any employer who is subject to the provisions of any Federal Fair Labor Standards Act or to any Federal Wage and Hour Law now in effect or enacted hereafter; and who is paying the minimum wage under the provisions of this act;
- (8) Any employee employed in a bona fide executive, administrative or professional capacity, or in the capacity of outside salesman;
- (9) Any person employed as part-time employee not on permanent status. A part-time employee is defined as an employee who is employed less than twenty-five (25) hours a week;
- (10) Any person who is less than eighteen (18) years of age and is not a high school



Lloyd L. Fields

Commissioner of Labor

NOTICE:

State law requires employers to display this poster in such a manner so as to be accessible to all employees in each establishment under the control of the employer.

graduate or a graduate of a vocational training program, and any person who is less than twenty- two (22) years of age and who is a student regularly enrolled in a high school, college, university or vocational training program;

- (11) Any individual employed in a feedstore operated primarily for the benefit and use of farmers and ranchers; or
- (12) Any individual working as a reserve force deputy sheriff.

WHO MAY BE PAID LESS THAN MINIMUM WAGE?

40 O.S. § 197.5 - Every employer shall pay to each of his employees who have reached eighteen (18) years of age wages at a rate of not less than Two Dollars (\$2.00) per hour. Regardless of other provisions of the Oklahoma Minimum Wage Act, every employee of the State of Oklahoma or any lessee or concessionaire thereof is hereby specifically covered by the Oklahoma Minimum Wage Act.

additional wages are due the employee. If the Commissioner finds that additional wages are due, ten percent (10%) of such amount due shall be added as penalty for such wage deficiency. The Commissioner shall mail said findings to the employer and to the employee by certified mail. Payment by the employer and acceptance by the employee of the amount so determined by the Commissioner shall absolve the employer of any further liability to the employee with respect to wages claimed by the employee for the period he was employed by the employer.

40 O.S. § 197.9 - Any employer who is found by a court of competent jurisdiction to have paid an employee wages less than those to which such employee is entitled, under or by virtue of this act, shall be liable to such employee for double the full amount of such wages, less any amount actually paid to such employee by the employer, and for court costs, and such reasonable attorney fees as may be allowed by the court, which in no case shall be less than One Hundred Dollars (\$100.00). Any agreement between such employee and the employer to work for less than such wage rate shall be no defense to such action.

WHAT IS THE CRIMINAL PENALTY FOR VIOLATIONS?

40 O.S. § 197.13 - Any employer, or the officer or agent of any corporation, who pays or agrees to pay to any employee less than the rate of compensation required by this act, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

Your Rights Under the Oklahoma Minimum Wage Act



Employee Health, Morals & Wages

It's against the law for employers to have workers in jobs that hurt their health. It's against the law for employers to have workers in jobs that hurt their morals. It's against the law for employers to pay workers less than adequate wages.

Federal Minimum Wage

Unless the law says it's okay, employers can't pay less than the federal minimum wage.

Employer Defined

The law defines an "employer" as having ten or more full-time workers in one place or more than \$100,000 of business a year.

Employee Defined

The law says an "employee" is a worker for an "employer." But, an "employee" is not:

- (1) a worker on a farm; a worker on a ranch; a worker with animals on a farm or ranch; or a mechanic on a farm or ranch;
- (2) a maid;
- (3) a federal government worker;
- (4) someone who volunteers for a charity, church, or nonprofit club;
- (5) a newspaper vendor or carrier;
- (6) a railroad worker;
- (7) any worker who is already being paid the federal minimum wage or more;
- (8) executives; someone in an administrative job; professionals; or an "outside" salesman;
- (9) anyone who works less than 25 hours per week in a temporary position;
- (10) anyone younger than 18 who hasn't graduated from school, and anyone younger than 22 who is in school;
- (11) anyone who works in a feedstore; or
- (12) a reserve deputy sheriff.

Other Protected Employees

The law says employers must pay all workers who are 18 or older at least \$2.00 per hour. The law says all employees are covered by the Oklahoma Minimum Wage Act.

Tips, Room & Board

The law says tips, room and board can be added to wages in figuring the minimum wage. However, tips, room and board can't be more than 50% of the wages.

Uniforms

The law says the cost of uniforms given to workers can be added to wages in figuring the minimum wage.

Investigation of Wage Claims

The law says the Commissioner of Labor, **LLOYD L. FIELDS**, can investigate whether wages are due workers. He will write down his findings. If any employee's employment has terminated and the Commissioner finds that wages are due, a penalty of 2% per day up to the total amount of the wage claim will be added to the wages due. He will mail his findings to the employer and the worker by certified mail. If the employer pays the wages (and the penalty) and the worker accepts the payment, that's the end of the wage claim.

Employer Liability

If a court finds an employer hasn't paid all wages due, the law says the employer is liable for double the amount of the wages minus any sums already paid to the worker. The employer is also liable for court costs and reasonable attorney fees of at least \$100. The employer can't defend a wage claim by arguing that there was an agreement with the worker to work for less than the lawful wage. The law says an employer who pays or even agrees to pay less than the lawful wage is guilty of a misdemeanor. The punishment could be a fine of not more than \$500. The punishment could be as much as six (6) months in the county jail. The punishment could be both a fine and jail time.

IT'S THE LAW!

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