

2018

HR COMPLIANCE

DANGER ZONES

How to Safely Navigate Today's
Legislative and Regulatory Hot Spots



2018
HR COMPLY
An HR Daily Advisor Event

HR Daily Advisor

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Questions or comments about *2018 HR Compliance Danger Zones: How to Safely Navigate Today's Legislative and Regulatory Hot Spots*
Contact: Holly Jones, JD, Senior Legal Editor.

BLR—Business & Legal Resources
100 Winners Circle, Suite 300
Brentwood, TN 37027

860-727-5257

www.blr.com



When Donald Trump won the 2016 presidential election, no one knew what to expect when it came to regulatory compliance. But now that we're a full year into President Trump's first term, we're learning more about what we can expect in the years to come. From paid sick leave to immigration and everywhere in between, one thing is certain: There's going to be a lot of change. Here's a look at a few of the hottest topics concerning HR pros in 2018.

Sexual Harassment

The recent high-profile sexual harassment accusations leading to public humiliation and terminations has highlighted the need for companies to properly train their supervisors and employees on what is and is not harassment.

The persistence of harassment in the workplace is borne out by the numbers of sexual harassment charges filed with the Equal Employment Opportunity Commission (EEOC). The EEOC reports that 12,428 charges of sexual harassment were filed with the agency in 2017. The numbers have not changed significantly since 2010. To prevent workplace harassment, employers may want to consider some of the following:

- **Management sets the tone.** A company culture that doesn't tolerate sexual harassment—even when committed by employees who make big money for the employer or work at high levels in the organization—is the key to preventing harassment from occurring in the first place. Employers must take action to stop harassment and hold *all* employees accountable for their behavior.
- **Encourage employees to come forward with complaints.** Sexual harassment is underreported in the workplace for many reasons, including fear of retaliation, being

labeled as a troublemaker, or having an allegation minimized (e.g., being treated as someone who's "overly sensitive" or who "can't take a joke").

- **Create procedures.** To help employees come forward with complaints, have a complaint procedure in place—make sure the procedure is easy to follow and understand, is communicated clearly to all employees, and provides options for employees to report harassment (i.e., don't require employees to report harassment to their supervisors—who may be committing, contributing to, or ignoring the harassment).
- **Enforce policies.** Have and enforce a sexual harassment policy that not only prohibits unlawful harassment but that also prohibits inappropriate conduct in the workplace—this allows an employer to take disciplinary action against an employee before his or her inappropriate conduct rises to the level of unlawful harassment—to nip the potential harassment in the bud before it becomes a legal problem for the employer.
- **Train ALL of your employees.** Provide harassment prevention training to all employees, not just supervisors—employers are liable for harassment by coworkers if the employer knew about the harassment and failed to take appropriate action to stop it.

Sexual Orientation under Title VII

The 2nd U.S. Circuit Court of Appeals (whose decisions apply to employers in Connecticut, New York, and Vermont) recently reversed course and held that discrimination based on sexual orientation amounts to discrimination based on sex in violation of Title VII of the Civil Rights Act of 1964 (Title VII).



The 2nd Circuit joins the 7th Circuit (whose decisions apply to employers in Illinois, Indiana, and Wisconsin) in holding that Title VII prohibits discrimination based on sexual orientation.

The 11th Circuit declined the opportunity to decide such a question in 2017, and no similar case has gone to the U.S. Supreme Court. It's likely the Supreme Court will hear a sexual orientation discrimination case in the near future.

Violating Free Speech?

Another unresolved issue for employers is where protected speech under the National Labor Relations Act (NLRA) ends and harassment begins. The NLRA applies to most private employers and protects concerted activities undertaken in a group (i.e., more than one employee or one employee acting on behalf of a group) with respect to terms and conditions of employment—regardless of whether those activities are in a formal union context.

In the past, the National Labor Relations Board (NLRB) ruled that “civility codes” or “no gossip policies” may interfere with protected speech under the NLRA. However, the NLRB has recently issued several decisions that reversed or significantly changed its stance on employer policies and work rules, the makeup of bargaining units, and joint employment relationships.

NLRB

Decisions by the NLRB are often thought of in the context of unions, but NLRB’s decisions can affect all employers because of the federal law it enforces. Recent decisions occurred during a short window of time in which Republican board members held a 3–2 majority over Democratic members.

Three recent decisions by the NLRB create standards that affect private, nonunionized employers as well as those that have collective bargaining agreements with a union.

Employer Policies

In one recent decision that affects most workplaces, the NLRB established a new test for evaluating an employer’s policy, rule, or handbook provision to determine if it will potentially interfere with the exercise of an employee’s NLRA rights (*The Boeing Company*, 19-CA-090932 (December 14, 2017)).

Under the new test, the NLRB will look at two factors when deciding if a facially neutral policy would potentially interfere with the exercise of NLRA rights:

1. The nature and extent of the potential impact on NLRA rights; *and*
2. Legitimate justifications associated with the rule.

There are three categories of rules:

- Category 1 includes a work rule the NLRB designates as lawful because the rule doesn't prohibit or interfere with the exercise of NLRA rights or because the legitimate justifications outweigh the potential adverse impact on protected rights.
- Category 2 covers rules that warrant individualized scrutiny to determine interference with NLRA rights and whether legitimate justifications outweigh any adverse impact.
- Category 3 includes rules that the NLRB will designate as unlawful because they would prohibit or limit NLRA-protected conduct, and the adverse impact on NLRA rights is not outweighed by justifications associated with the rule. An example is a rule that prohibits employees from discussing wages or benefits with one another.

The *Boeing* decision overrules an NLRB decision under which an employer's rule was unlawful if an employee could "reasonably construe" the rule to prohibit NLRA-protected activity.

Bargaining Units

When a union seeks to represent a group of workers, an appropriate bargaining unit of employees consists of those who share a "community of interest" and can be reasonably grouped together for purposes of collective bargaining. This standard was reinstated by the NLRB in a recent decision (*PCC Structural, Inc.*, 19-RC-202188 (December 15, 2017)), which overruled a 2011 NLRB decision that required employers to show that employees for a proposed bargaining unit shared "an overwhelming community of interest."

This more rigorous standard allowed unions to create so-called "microunits," making it easier for unions to organize small groups of workers who favored union representation. Under *PCC Structural*, the NLRB can look at the interests of employees inside and outside the proposed unit and examine factors such as workers' skills and training, their job functions and work, the terms and conditions of their employment, and whether the workers are supervised separately.



Joint Employers

When the NLRB issued a decision on joint employment on December 14, 2017, many employers breathed a sigh of relief as the Board reinstated an old employer-friendly standard on what's considered joint employment. But now employers find themselves once again judged by the previous, less friendly standard after the NLRB took the unusual step of vacating the December decision in the wake of conflict-of-interest accusations against Board Member William J. Emanuel.

On February 26, the Board issued an order vacating the *Hy-Brand Industrial Contractors, Ltd. and Brandt Construction Co.* decision "in light of the determination by the Board's Designated Agency Ethics Official that Member Emanuel is, and should have been, disqualified from participating in this proceeding."

The action comes after reports that the NLRB's inspector general asserted that Emanuel should have recused himself because his former law firm was involved in the Board's 2015 *Browning-Ferris* decision, which was overruled by *Hy-Brand*.

Browning-Ferris broadened what could be considered a joint-employment relationship. Under *Browning-Ferris*, employers that had even indirect control over employees of another employer could be considered joint employers.

The 3-2 party line *Hy-Brand* decision reinstated an old standard on joint employment favored by employers using temporary staffing agencies and employers using a franchisor-franchisee business model. That standard said joint employment occurs only when there is proof that one entity has exercised control rather than merely having reserved the right to exercise control.

When the Majority Rules

The current administration has nominated a Republican to fill the seat left vacant when the term of Philip Miscimarra (a Republican) expired in December 2017. If confirmed, that member will again put Republicans in a 3–2 majority. It's likely that there will be more decisions by the NLRB that favor employers. While the NLRB may be helping employers, new state laws are confusing them.

Paid Sick Leave

Maryland is now the ninth state to have enacted a paid sick leave law. Effective February 11, 2018, the Healthy Working Families Act became law as the result of a veto override, which understandably means there are still a few details related to the law's enforcement and implementation to be ironed out.

In fact, Maryland Governor Larry Hogan promptly created, by Executive Order, a Small Business Regulatory Assistance office to smooth the transition and help Maryland employers comply with the new law.

Yet, while Maryland officials work to draft sample policies and notices, and while other states wrestle with their own legislative developments, an increasingly common question arises from employers outside the enacting state: "Does this law apply to us?"

The New Normal

It's one thing to be uncertain how a law applies, but it used to be a rare occasion to be uncertain whether a law applies to you in the first place. If you were a California employer, California employment law applied. If you were a Texas employer, Texas law applied. Sure, New York employers might have workers travel in from New Jersey to perform work, but they were still confident in their status as New York employers subject to New York employment laws.

Yet, now geographic boundaries simply aren't sufficient. Fortunately, lawmakers are becoming more aware of the increasingly multistate nature of work and business, drafting laws to specifically explain, "This law only applies to businesses with geographic boundaries in the state of Rhode Island" or "These rights extend to any worker who works a minimum of 20 hours per week in the geographic boundaries of the city."

But this is not always the case, and the new Maryland law is one such circumstance.

Which 15 Employees? From Where?

Specifically, Maryland's new law requires:

- An employer that employs 15 or more employees to provide an employee with earned sick and safe leave that is *paid* ...
- An employer that employs 14 or fewer employees to provide unpaid earned sick and safe leave.

For many employers, this will be a reasonably clear requirement. Either you have 15 employees or you don't, right? But:

- **What if you are a Minnesota employer, yet you have one employee working remotely from Maryland?** You aren't a Maryland employer, yet the law applies to employers "with 14 or fewer employees." Does your one employee who, arguably, is working in Maryland mean you are subject to the law? If so, how do you count your employees?
- **What if you are a Maryland employer with 12 workers in state, yet you have 3 remote workers in Delaware?** In this case, it's clearer that the paid sick leave law applies to you—after all, you are a Maryland employer—but do you have 15 employees or not?

Unfortunately, the law as drafted does not clearly answer these questions. "Employer" is defined broadly—in fact, the text of the law only notes that employer includes (1) a unit of state or local government; and (2) a person who acts directly or indirectly in the interest of another employer with an employee.

Well, OK, then.

The law does provide some exemptions for employees—for example, independent contractors are not considered employees, nor are workers under the age of 18. But the law, as drafted, still does not include any other explicit exceptions, exemptions, or compliance guidance for employers not headquartered in Maryland.

Fortunately, this may simply be an oversight in this particular law. In other comparable Maryland laws, the law generally does define how "employer" will be interpreted. For example, the Healthy Retail Employee Act specifies that "employer" means a person engaged in a retail establishment business in the state. Similarly, the state's law relating to adoption leave specifies that "employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the state.

Agency Guidance

On February 16, the Department of Labor, Licensing, and Regulation and the newly created Office of Small Business Regulatory Assistance issued a helpful Frequently Asked Questions (FAQ) guidance document to provide clarity on compliance with the law. Perhaps the most important question answered by the document—yes, the law can apply to out-of-state employers with Maryland-based employees.

Specifically, the guidance provides:

Which employers are required to provide earned sick and safe leave?

All employers with employees whose primary work location is in Maryland are required to provide earned sick and safe leave, regardless of where the employer is located. Employers who employ 15 or more employees are required to provide paid earned sick and safe leave. Employers with 14 or fewer employees are required to provide unpaid earned sick and safe leave.

The guidance document also answers numerous questions on calculating the employee threshold, including much-needed guidance for employers outside of Maryland.

Specifically:

In calculating the 15-employee threshold, does an employer include employees that work in Maryland as well as employees that the employer employs in other states?

The commissioner of labor and industry will consider only those employees employed in Maryland. All employees of the employer working in Maryland will be considered in determining the 15-employee threshold, including part-time, seasonal, and temporary employees.

This news may provide some relief to out-of-state employers that may have as few as one covered employee under the law. Though the employer will still be required to comply with the unpaid leave requirement of the law with respect to the eligible employee, paid leave will only be required if the employer has at least 15 eligible workers within the state of Maryland.

The FAQ document goes on to provide incredibly helpful and easy-to-follow guidance on calculating the number of employees, complying with leave accrual and tracking requirements, permissible uses of leave, verification of leave use, and more.

Best Practices

Meanwhile, employers should note that the Maryland law, as with most other comparable state sick leave laws, does provide exceptions for employers with existing leave policies that are at least equivalent (in accrual and reasons for use).

So, if an organization with 15 or more employees already provides paid leave that meets the minimum amount granted under this law and that can be used for the reasons permissible by this law, the employer is not required to offer additional leave.

As remote work and telecommuting have become more common, these types of cross-border inquiries are increasingly common. Unfortunately, few state laws are drafted with this sort of remote work in mind, so the requirements are often unclear.

It is increasingly important for state legislators to understand that, to their residents and voters, “employer” doesn’t always mean a physical brick-and-mortar entity in the geographic boundaries of the state. Meanwhile, the best way for legislators and labor departments to understand this need is through questions and feedback from their constituents and affected employers.

When similar issues and questions arise in other states, alerting the appropriate Departments of Labor of these issues can be incredibly helpful in ensuring that appropriate guidance and consideration are made available to multistate employers when these laws are initially proposed and drafted.

Like sick leave, equal pay is also an area states are left handling on their own. Recently, many states and a few cities have banned questions about salary history from their job applications in an effort to eliminate or reduce pay gaps that are based on gender or race.

Equal Pay/Salary History

According to a report from the Bureau of Labor Statistics, for the year 2015, women who worked full time had median weekly earnings that were 81% of their male counterparts’ earnings. It’s an improvement from 1979, the first year that comparable earning data were available. At that time, women’s earnings were 62% of men’s. However, throughout 2017, many states started taking action in an effort to curb the gender pay gap.



Most recently, Oregon joined the list of states that have adopted the salary history ban. Oregon's governor signed an equal pay bill into law June 1, 2017. Most of the law's provisions take effect January 1, 2019, but effective October 6, 2017, employers are prohibited from asking applicants about their salary histories (enforcement of this provision is delayed until January 1, 2019).

The law forbids employers from basing compensation decisions on membership in its list of "protected classes." This includes race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, and age. It also prohibits employers from asking workers about their salary history, screening job applicants based on their current or past compensation, and basing pay on past compensation.

Instead, employers must base pay only on one or more of the following criteria: a seniority system, a merit system, production quality or quantity, workplace location, travel, education, training, or experience.

Other Salary History Laws

Several other states and cities have adopted similar bans, as listed below. Proposals are under consideration in many more.

California. Effective January 1, 2018, all employers in California are prohibited from seeking salary history information from job applicants. The law prohibits employers from relying on an applicant's salary history information when deciding whether to offer the applicant a job or what salary to offer. When requested, employers must provide an applicant with the pay scale for the position in question.

Massachusetts. Massachusetts enacted its prohibition last year as part of a broader equal pay law, and it takes effect July 1, 2018. Specifically, it forbids employers from asking applicants to disclose pay history until after the employer makes an offer.

New Orleans. New Orleans prohibits city agencies from requesting applicants' salary histories. The city's mayor signed an Executive Order forbidding the question January 25, 2017, and it took effect immediately.

New York and New York City. New York City (NYC) adopted a salary history ban for its own agencies earlier this year; the state did the same shortly thereafter. NYC has now expanded its requirements to private employers, effective October 31, 2017.

Philadelphia. Philadelphia adopted a salary history question ban, and it took effect May 23, 2017. An area business group challenged the law in court, however, and the city agreed to temporarily refrain from enforcing its provisions until the litigation is resolved.

Pittsburgh. Pittsburgh's city council passed a bill January 24, 2017, that prohibits the city from asking about a job applicant's salary history. It also forbids the city from relying on wage history in the employment process, unless the applicant volunteered the information. The city's mayor signed the bill January 30, 2017, and it took effect immediately.

Puerto Rico. Puerto Rico's governor signed a law in the spring of 2017 that prohibits employers from asking applicants about their salary history. It took effect immediately.

Employer Takeaway

The restriction on pay history inquiries is intended to shift an employer's focus from a history-based offer to a market-based offer. Using pay history as a starting point can mean that workers who entered the job market in lower-paying jobs will continue to be paid at a lower rate.

The New York City law not only prohibits employers from asking about an applicant's pay history but also prohibits employers from trying to get the information from the applicant's employer and from conducting a search of public records to try to discover the applicant's salary history.

The law also prohibits an employer from relying on salary history when determining the salary, benefits, or other compensation during the hiring process, including the negotiation of a contract. There is an exception if an applicant voluntarily and without prompting discloses his or her salary history.

In that case, an employer may consider the information and may verify it with the applicant's employer. However, if the employer inadvertently gets the salary history while conducting a background check, it can't rely on the information to determine compensation.

This law makes it clear that it doesn't preclude employers from discussing with an applicant his or her expectations for compensation in the new job. And the law doesn't apply to applicants for internal transfer or promotion with their current employer.

Each state or municipality that has such laws in place may have different guidelines for enforcing these laws—when in doubt, it's best to consult with a labor law attorney.

Immigration

In 2017, Acting Director of Immigration and Customs Enforcement (ICE) Thomas Homan instructed Homeland Security Investigations, the investigative unit of ICE, to increase their time spent on worksite enforcement by “4 to 5 times” in this fiscal year.

Additionally, a later internal memo had revealed the enforcement actions would take particular focus on food service and chain/franchise businesses—businesses the agency had already identified and for which preliminary investigations had been performed. In other words, it was just a matter of those unnamed employers waiting for their knock on the door—or, in the case of 7-Eleven, 98 doors.

In early January, 7-Eleven franchises from Staten Island, New York, to Los Angeles, California, were sent a “strong message” of accountability from ICE as notices of document inspection were served and arrests were made. And according to Derek Banner, a top ICE official, this is only the beginning, as he described the 7-Eleven operation as “the first of many” and “a harbinger of what’s to come.”



Such actions should be of particular concern to California employers that are now subject to additional duties and limitations courtesy of California’s Immigrant Worker Protection Act (AB 450), which took effect January 1, 2018. Under that law, California employers are prohibited from voluntarily granting immigration officials access to review records and, upon receipt of an official Notice of Inspection (NOI), must provide notice of such inspection to employees and unions within 72 hours.

Franchise owners should also take particular note, as they—not the corporation—may bear the brunt of such enforcement actions (and the compliance duties necessary to avoid them). In the present situation, 7-Eleven highlights this fact in its response:

“As part of the 7-Eleven franchise agreement, 7-Eleven requires all franchise business owners to comply with all federal, state and local employment laws. This obligation requires 7-Eleven franchisees to verify work eligibility in the U.S. for all of their prospective employees prior to hiring. 7-Eleven takes compliance with immigration laws seriously and has terminated the franchise agreements of franchisees convicted of violating these laws.”

To assist employers and franchisees in preparing for enforcement actions such as these, we've reviewed and refreshed the following two-part guidance article, "Tips to survive an ICE I-9 compliance audit." Any revisions (fines have increased, after all) have been indicated in bold font. For additional guidance, ICE also provides an informative fact sheet detailing the Form I-9 inspection process.

So, what can you do to ensure that you are prepared for a visit from ICE?

What to Expect During an ICE Audit

The first step of an administrative inspection is receipt of an NOI, which requires the employer to produce all Forms I-9 within 3 business days. In some cases, supporting documentation such as payroll records, employee lists, and licenses may be required.

After thorough examination of these documents, ICE will issue any of several notices, depending on its findings. The "Notice of Suspect Documents" and "Notice of Discrepancies" are issued when employees are either determined to be unauthorized to work or when a determination cannot be made. Employers will be given the opportunity to present additional documentation to establish employment eligibility—otherwise, employers will be advised to terminate the work relationship.

If errors in the Forms I-9 are found, a "Notice of Technical or Procedural Failures" will be issued, and employers will have 10 business days to correct these errors (otherwise they will become substantive violations). When the review is complete, a Notice of Intent to Fine will be issued, upon which the employer may negotiate a settlement or request an administrative hearing within 30 days. If no further action is taken, a Final Order will be issued, and the employer will be liable for all penalties assessed.

Fines for knowingly hiring or continuing to employ unauthorized workers can reach as much as \$16,000 per violation, while substantive and uncorrected technical violations can be as much as \$1,100 per violation. What's more, certain "enhancements" can be added to fines based on business size, history of violation, and seriousness of the violation.

It's Not All About Immigration

It is important to note that while civil and criminal fines for employing undocumented workers can be quite extensive, the possibility of a hefty ICE fine is not limited to those who hire unauthorized labor. The fines for technical I-9 violations can also add up quickly. Furthermore, though the new revision of Form I-9 includes an extensive instruction handbook to walk employers through the documentation process, there is significant room for error on this seemingly innocuous form, whether in storage methods, documents accepted, or even proper correction of previous errors.

How to Avoid Common Form I-9 Violations

Here are 4 important areas employers need to understand in order to avoid common Form I-9 violations.

1. **Improper destruction of documents.** Form I-9 must be retained for 3 years after the date of hire or 1 year after the date of termination, whichever is later. Don't make the mistake that some employers have made and unilaterally destroy I-9 documents after 3 years have passed. If you've had employees leave your company after 2 years of employment, you may have to retain their Forms I-9 for a few months longer.
2. **Improper storage of documents.** Though there is no legal requirement that your Forms I-9 be stored separately from the employment file, it's a good idea. As noted above, you will have only 3 business days after receipt of a NOI from the U.S. ICE to gather up necessary documentation. If your documents are inaccessible and you're unable to produce them in a timely manner, this sends up red flags to the auditors before their inspection has even begun.

In addition, Form I-9 could contain sensitive information about your employee—for example, proof of national origin—that is best kept separate from performance and disciplinary documentation. Finally, when the government comes knocking on your door to inspect your documents, why give them more than they've requested? If you hand over an entire personnel file and the auditors see something else they don't like, you may find yourself hosting a few more government agencies in the weeks to come.

3. **Accepting expired documents.** New hires must be allowed to select documents of their choice from the lists accompanying Form I-9. However, none of these documents can be expired, even those from List B that are only used to establish identity. Pay special attention to documents such as school ID cards, which may use stickers to indicate an expiration date.
4. **Incorrectly altered documents.** If you do make a mistake or find an error on a Form I-9, there is a proper way to make the correction. If the correction is minor—a misspelling or transposed digit, for example—simply draw a line through the old information, then write the new information above in a different ink color. Never erase, use white-out, or otherwise render the initial information unreadable. Date and initial these changes with the current date—never backdate any corrections.

If significant changes must be made, simply complete a second Form I-9 and attach it, with documentation explaining the reasons for revision, to the original form. There is no need

to submit corrected documentation to the government; simply keep it with the employee's original Form I-9.

Bottom Line

Above all, remember that any actions you take with regard to your employment eligibility verification, as with any documentation, should be undertaken fairly and consistently. If you choose to review your Forms I-9 for inconsistencies, don't selectively audit certain employees based on race, ethnicity, perceived national origin, or other protected characteristics. Either perform a review of a random sample, or review all forms with the same level of scrutiny. Otherwise you could earn a call from the EEOC for a discrimination charge earned in the attempt to avoid conflict with ICE.

Affordable Care Act

While the Affordable Care Act (ACA) has yet to be repealed, or replaced, it is worth noting that employers and insurers were given an extra month to comply with the upcoming ACA requirements to furnish 1095-B and -C reports to individuals.

The deadline was moved back from January 31 to March 2, 2018, the Internal Revenue Service (IRS) announced in Notice 2018-06. In addition, the good-faith transition relief that applied to last year's Form 1094 and 1095 submittals is being extended to the reporting for 2017, the IRS stated.

With the January passage of legislation that helped reopen the federal government, a welcome bit of news for employers: The effective date of the wildly unpopular "Cadillac Tax" was been pushed back yet again. It is now set to take effect in 2022 rather than 2020 (the original implementation date was January 1, 2018).

The Cadillac Tax was established to help fund healthcare reform and rein in unnecessary spending by imposing a 40% excise tax on insurers of employer-sponsored health plans with total values that exceed \$10,200 for individual coverage and \$27,500 for family coverage.

The tax constituted a large part of the funding for the ACA. Given that the future of the ACA itself remains uncertain, the ultimate fate of the Cadillac Tax is equally up in the air.

While 2018 is still relatively new, it remains to be seen what other Obama-era regulations will be chopped and how new regulations released by the Trump administration will impact employers.

Learn More

To learn more about these hot topics that are impacting employers across the nation, consider attending **HR Comply** (formerly the Advanced Employment Issues Symposium)—the nation's leading human capital management conference for HR professionals, executives, and in-house counsel. The superior content and expert presenters will help you get ahead of workplace policy updates with a one-stop, all-bases-covered overview of breaking updates and proven best practices.

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- ✓ ACCURATELY MANAGING WORKER OVERTIME
- ✓ MITIGATING FMLA ABUSE
- ✓ DRAFTING AN EFFECTIVE DRUG TESTING POLICY
- ✓ ABIDING BY NEW ADA AND EEOC PROTECTIONS

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State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
US	<p>Under federal law and the laws of nearly all the states, employers are required to pay workers a specified minimum rate per hour; on July 24, 2009, the federal minimum wage was raised to \$7.25. Most states have a higher minimum wage rate than the federal rate. Under federal law, the state minimum applies in these jurisdictions because it is more generous to employees. In a few states, the state minimum is lower than the federal minimum. In these states, the federal law takes precedence, and only employees exempt from federal coverage are subject to the state minimum. The minimum wage for federal contractors is \$10.35 per hour effective January 1, 2018.</p> <p>It is lawful, under certain circumstances, to pay employees at a rate below the minimum specified in the federal law and in corresponding state law provisions. The most common circumstance in which the employer is permitted to pay less than the minimum occurs in the case of the worker who earns tips. In such cases, the employer may deduct the actual amount of the tips, up to a specified maximum, from the hourly rate. The federal maximum tip credit is \$5.12; the federal minimum tipped wage is \$2.13. For federal contractors, the maximum tip credit is \$3.10; the minimum tipped wage is \$7.25. There are also provisions under both federal and state laws allowing payment of rates below the minimum to student workers, trainees, and people whose earning capacity is diminished due to age or disability.</p>		
AL	No minimum wage law.	There is no provision for this topic in this state.	There is no provision for this topic in this state.
AK	\$9.84 per hour. Adjusted annually on January 1 based on inflation. (Must be \$1 more than federal minimum; two times the minimum for public school bus drivers.) <i>Citation:</i> Alaska Wage and Hour Act 23.10.065.	None permitted. <i>Citation:</i> Alaska Wage and Hour Act 23.10.065.	Workers with disabilities: As specified by commissioner but not less than 50% of minimum except in very extreme cases. <i>Citation:</i> 8 AAC 15.120. Learners: 75% of minimum for student learners enrolled in cooperative vocational training program under recognized educational authority. <i>Citation:</i> 8 AAC 15.125. Students: 75% of minimum for student learners enrolled in cooperative vocational training program under recognized educational authority. <i>Citation:</i> 8 AAC 15.125.
AZ	\$10.50 per hour (increasing to: \$11.00 1/1/19; \$12.00 1/1/20). Wage is adjusted annually based on inflation. <i>Citation:</i> A.R.S. § 23-363.	\$3.00 per hour. Tips plus cash wage must equal minimum wage. <i>Citation:</i> AR.S. § 23-363(c).	There is no provision for this topic in this state.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
AR	<p>\$8.50 per hour.</p> <p>With respect to any full-time student attending any accredited institution of education within this state and who is employed to work an amount not to exceed 20 hours during weeks that school is in session or 40 hours during weeks when school is not in session, the rate of wage shall be equal to but not less than 85% of the minimum wage provided in this section.</p> <p><i>Citation:</i> Ark. Code Ann. sections 11-4-210(a), Ark. Code Ann. 11-4-210(b).</p>	<p>Every employer of an employee engaged in any occupation in which gratuities have been customarily and usually constituted and have been recognized as a part of remuneration for hiring purposes shall be entitled to an allowance for gratuities as a part of the hourly wage rate provided in section 11-4-210 in an amount of no less than five dollars and eighty-seven cents (\$5.87) per hour, provided that the employee actually received that amount in gratuities and that the application of the foregoing gratuity allowances results in payment of wages other than gratuities to tipped employees, including full-time students subject to the provisions of section section 11-4-210, of no less than two dollars and sixty-three cents (\$2.63) per hour.</p> <p><i>Citation:</i> Ark. Code Ann. section 11-4-212(a),(b).</p>	<p>Workers with disabilities: As specified in permit.</p> <p><i>Citation:</i> Ark. Code Ann. section 11-4-214(a),(b).</p> <p>Learners: As specified in permit.</p> <p><i>Citation:</i> Ark. Code Ann. section 11-4-215(a),(b).</p> <p>Students: 85% of minimum for full-time students working 20 hours or fewer when school is in session, or 40 hours or fewer when school is out.</p> <p><i>Citation:</i> Ark. Code Ann. section 11-4-210(b).</p>
CA	<p>\$11.00 per hour with 26 employees or more (increasing to: \$12.00 1/1/19; \$13.00 1/1/20; \$14 1/1/21; \$15.00 1/1/22; then adjusted annually). (85% of minimum for minors in industries and occupations covered by wage orders).</p> <p>\$10.50 per hour for employers with fewer than 26 employees (increasing to \$11.00 1/1/19; \$12.00 1/1/20; \$13.00 1/1/21; \$14.00 1/1/22; \$15.00 1/1/23; then adjusted annually).</p> <p>Many localities have established their own minimum wage laws, including Berkeley, Cupertino, El Cerrito, Emeryville, Gilroy, Los Altos, Los Angeles City and County, Long Beach, Malibu, Milpitas, Mountain View, Oakland, Palo Alto, Pasadena, Richmond, San Diego, San Francisco, San Jose, San Leandro, San Mateo, Santa Clara, Santa Monica, and Sunnyvale.</p>	<p>None permitted.</p> <p><i>Citation:</i> Industrial Welfare Commission Wage Orders, Calif. Lab. Code 351.</p>	<p>Workers with disabilities: As specified in permit.</p> <p><i>Citation:</i> Industrial Welfare Commission Wage Orders; Calif. Lab. Code 1191.</p> <p>Learners: 85% of minimum for learners age 18 and older during first 160 hours of employment.</p> <p><i>Citation:</i> Industrial Welfare Commission Wage Orders; Calif. Lab. Code 1192; Calif. Wage Orders 1 through 15 Section 4(A).</p> <p>Students: 85% of minimum for students employed by organized camps.</p> <p><i>Citation:</i> Industrial Welfare Commission Wage Orders; Calif. Lab. Code Section 1182.4.</p>
CO	<p>\$10.20 per hour (increasing to: \$11.10 1/1/19; \$12.00 1/1/20). Wage is adjusted annually based on inflation.</p> <p><i>Citation:</i> C.R.S. Sec. 8-6-106. Minimum Wage Order No. 32; Colo. Const. art. XVIII, Sec. 15, 7 CCR Sec. 1103-1.</p>	<p>The maximum tip credit allowed is \$3.02 per hour. Tips plus cash wage must equal minimum wage in effect.</p> <p><i>Citation:</i> C.R.S. Sec. 8-6-106; Minimum Wage Order No. 32; Colo. Const. art. XVIII, Sec. 15, 7 CCR Sec. 1103-1.</p>	<p>Workers with disabilities and unemancipated minors under 18 years of age: 85% of current minimum wage in industries covered by wage orders.</p> <p><i>Citation:</i> Minimum Wage Order No. 32; 7 CCR Sec. 1103-1.</p>

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Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
CT	\$10.10 per hour. <i>Citation:</i> Conn. Gen. Stat. ch. 558 § 31-58(j), Public Act No. 13-117.	36.8% of minimum for hotel and restaurant employees. 18.5% of minimum for bartenders. \$.35 per hour maximum tip credit for all other tipped employees. <i>Citation:</i> Conn. Gen. Stat. ch. 558 § 31-60.	Workers with disabilities: As specified in permit when earning capacity is impaired by physical or mental deficiency or injury. <i>Citation:</i> Conn. Gen. Stat. ch. 558 § 31-67. Learners: As specified in permit for learners and apprentices in established programs. For minors and learners not in programs, 85% of minimum for first 200 hours of employment. <i>Citation:</i> Conn. Gen. Stat. ch. 558 § 31-58(j); Admin. Regs. § 31-60-7(a), § 31-60-8(a).
DE	\$8.25 per hour. New Castle County has its own minimum wage rate. <i>Citation:</i> 19 Del. C. § 902(a).	Employers must pay cash wage of \$2.23 per hour to tipped employees who regularly receive more than \$30 a month in tips. Combined tips and wages must at least equal minimum wage. <i>Citation:</i> 19 Del. C. § 902(b),(c).	Workers with disabilities: As specified in permit. <i>Citation:</i> 19 Del. C. § 905. Learners and Students: As specified in permit for apprentices. As specified in permit for student-learners, but not less than 85% of the minimum. 9 Del. C. § 906. <i>Citation:</i> 19 Del. C. ch. 9; Del. Code Regs. 65-400-010.
DC	\$12.50 per hour (increasing to: \$13.25 7/1/18; \$14.00 7/1/19; \$15.00 7/1/20). Adjusted annually based on inflation beginning July 1, 2021. <i>Citation:</i> D.C. Code § 32-1003.	Employers must pay cash wage of \$3.33 per hour. Combined tips and wages must at least equal minimum wage. <i>Citation:</i> D.C. Code § 32-1003.	Workers with disabilities: As specified in permit. <i>Citation:</i> D.C. Code § 32-1003. Learners: Newly hired persons 18 years of age or older may be paid the federal minimum wage for 90 days. <i>Citation:</i> D.C. Mun. Regs. tit. 7 § 902.4. Students: Students employed by institutions of higher education may be paid the federal minimum wage. <i>Citation:</i> D.C. Mun. Regs. tit. 7 § 902.4.
FL	\$8.25 per hour. Wage is adjusted annually on January 1 based on inflation.	\$3.00 per hour for employees earning at least \$30 in tips per month.	There is no provision for this topic in this state.
GA	\$5.15 per hour (must pay federal minimum wage rate if higher). <i>Citation:</i> O.C.G.A. tit. 34 ch. 4 § 34-4-3(a).	No minimum applicable to employees who are compensated wholly or partially by tips. <i>Citation:</i> O.C.G.A. tit. 34 ch. 4 § 34-4-3(b).	Workers with disabilities: As specified in permit. <i>Citation:</i> O.C.G.A. tit. 34 ch. 4 § 34-4-4(a). Learners: As specified in permit. <i>Citation:</i> O.C.G.A. tit. 34 ch. 4 § 34-4-4(a). Students: As specified in permit. <i>Citation:</i> O.C.G.A. tit. 34 ch. 4 § 34-4-4(a).

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
HI	\$10.10 per hour. <i>Citation:</i> HRS ch. 387-1 § 387-2.	75¢ per hour provided that the combined amount of wages and tips is at least \$7.00 more than the applicable minimum wage. <i>Citation:</i> HRS ch. 387-1 §§ 387-1, 387-2.	Workers with disabilities: As specified in permit. <i>Citation:</i> HRS ch. 387-1 § 387-9(a)(2). Learners: As specified in permit. <i>Citation:</i> HRS ch. 387-1 § 387-9(a)(1). Students: As specified in permit for part-time workers who are full-time students in public schools other than colleges, universities, or business or technical schools. <i>Citation:</i> HRS ch. 387-1 § 387-9(a)(1).
ID	\$7.25 per hour (conforms to federal minimum wage rate). <i>Citation:</i> Idaho Code § 44-1502(1).	Tipped employees who regularly receive at least \$30 in tips must be paid cash wage of \$3.35 per hour. Combined tips and wages must at least equal minimum wage. <i>Citation:</i> Idaho Code § 44-1502(2).	Workers with disabilities: As specified in permit. <i>Citation:</i> Idaho Code §§ 44-1502(1) and 44-1505. Learners: As specified in permit for apprentices. \$4.25 per hour for first 90 days of employment for employees under age 20. <i>Citation:</i> Idaho Code §§ 44-1502; 44-1506. Students: As specified in permit for students enrolled in school/work training program. <i>Citation:</i> Idaho Code § 44-1506.
IL	\$8.25 per hour (\$.50 less per hour for minors under age 18 during the first 90 consecutive calendar days of employment). Chicago and Cook County have their own minimum wage rates. <i>Citation:</i> 820 ILCS 05/4(a).	40% of minimum, provided employer keeps none of tips. <i>Citation:</i> 820 ILCS 105/4(c).	Workers with disabilities: As specified in permit. <i>Citation:</i> 820 ILCS 105/10(b). Learners: With permit/license, an employer may pay learners 70% of the full minimum wage for a six-month learning period. <i>Citation:</i> 820 ILCS 105/6, 56 ILAC 210.600 et seq.

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
IN	\$7.25 per hour (employers with two or more employees during a workweek must pay federal rate). <i>Citation:</i> I.C. Minimum Wage Law § 22-2-2-4.	Minimum wage is \$2.13 per hour for employees who customarily earn more than \$30 in tips per month. Combined tips and wages must at least equal minimum wage. <i>Citation:</i> I.C. Minimum Wage Law § 22-2-2-4(c).	Workers with disabilities: As specified in permit. No minimum for disabled workers employed by nonprofit organizations organized primarily for the purpose of providing employment for persons with disabilities or for assisting in their therapy and rehabilitation. <i>Citation:</i> I.C. Minimum Wage Law § 22-2-2-3. Learners: \$4.25 for employees under 20 during the first 90 days of employment. <i>Citation:</i> I.C. 22-2-2-4. Students: As specified in permit for student nurses, students working for funeral homes or working toward embalmer's or funeral director's license, students working for their schools, and hospital interns. <i>Citation:</i> I.C. Minimum Wage Law § 22-2-2-3.
IA	\$7.25 per hour (\$6.35 per hour during first 90 calendar days of employment). <i>Citation:</i> Iowa Code § 91D.1 <i>et seq.</i>	40% of minimum for employees who regularly receive more than \$30 in tips per month. <i>Citation:</i> Iowa Code § 91D.1(1)(c).	Workers with disabilities: Persons with disabilities may be paid a lower minimum wage under special certificates. <i>Citation:</i> Iowa Admin. Code r. 875-216.30(91D). Learners: \$6.35 per hour for first 90 days of employment. Learners and apprentices may be paid a lower rate under special certificates. "Student-learners" must be paid not less than 75% of minimum under special certificate. <i>Citation:</i> Iowa Code § 91D.1(1)(d). Iowa Admin. Code r. 875-216.30(91D). Students: Certain full-time students may be paid a lower minimum wage under special certificates. Students must be paid at least 85% of the minimum wage. <i>Citation:</i> Iowa Code § 91D.1. Iowa Admin. Code r. 875-216.30(91D).
KS	Kansas minimum wage requirements do not apply to any employers who are subject to the provisions of the FLSA. For employers not subject to the FLSA, the minimum wage is \$7.25 per hour. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(d).	The employer shall pay a minimum wage of at least \$2.13 an hour. If tips and gratuities equal at least \$7.25 an hour, no further payment is required; but if they are less than \$7.25 an hour, the employer must pay the difference up to \$7.25 an hour. <i>Citation:</i> Kan. Stat. Ann. § 44-1203.	Workers with disabilities: 85% of minimum. <i>Citation:</i> Kan. Admin. Reg. § 49-31-5(b). Learners: 80% of minimum for first two months of job, 90% for third month, minimum wage after three months. <i>Citation:</i> Kan. Admin. Reg. § 49-31-5(c). Students: No minimum for students age 18 and under who are working between academic terms. <i>Citation:</i> Kan. Admin. Reg. § 49-30-1(n).

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
KY	\$7.25 per hour. <i>Citation:</i> KRS § 337.275(1).	For any employee engaged in an occupation in which he customarily and regularly receives more than \$30 per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. § 203. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. § 203 was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by 29 U.S.C. § 203. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves. <i>Citation:</i> KRS § 337.275(2).	Workers with disabilities: As specified in permit. <i>Citation:</i> KRS § 337.010(2)(a)(5), 803 KAR § 1:090. Learners: As specified in permit. <i>Citation:</i> KRS § 337.010(2)(a)(5), 803 KAR § 1:090. Students: As specified in permit. <i>Citation:</i> KRS § 337.010(2)(a)(5), 803 KAR § 1:090.
LA	No minimum wage law.	There is no provision for this topic in this state.	There is no provision for this topic in this state.
ME	\$10.00 per hour (increasing to: \$11.00 1/1/19; \$12.00 1/1/20; then adjusted annually on January 1). Bangor and Portland have their own minimum wage rates. <i>Citation:</i> 26 M.R.S.A. § 664.	50% of minimum for service employees who earn at least \$30 tips per month plus the difference between actual pay and minimum wage, if any. <i>Citation:</i> 26 M.R.S.A. §§ 663, 664.	Workers with disabilities: As specified in permit. <i>Citation:</i> 26 M.R.S.A. § 666. Students: Students under 18 employed at summer camps. <i>Citation:</i> 26 M.R.S.A. § 663.
MD	\$9.25 per hour (increasing to: \$10.10 7/1/18). Montgomery County, and Prince George's County have their own minimum wage rates. <i>Citation:</i> Md. Code Ann., Lab. & Employ. § 3-413.	Employers must pay a minimum cash wage of \$3.63. <i>Citation:</i> Md. Code Ann., Lab. & Employ. § 3-419.	Workers with disabilities: As specified in permit. Students with disabilities employed in training program in public school system are exempt from minimum. <i>Citation:</i> Md. Code Ann., Lab. & Employ. § 3-403(a). Learners: The state department of labor may set wages for learners and apprentices that are no less than 80% of minimum wage. <i>Citation:</i> Md. Code Ann., Lab. & Employ. § 3-410.

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
MA	\$11.00 per hour. <i>Citation:</i> Mass. Gen. Laws, Mandatory Min. Fair Wage Order ch. 151, § 1.	The hourly minimum wage is \$3.75 for tipped employees who customarily receive more than \$20 in tips per month. <i>Citation:</i> Mass. Gen. Laws, Mandatory Min. Fair Wage Order 455 C.M.R. § 2.02.	Workers with disabilities: As specified in permit. Learners: 80% of minimum for learners in approved training programs with permit from the Director of the Department of Labor and Workforce Development. <i>Citation:</i> Mass. Gen. Laws, Mandatory Min. Fair Wage Order 455 C.M.R. § 2.05. Students: 80% of minimum for students working for their schools or summer camps. <i>Citation:</i> Mass. Gen. Laws, Mandatory Min. Fair Wage Order 455 C.M.R. § 2.05.
MI	\$9.25 per hour. Ypsilanti has its own minimum wage rate. <i>Citation:</i> Mich. Minimum Wage Law section 408.384(1).	\$5.73 per hour if: (a) The employee receives tips. (b) The tips at least equal the difference between the minimum case wage of \$3.52. (d) The employee was informed by the employer about the tip credit. <i>Citation:</i> Mich. Minimum Wage Law section 408.387a.	Workers with disabilities: As specified in permit. <i>Citation:</i> Mich. Minimum Wage Law section 408.387. Learners: \$4.25 during first 90 days for employees under age 20. <i>Citation:</i> Mich. Minimum Wage Law section 408.384b. Students: 85% of minimum wage for employees under the age of 18. <i>Citation:</i> Mich. Minimum Wage Law section 408.387.
MN	\$9.65 per hour (for companies with annual gross sales or business under \$500,000, the minimum wage is \$7.87). The minimum wage will increase automatically on January 1 of each year by inflation capped at 2.5 percent. Minneapolis has its own minimum wage rate beginning January 1, 2018. <i>Citation:</i> Minn. Stat. § 177.24.	No tip credit allowed. <i>Citation:</i> Minn. Stat. § 177.24.	Workers with disabilities: As specified in permit. Minimum must be paid to worker with disability who has similar experience, skill, and work performance as worker without disability. <i>Citation:</i> Minn. Stat. § 177.28. Training wage: \$7.87 for new employees under age 20 during their first 90 days of employment. <i>Citation:</i> Minn. Stat. § 177.24. Youth wage: \$7.87 for an employee under the age of 18. <i>Citation:</i> Minn. Stat. § 177.24. Summer travel industry: \$7.87 for employees working under the authority of a summer work travel exchange visitor program (J) nonimmigrant visa. May be paid only by employers in the hotel or motel, lodging establishment, or resort industries. <i>Citation:</i> Minn. Stat. § 177.24.
MS	No minimum wage law.	There is no provision for this topic in this state.	There is no provision for this topic in this state.

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
MO	\$7.70 per hour (reflects federal minimum wage rate if federal is higher). Adjusted annually on January 1 based on inflation. Retail and service employers that gross less than \$500,000 are exempt from state minimum wage law. Kansas City recently enacted legislation to raise the minimum wage to \$8.50 by 9/18/17, then with incremental changes up to \$13.00 by 1/1/23. It is likely that this will be overridden by pending state legislation that will prohibit cities in Missouri from enacting a higher minimum wage rates than the state. <i>Citation:</i> RSMo. § 290.502.	50% of minimum, provided combined tips and wages equal at least minimum. <i>Citation:</i> RSMo. § 290.512(1).	Workers with disabilities: As specified in permit. <i>Citation:</i> RSMo. § 290-515. Learners: Ninety cents less per hour than state minimum wage for learners under the age of 20. Note: The regulation permitting the reduced wage (MO Admin. Code Tit. 8 Sec. 30-4.030) was rescinded in March 2009 and the law requires a public hearing addressing the exception before a new regulation is issued. Therefore, employers must pay the applicable minimum wage until a regulation is issued allowing for a training wage. <i>Citation:</i> RSMo. § 290.517.
MT	\$8.30 per hour. Adjusted annually on January 1 based on inflation. <i>Citation:</i> Mont. Code Ann. § 39-3-409.	No tip credit allowed. <i>Citation:</i> Mont. Code Ann. § 39-3-409.	Workers with disabilities: As specified in permit. <i>Citation:</i> Mont. Code Ann. § 39-3-406. Learners: As may be approved by commissioner for first 30 days of employment. Learners under 18 employed as farm workers may be paid 50% of the minimum wage for the first 180 days of employment. <i>Citation:</i> Mont. Code Ann. § 39-3-406. Students: No minimum for students participating in distributive education program. <i>Citation:</i> Mont. Code Ann. § 39-3-406.
NE	\$9.00 per hour. <i>Citation:</i> Wage and Hour Act § 48-1203(1).	Tipped employees may be paid a cash wage of \$2.13 per hour, provided combined tips and wages equal at least minimum. <i>Citation:</i> Wage and Hour Act § 48-1203(2).	Workers with disabilities: Physically or mentally disabled individuals receiving federal, state, county, or local aid and employed in a program of rehabilitation may be paid wages consistent with their health, efficiency, and general well-being. Learners: 75% of minimum for the first 90 days for new employees under age 20. <i>Citation:</i> Wage and Hour Act § 48-1203.01. Students: At least 75% of minimum for student learners in bona fide vocational training programs. <i>Citation:</i> Wage and Hour Act § 48-1203(3).

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
NV	\$7.25 if employer provides health benefits; \$8.25 if no health benefits (employers subject to federal minimum wage law must pay federal rate if higher). Adjusted annually on April 1 based on inflation. <i>Citation:</i> NRS 53 ch. 608, Nev. Const. Art. 15, § 16.	No tip credit allowed. <i>Citation:</i> NRS 608.160.	There is no provision for this topic in this state.
NH	New Hampshire no longer has its own minimum wage. It now follows the federal minimum wage (currently \$7.25 per hour). <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21.	Tipped employees of a restaurant, hotel, motel, inn or cabin, who regularly receive more than \$30 a month in tips must be paid at least 45% of the applicable minimum wage. Effective September 3, 2017, tipped employees will be allowed to pool their tips and share them with co-workers who don't receive tips. However, employers may not require employees to participate in a tip-sharing arrangement; such an arrangement must be entered into voluntarily and without coercion. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21.	Workers with disabilities: As specified in permit for workers whose earning capacity is impaired by age, or physical or mental deficiency. As specified in permit for workers with disabilities to work in a practical experience/training program at a post-secondary organization or rehabilitation facility. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:22; § 279:22-aa, II. Learners: At least 75% of the applicable minimum wage for workers with less than 6 months' experience in an occupation if the employer files an application with the Department of Labor within 10 days of hiring. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21, IV, V. Students: As specified in permit for high school and post-secondary students in work-study program. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:22-aa, I. Sheltered workshops: As specified by permit for nonprofit organizations or institutions wishing to engage in a sheltered workshop program. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:22-a.
NJ	\$8.60 per hour. Adjusted annually on January 1 based on inflation. <i>Citation:</i> N.J.S.A. 34:11-56a4.	The suggested minimum cash wage payable is \$2.13 per hour, but tips plus cash wages must equal \$8.60 per hour. <i>Citation:</i> N.J.S.A. 34:11-56a4 and N.J.A.C. 12:56 - 14.4.	Workers with disabilities: As specified in permit for workers whose earning capacity is impaired by age, physical or mental deficiency, or injury. <i>Citation:</i> N.J.S.A. 34:11-56a17. Students: 85% of minimum for full-time students employed by college or university where they are enrolled. <i>Citation:</i> N.J.S.A. 34:11-56a4.

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
NM	<p>\$7.50 per hour. Albuquerque, Bernalillo County, Las Cruces, Santa Fe, and Santa Fe County have their own minimum wage rates. <i>Citation:</i> NMSA, 1978 § 50-4-22(A).</p>	<p>Employees who regularly receive at least \$30 per month in tips must be paid a minimum of \$2.13 per hour, but tips combined with cash wages must be at least hourly minimum wage. <i>Citation:</i> NMSA, 1978 § 50-4-22(b).</p>	<p>Workers with disabilities: As specified in permit, but not less than 50% of minimum. <i>Citation:</i> NMSA, 1978 § 50-4-23(A). Learners: Learners and apprentices are exempt from minimum. <i>Citation:</i> NMSA, 1978 § 50-4-21(C). Students: Students working after school and during vacations are exempt from minimum. <i>Citation:</i> NMSA, 1978 § 50-4-21(C).</p>
NY	<p>\$11.00 per hour; Nassau, Suffolk, Westchester counties (increasing \$1 per year, reaching \$15 at the end of 2021); \$10.40 remainder of New York (increasing 70 cents per year until it reaches \$12.50 at the end of 2020). The minimum will continue to increase to \$15 on an indexed schedule.</p> <p>For fast food employees in fast food places in New York City \$12.00; outside of New York City \$11.75 (increasing to \$12.75 12/31/18). <i>Citation:</i> N.Y. Lab. Law art. 19 Section 652(1).</p> <p>New York City employers with at least 11 employees \$13 (increasing to \$15 12/31/18). New York City employers with fewer than 11 employees \$12.00, and will rise another \$1.50 each year for two years, reaching \$15 at the end of 2019.</p>	<p>\$7.50 per hour minimum tipped wage. <i>Citation:</i> N.Y. Lab. Law art. 19 Section 652, Admin. Regs. tit. 12 part 137-1.4.</p>	<p>Workers with disabilities: As specified in permit. No minimum for workers with disabilities who are employed by certain nonprofit organizations. <i>Citation:</i> N.Y. Lab. Law art. 19 Section 655(5)(c), Section 651. Learners: As specified in permit. No minimum for learners working for certain nonprofit organizations. <i>Citation:</i> N.Y. Lab. Law art. 19 Section 655(5)(c), Section 651. Students: No minimum for students working for certain nonprofit organizations. <i>Citation:</i> N.Y. Lab. Law art. 19 Section 651.</p>
NC	<p>\$7.25 per hour (must pay federal minimum wage rate if higher). <i>Citation:</i> Wage and Hour Act ch. 95 art. 25 § 95-25.3(a).</p> <p>House Bill 2 prevents local governments from imposing any requirement on employers pertaining to the compensation of employees, such as minimum wages, hours of labor, benefits, or leave. This means cities and counties can't enact "living wage" ordinances or require paid leave.</p>	<p>Employers may pay \$2.13 in wages to employees who regularly receive more than \$20 a month in tips, provided wages plus tips equal or exceed minimum wage. <i>Citation:</i> Wage and Hour Act ch. 95 art. 25 § 95-25.3(f).</p>	<p>Workers with disabilities: As specified in permit for workers whose earning capacity is impaired by age, physical or mental deficiency, or injury. <i>Citation:</i> Wage and Hour Act ch. 95 art. 25 § 95-25.3(c). Learners: 90% of minimum. <i>Citation:</i> Wage and Hour Act ch. 95 art. 25 §§ 95-25.3(b), 95-25.3(a). Students: 90% of minimum for full-time students. <i>Citation:</i> Wage and Hour Act ch. 95 art. 25 § 95-25.3(b).</p>

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- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
ND	\$7.25 per hour. <i>Citation:</i> N.D.C.C. § 34-06-22.	33% of minimum wage for employees who regularly receive at least \$30 per month in tips. <i>Citation:</i> N.D.A.C. § 46-02-07-03(1); 46-02-07-01(17).	Workers with disabilities: The Labor Commissioner may issue a special license authorizing employment at less than minimum wage to an employee whose productive capacity for the work to be performed is impaired by physical or mental disability, or to any student enrolled in a career or technical program. The Commissioner may also issue special licenses to community rehabilitation programs for the handicapped which engage in the occupation and responsibility of representing and placing for training, learning or employment of these employees whose productive capacity to work is impaired by physical or mental disability. <i>Citation:</i> N.D.C.C. § 34-06-15. Learners, students, and other exemptions: There are a number of other exemptions to the minimum wage, including employees of non-profit camps; guides, cooks, or camp-tenders for hunting or fishing guide services; golf caddies; employees of programs for youthful or first-time offenders; prison or jail inmates; actors or extras for motion pictures; persons working on a casual basis for fewer than 20 hours per week for fewer than three consecutive weeks in domestic service; and certain volunteers and student trainees. Subminimum wages are to be granted in two situations: (1) subminimum wages may be paid to students enrolled in vocational education or related programs as long as the wage isn't below 85 percent of the minimum wage and (2) employers may apply for permission to grant a subminimum wage to individuals with disabilities. <i>Citation:</i> N.D.C.C. § 34-06-22; N.D. Admin. Code § 46-02-07-02; § 46-02-07-03.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
OH	<p>\$8.30 per hour (gross receipts of \$305,000 or more); \$7.25 (gross receipts under \$305,000). Wage is adjusted annually January 1 based on inflation.</p> <p>Federal rate applies to employees under age 16 and to employers with annual revenue of \$305,000 or less. Numerous localities have "living wage" and/or "fair employment wage" laws.</p> <p><i>Citation:</i> Ohio Const. art. II, section 34(a); Ohio Rev. Code section 4111.02.</p>	<p>50% of minimum wage, which is a minimum cash wage requirement of \$4.05, for employees regularly receiving more than \$30 tips per month. Tips and wages combined must equal minimum wage.</p> <p><i>Citation:</i> Ohio Const. art. II, section 34(a); Ohio Rev. Code section 4111.02.</p>	<p>Workers with disabilities: Commission may approve reduction for those whose earning capacity is impaired by physical or mental deficiency or injury. <i>Citation:</i> Ohio Const. art. II, Ohio Rev. Code section 34(a) sections 4111.06; 4111.14(C).</p> <p>Learners: 85% of minimum under 90-day license for apprentices. <i>Citation:</i> Ohio Const. art. II, section 34(a); Ohio Rev. Code section 4111.07.</p>
OK	<p>Incorporate federal minimum wage. <i>Citation:</i> Okla. Minimum Wage Act tit. 40 § 197.2.</p>	<p>No more than 50% of minimum. <i>Citation:</i> Okla. Minimum Wage Act tit. 40 § 197.16.</p>	<p>Workers with disabilities: As specified in permit. <i>Citation:</i> Okla. Minimum Wage Act tit. 40 § 197.11.</p> <p>Learners: As specified in permit. <i>Citation:</i> Okla. Minimum Wage Act tit. 40 § 197.11.</p> <p>Students: As specified in permit. <i>Citation:</i> Okla. Minimum Wage Act tit. 40 § 197.11.</p>

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Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
OR	<p>\$11.25 per hour Portland metro area; \$10.25 urban counties; \$10.00 rural counties.</p> <p>Future increases: Portland metro area - \$12.00 7/1/18; \$12.50 7/1/19; \$13.25 7/1/20; \$14.00 7/1/21; \$14.75 7/1/22. Urban counties - \$10.75 7/1/18; \$11.25 7/1/19; \$12.00 7/1/20; \$12.75 7/1/21; \$13.50 7/1/22. Rural counties - \$10.50 7/1/18; \$11.00 7/1/19; \$11.50 7/1/20; \$12.00 7/1/21; \$12.50 7/1/22. An annual cost of living increase will begin in 2023. The non-Portland/nonurban area will set the baseline. The Portland area must remain at least \$1.25 above the baseline, and nonurban counties can be up to \$1.00 below the baseline. Oregon's scheduling and predictability pay law affects retail, hospitality, and food services establishments that employ 500 or more employees worldwide. The law requires employers to provide a good faith estimate of the employee's work schedule at the time of hire, and a written schedule at least 7 days before the first day of the work schedule beginning July 2018, and 14 days before the first day of the work schedule beginning July 2020. Predictability pay is required for employer-requested changes without the required advance notice. There are also pay rules regarding working through required rest periods between shifts. <i>Citation: S.B. 828 (2017).</i></p>	<p>No tip credit allowed. <i>Citation: ORS § 653.035(3).</i></p>	<p>Workers with disabilities: As specified in permit for workers with physical or mental disabilities. <i>Citation: ORS 653 and OAR § 839-20-0015(1),(2).</i> Learners: Student-learners in vocational training programs must earn at least 75% of the minimum wage; requires authorization of the Bureau of Labor and Industries. <i>Citation: ORS § 653.070 and OAR § 839-20-0015(1),(2).</i> Students: Student-learners in vocational training programs must earn at least 75% of the minimum wage; requires authorization of the Bureau of Labor and Industries. <i>Citation: ORS § 653.070 and OAR § 839-20-0015(1),(2).</i></p>
PA	<p>\$7.25 per hour. <i>Citation: 43 Pa. C.S. §§ 333.104(a) and 333.104(a.1).</i></p>	<p>Employers must pay a cash wage of at least \$2.83 per hour to tipped employees earning at least \$30 per month in tips. Cash wage plus tips must equal at least the minimum wage. <i>Citation: 34 Pa. C.S. § 231.101(b).</i></p>	<p>Workers with disabilities: As specified in permit. <i>Citation: 43 Pa. C.S. § 333.104(d).</i> Learners: A training wage equal to the federal minimum wage may be paid to employees under the age of 20 for 60 days. <i>Citation: 43 Pa. C.S. § 333.104(e).</i> Students: Learners and students may be paid 85% of minimum wage with a certificate from the state Department of Labor. <i>Citation: 43Pa. C.S. § 333.104(b).</i></p>

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
RI	\$10.10 per hour (increasing to \$10.50 1/1/19). <i>Citation:</i> R.I. Gen. Laws section 28-12-3.	Tipped employees must be paid a cash wage of at least \$3.89 per hour. The tip credit is \$6.21. <i>Citation:</i> R.I. Gen. Laws section 28-12-5(1).	Workers with disabilities: Employees with disabilities may be paid less than minimum wage under licenses issued by the Department of Labor and Training. <i>Citation:</i> R.I. Gen. Laws section 28-12-9. Learners: New employees during their first 90 days may be paid less than minimum wage under licenses issued by the Department of Labor and Training. <i>Citation:</i> R.I. Gen. Laws section 28-12-10. Students: 75% of minimum 14 and 15 year olds who work 24 hours or less in a week. 90% of minimum for full-time students under age 19 employed by nonprofit organizations. <i>Citation:</i> R.I. Gen. Laws section 28-12-3.1, section 28-12-5(e).
SC	No minimum wage law.	There is no provision for this topic in this state.	There is no provision for this topic in this state.
SD	\$8.85 per hour. Adjusted annually on January 1 based on inflation. <i>Citation:</i> SDCL section 60-11-3.	Employers shall pay no less than 50% of the minimum wage to employees who regularly receive more than \$35 a month in tips, provided wages plus tips equal or exceed minimum wage. <i>Citation:</i> SDCL section 60-11-3.1.	Workers with disabilities: As specified in permit. <i>Citation:</i> SDCL section 60-11-5. Learners: As specified in permit. <i>Citation:</i> SDCL section 60-11- 5.
TN	No minimum wage law.	There is no provision for this topic in this state.	There is no provision for this topic in this state.
TX	\$7.25 per hour. <i>Citation:</i> Tex. Labor Code, tit. 2 ch. 62 § 62.051.	Employers may pay \$2.13 in wages to employees who regularly receive more than \$20 a month in tips, provided wages plus tips equal or exceed minimum wage. <i>Citation:</i> Tex. Labor Code, tit. 2 ch. 62 § 62.052.	Workers with disabilities: Clients and patients of the state Department of Mental Health and Retardation working in the department's institution as part of their therapy or being trained in sheltered workshop operated by the department. <i>Citation:</i> Tex. Labor Code, tit. 2 ch. 62 § 62.057. Students: No minimum for full-time students under age 20 and minors under 18 who are not high school or vocational school graduates. Not applicable to agricultural workers paid on piecework basis. <i>Citation:</i> Tex. Labor Code, tit. 2 ch. 62 § 62.155.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
UT	\$7.25 per hour. <i>Citation:</i> Utah Code tit. 34 ch. 40; Utah Admin. Code R610-1-3(A).	Employers may pay \$2.13 in wages to employees who regularly receive more than \$30 a month in tips, provided wages plus tips equal or exceed minimum wage. <i>Citation:</i> Utah Code tit. 34 ch. 40; Utah Admin. Code R610-1-4.	Workers with disabilities: As specified in permit. <i>Citation:</i> Utah Code § 34-40-104(2). Learners: Minors under 18 may be paid \$4.25 for the first 90 days of employment. Employers may pay adult learners less than the minimum wage for the first 160 hours of employment, as specified in permit. <i>Citation:</i> Utah Code § 34-40-104(3); Utah Admin. Code R610-1-3(B). Students: No minimum for students employed by their schools. <i>Citation:</i> Utah Code § 34-40-104(1).
VT	\$10.50 per hour. Wage will be adjusted annually based on inflation beginning January 1, 2019. <i>Citation:</i> 21 V.S.A. §§ 381- 396, 384(a).	An employee of a hotel, motel, tourist place, or restaurant who regularly receives more than \$120 in tips per month must be paid a basic tip wage rate of one-half Vermont's minimum wage, unless the U.S. rate is higher, then one-half the U.S. minimum wage rate. <i>Citation:</i> 21 V.S.A. §§ 381- 396, Vermont Minimum Wage Rules.	Workers with disabilities: As specified in permit. <i>Citation:</i> 21 V.S.A. § 385(5). Learners: As specified in permit. <i>Citation:</i> 21 V.S.A. § 385(5). Students: Students working during all or any part of the school year or regular vacation periods are not considered employees and are not subject to the minimum wage laws. <i>Citation:</i> 21 V.S.A. §§ 381- 396 § 383(2).
VA	\$7.25 per hour. Virginia incorporates the Federal Minimum Wage. <i>Citation:</i> VA Code § 40.1-28.10.	Actual amount of tips. <i>Citation:</i> VA Code § 40.1-28.9(D).	Workers with disabilities: No minimum for workers whose earning capacity is impaired by physical or mental deficiency. <i>Citation:</i> VA Code § 40.1-28.9(B). Students: No minimum for students in bona fide educational programs or full-time students under age 18 who work 20 hours or less a week. <i>Citation:</i> VA Code § 40.1-28.9(B).

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Customizable employment law answers for HR

Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
WA	<p>\$11.50 per hour (increasing to: \$12.00 1/1/19; \$13.50 1/1/20). Wage is adjusted annually based on inflation beginning January 1, 2021. <i>Citation:</i> Wash. Rev. Code Ch. 49.46. WAC 296.</p> <p>City of Seattle: Seattle's minimum wage will increase incrementally each year, the amount depending on the size of business and whether workers receive tips or paid medical benefits. Sea Tac and Tacoma also have their own minimum wage rates. <i>Citation:</i> Seattle Ordinance No. 124490; SMC § 14.19 <i>et seq.</i></p>	<p>No tip credit allowed. <i>Citation:</i> Wash. Rev. Code Ch. 49.46. WAC 296-126-022.</p> <p>City of Seattle: Employers with 500 or fewer employees, and whose employees receive tips or paid medical benefits, will be able to meet a portion of the minimum wage requirement through tips and money paid toward medical benefits until January 1, 2021. <i>Citation:</i> Seattle Ordinance No. 124490; SMC § 14.19 <i>et seq.</i></p>	<p>Workers with disabilities: As specified in certificate. <i>Citation:</i> Wash. Rev. Code Ch. 49.46.060. WAC 296-128-050, WAC 296-128-075.</p> <p>Learners: As specified in certificate but not less than 85% of minimum wage. <i>Citation:</i> Wash. Rev. Code Ch. 49.46.060. WAC 296-128-125, 296-128-195.</p> <p>Students: As specified in permit. <i>Citation:</i> Wash. Rev. Code Ch. 49.46.060. WAC 296-128-295.</p>
WV	<p>\$8.75 pr hour. <i>Citation:</i> W. Va. Code section 21-5C-2(a).</p>	<p>70% of minimum for workers who customarily receive tips. <i>Citation:</i> W. Va. Code section 21-5C-4.</p>	<p>Workers with disabilities: No minimum for individual with disability employed by nonprofit sheltered workshop. <i>Citation:</i> W. Va. Code section 21-5C-1(f).</p> <p>Learners: \$5.15 per hour for employees under the age of 20 for the first 90 days of employment. No minimum for trainees. <i>Citation:</i> W. Va. Code sections 21-5C-1(f), 21-5C-2(b), 21-5C-3(b).</p> <p>Students: No minimum for students employed part time. <i>Citation:</i> W. Va. Code section 21-5C-1(f).</p>

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Minimum Wage

- Does your state have its own minimum wage?

State	Minimum wage per hour	Maximum tip credit	Subminimum hourly wage under permit
WI	<p>\$7.25 per hour.</p> <p><i>Citation:</i> Ind. 72 of Dept. of Workforce Development Regs. and Wis. Admin. Code §§ DWD 272.001 et seq., 272.05, 272.03, 272.08.</p>	<p>Employees who regularly receive tips must be paid \$2.33 per hour (\$2.13 if under the age of 20 during the first 90 days of employment).</p> <p><i>Citation:</i> Ind. 72 of Dept. of Workforce Development Regs. Wis. Adm. Code DWD §§ 272.001 et seq. Wis. Admin. Code DWD § 272.03.</p>	<p>Workers with disabilities: As specified in permit for workers with disabilities whose earning capacity is impaired for the job.</p> <p><i>Citation:</i> Ind. 72 of Dept. of Workforce Development Regs. Wis. Admin. Code DWD §§ 272.001 et seq., 272.09.</p> <p>Learners: New hires under the age of 20 may be paid an opportunity rate of \$5.90 per hour for the first 90 days of employment.</p> <p>75% of minimum for student learners in bona fide school training programs, but full minimum must be paid for work not part of training program.</p> <p><i>Citation:</i> Ind. 72 of Dept. of Workforce Development Regs. Wis. Admin. Code DWD §§ 272.001 et seq., 272.03, 272.09.</p> <p>Students: 75% of minimum for student learners in bona fide school training programs, but full minimum must be paid for work not part of training program. Federal minimum for full-time students of independent colleges and universities working no more than 20 hours per week.</p> <p><i>Citation:</i> Ind. 72 of Dept. of Workforce Development Regs. Wis. Admin. Code DWD §§ 272.001 et seq., 272.09, 272.085.</p>
WY	<p>\$5.15 per hour.</p> <p><i>Citation:</i> Wyo. Stat. § 27-4-202.</p>	<p>Employers may pay \$2.13 in wages to employees who regularly receive more than \$30 a month in tips, provided wages plus tips equal or exceed minimum wage.</p> <p><i>Citation:</i> Wyo. Stat. § 27-4-202.</p>	<p>Learners: \$4.25 during first 90 days for employees under age 20.</p> <p><i>Citation:</i> Wyo. Stat. § 27-4-202.</p>

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
US	Most nonsupervisory jobs in private industry are covered by a minimum wage law of some kind. However, there are numerous industrial and occupational categories that have traditionally remained outside the minimum wage scheme. Federal law has minimum wage exemptions for administrative, executive, professional, computer professional, and outside sales employees. There are also exemptions for certain agricultural workers, certain domestic workers, workers employed by enterprises grossing less than \$500,000 per year, and employees not engaged in interstate commerce. There are also special rules for learners, apprentices, students, and handicapped workers working under special permit. Employees of certain small retail and service establishments, certain amusement or recreational establishments, and certain small newspapers are exempt. Switchboard operators with small telephone companies and certain seafarers on foreign vessels and employees in fishing operations are exempt, among others.				
AL	No provision.	No provision.	No provision.	No provision.	No provision.
AK	Any individual employed in a bona fide executive, professional, or administrative capacity as defined by regulations of the Commissioner of Labor, or a computer systems analyst, computer programmer, software engineer, or similarly skilled individual. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> AS 23.10.065; 8 AAC 15.910(a).	Outside commissioned salespeople; salespeople working on straight commission basis. <i>Citation:</i> Alaska Stat. § 23.10.065 8 Admin. Code 15.910(a).	Agricultural employees, including those engaged in delivery of goods to market, preparation of raw agriculture products for market, production of dairy products, forestry, lumbering, or aquaculture. <i>Citation:</i> AS 23.10.065; 8 AAC 15.910(a).	Domestic workers, including babysitters, in a private home. <i>Citation:</i> AS 23.10.065; 8 AAC 15.910(a).	Volunteers at nonprofit religious, charitable, cemetery, or educational organizations. Watchpersons or caretakers on premises, property, or plants that are out of operation for more than four months. Certain taxi drivers. Newspaper carriers. Minors under the age of 18 employed on a part-time basis for up to 30 hours a week. Any individual employed in the search for placer or hard rock minerals. Certain workers who serve as substitute parents of institutionalized children. Individuals employed to handpick shrimp. Certain licensed big-game guides for the first 60 days of employment by a registered guide or master guide. <i>Citation:</i> AS 23.10.065; 8 AAC 15.910(a).
AZ	There is no provision for this topic in this state.	There is no provision for this topic in this state.	There is no provision for this topic in this state.	Any person who is employed performing babysitting services in the employer's home on a casual basis. <i>Citation:</i> A.R.S. § 23-362(A).	Any person employed by a parent or sibling. State and federal government workers. Employees of a small business grossing less than \$500,000 in annual revenue, if the business is not covered by the FLSA. <i>Citation:</i> A.R.S. § 23-362 (A), (B) & (C).

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
AR	Any individual employed in a bona fide executive, administrative, or professional capacity. Executives – federal duties requirements plus state requirement that employee exercise discretionary powers and devote less than 20% time to nonexempt work. Administrative – federal duties requirements plus state requirements that employee assist proprietor or exempt employee, or perform specialized or technical work or execute specialized tasks under only general supervision, and spend no more than 20% time on nonexempt work. Professionals – federal duties requirements plus state requirements that employee use discretion and judgment, work is intellectual and varied, and less than 20% of time is spent on nonexempt work. <i>Citation:</i> Ark. Stat. Ann. § 11-4-203.	Outside commissioned salespeople. <i>Citation:</i> Ark. Stat. Ann. § 11-4-203.	Farm workers employed by employers using no more than 500 man-days in any calendar quarter of previous year. Certain hand-harvesters including those under the age of 17. Members of agricultural employer's immediate family. Employees of loggers and lumberers with no more than eight employees. Employees in range livestock production. <i>Citation:</i> Ark. Stat. Ann. § 11-4-203.	Employees who provide babysitting or companionship services on a casual basis. <i>Citation:</i> Ark. Stat. Ann. § 11-4-203.	Employers with fewer than four employees. Federal employees. Students who work in the schools they are attending. Volunteers engaged in the activities of any educational, charitable, religious, or nonprofit organization. Employees of an organized camp or a religious or nonprofit educational conference center if: (a) the establishment does not operate for more than seven months in a calendar year; or (b) during the preceding calendar year, the average receipts of the establishment for any six months of the preceding calendar year were not more than 33 1/3% of the average receipts of the establishment for the other six months of the preceding calendar year. Certain nonprofit child welfare agency employees who serve as houseparents. Employees of a newspaper with circulation under 4,000 and those who deliver newspapers to retail subscribers. Home workers engaged in wreath making or harvesting evergreens for wreaths. Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes. Bona fide independent contractor. Home worker engaged in harvesting and making wreaths composed of principally natural holly, pine, cedar, or other evergreens. <i>Citation:</i> Ark. Stat. Ann. §

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
					11-4-203.
CA	<p>Employees earning at least a monthly salary equivalent to no less than two times the state minimum wage for full-time employment (i.e., effective January 1, 2018 that is \$3,813.33 per month for companies with 26 or more employees and \$3,640 for companies with 25 or fewer employees), satisfy the "primary duties" test for the executive, administrative or professional exemptions, which includes, among other things, spending more than 50% of their time engaged in specified exempt duties, and customarily and regularly exercise discretionary power and independent judgment. Certain employees engaged in computer software design and development and who are employed at a rate of \$43.58 per hour effective January 1, 2018, or if paid on a salary basis, a monthly salary of at least \$7,565.85 effective January 1, 2018.</p> <p><i>Citation:</i> Cal. Lab. Code §§ 515, 515.5; CA IWC Wage Orders Nos. 1-2001 through 17-2001, 8 C.C.R. §§ 11010-11170.</p>	<p>Outside salespeople.</p> <p><i>Citation:</i> Cal. Lab. Code § 1171; CA IWC Wage Orders Nos. 1-2001 through 14-2001, No. 16-2001, 8 C.C.R. §§ 11010-11140, 11160.</p>	<p>There is no provision for this topic in this state.</p>	<p>There is no provision for this topic in this state.</p>	<p>Employees of public entities: <i>Johnson v. Arvin-Edison Water Storage Dist.</i> (2009) 174 Cal.App.4th 729, 736.</p> <p>Any individual who is the parent, spouse, child, or legally adopted child of the employer: CA IWC Wage Order Nos. 1-2001 through 16-2001, 8 C.C.R. §§ 11010-11160.</p> <p>Shepherders: 8 C.C.R. § 11140, 1(F).</p> <p>Individuals participating in a "national service program" under 42 U.S.C § 12571: Cal Lab. Code § 1171.</p> <p>Physicians and surgeons: Licensed physicians or surgeons are exempt from overtime if their hourly pay is equal to or greater than \$79.39 effective January 1, 2018.</p>

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
CO	Salaried professional, executive/ supervisory, and administrative employees; doctors; lawyers; teachers; and employees in highly technical computer occupations paid at least \$27.63 per hour. For employees covered by both state and federal law, apply federal salary threshold and the following duty tests: Executives—federal duties requirements plus state requirement that executive or supervisor must spend minimum of 50% of workweek in duties directly related to supervision. Administrative—federal duties requirements plus state requirement that employees directly serve the executive and regularly perform duties important to decision-making process of the executive. Apply federal duties requirements for professionals. <i>Citation:</i> C.R.S. § 8-6-106. Wage Orders of the Department of Labor and Employment.	Outside sales representatives. <i>Citation:</i> C.R.S. § 8-6-106. Wage Orders of the Department of Labor and Employment.	There is no provision for this topic in this state.	Casual babysitters and domestic employees in private homes. <i>Citation:</i> C.R.S. § 8-6-106. Wage Orders of the Department of Labor and Employment.	Employees in industries other than retail trade, food/ beverage, beauty, janitorial, laundry/dry cleaning, medical services, or public housekeeping. Students working for college clubs or dorms. Special education students in work experience programs. Inmates and volunteers performing laundry work. Government workers. Taxicab drivers. Interstate drivers, driver helpers, and loaders and mechanics of motor carriers. Students in a work-study program. <i>Citation:</i> C.R.S. § 8-6-106. Wage Orders of the Department of Labor and Employment.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
CT	Individuals employed in a bona fide executive, administrative, or professional capacity. State salary threshold of \$400 for long test and \$475 for short test. For executive, administrative, and professional employees earning between \$455 and \$475 per week, apply CT long test. For executive and administrative employees earning more than \$475 per week, apply federal duties test. And for professional employees earning more than \$475 per week, apply either federal duties requirements or state short duties test for administrative and professional employees as they are essentially the same. <i>Citation:</i> Conn. Gen. Stat. § 31-58.	Outside salespeople. <i>Citation:</i> Conn. Gen. Stat. § 31-58.	There is no provision for this topic in this state.	Domestic servants in private homes. Babysitters. <i>Citation:</i> Conn. Gen. Stat. § 31-58.	Individuals employed in camps or resorts that are open no more than six months of the year. Individuals employed by a nonprofit theater that operates for no more than seven months in any calendar year. Head residents and resident assistants of colleges. Federal employees. Volunteer activities for an educational, charitable, religious, scientific, historical, literary, or nonprofit organization. <i>Citation:</i> Conn. Gen. Stat. § 31-58.
DE	Individuals employed in a bona fide executive, administrative, or professional capacity. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> 19 Del. C. § 901.	Outside salespeople on commission. <i>Citation:</i> 19 Del. C. § 901.	Farm workers. <i>Citation:</i> 19 Del. C. § 901.	Domestic servants. <i>Citation:</i> 19 Del. C. § 901.	Employees in fishing operations and processors of seafood products at sea. Federal employees. Minors working as counselors or CITs at nonprofit summer camps. Inmates in work release programs. <i>Citation:</i> 19 Del. C. § 901.
DC	Individuals employed in a bona fide executive, administrative, or professional capacity. <i>Citation:</i> D.C. Code § 32-1004.	Outside salespeople. <i>Citation:</i> D.C. Code § 32-1004.	There is no provision for this topic in this state.	Domestic workers, including casual babysitters, in the employer's private home. <i>Citation:</i> D.C. Code § 32-1002.	Newspaper deliverers. Volunteers for educational, charitable, religious, or nonprofit organizations. Lay members elected or appointed to office within any religious organization and engaged in religious functions. <i>Citation:</i> D.C. Code § 32-1002, § 32-1004.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
FL	No additional provisions. Minimum wage applies to all employees covered by the FLSA.	There is no provision for this topic in this state.	There is no provision for this topic in this state.	There is no provision for this topic in this state.	There is no provision for this topic in this state.
GA	There is no provision for this topic in this state.	There is no provision for this topic in this state.	Farm workers. <i>Citation:</i> Ga. Min. Wage Law § 34-4-3(b).	Domestic employees. <i>Citation:</i> Ga. Min. Wage Law § 34-4-3(b).	Those working for employer with fewer than six employees or with annual sales of \$40,000 or less. Tipped employees. High school and college students. Newspaper carriers. Live-in employees of nonprofit child care institutions or long-term care facilities serving children or mentally disabled adults, who earn \$10,000 or more per year. <i>Citation:</i> Ga. Min. Wage Law § 34-4-3(b).
HI	Bona fide executive, administrative, supervisory, or professional employees earning at least \$1,500 per month and performing certain duties. Employees earning guaranteed compensation of at least \$2,000 per month, whether paid on a weekly, biweekly, or monthly basis. Apply federal duties requirements for executive, administrative, and professional employees. <i>Citation:</i> HRS § 387-1.	Outside salespeople earning at least \$1,500 per month and performing certain duties. Salespeople employed by licensed car or truck dealers. <i>Citation:</i> Haw. Rev. Stat. § 387-1.	All coffee harvesting and any other agricultural work in which employer has fewer than 20 employees in week. <i>Citation:</i> HRS § 387-1.	Domestic servants and house parents in charitable child-welfare shelters. <i>Citation:</i> HRS § 387-1.	Those receiving guaranteed monthly salary of at least \$2,000. Outside collectors. Those engaged in the taking of any form of aquatic life. Seafarers. Taxi drivers. Golf caddies. Students working for their nonprofit schools. Seasonal employees of certain youth camps. Employer's immediate family. Merchant marines working on a ship or vessel. <i>Citation:</i> HRS § 387-1.
ID	Administrative, executive, and professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Idaho Code § 44-1503, § 44-1504.	Outside salespeople. <i>Citation:</i> Idaho Code § 44-1503, § 44-1504.	Agricultural labor. <i>Citation:</i> Idaho Code § 44-1503, § 44-1504.	Domestic servants. <i>Citation:</i> Idaho Code § 44-1503, § 44-1504.	Government workers. Officers and agents of labor organizations. Seasonal employees of nonprofit camps. Minors under age 16 working part time at odd jobs. <i>Citation:</i> Idaho Code § 44-1503, § 44-1504.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
IL	There is no provision for this topic in this state.	Outside salespeople. <i>Citation:</i> 820 ILCS § 105/3.	Agriculture and aquaculture workers employed by employer using no more than 500 man-days in any calendar quarter of previous year. Employer's immediate family. Hand-harvesters including those under age 17. <i>Citation:</i> 820 ILCS 105/3.	Domestic servants in or about private homes. <i>Citation:</i> 820 ILCS § 105/3.	Those employed by employers of three or fewer people. Members working for religious corporations or organizations. Students working for their colleges and meeting criteria for federal exemption. <i>Citation:</i> 820 ILCS 105/3. New employees: Employers may pay employees 18 and over \$.50 less per hour than the full minimum wage for the first 90 days of employment. <i>Citation:</i> 820 ILCS 105/4(a)(2). Minors: Employers may pay employees under 18 years old \$.50 less per hour than the full minimum wage. <i>Citation:</i> 820 ILCS105/4(a)(3).
IN	Administrative, executive, and professional employees. State salary threshold of \$150 per week. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> I.C. § 22-2-2-3.	Insurance agents and outside salespersons paid solely by commission. <i>Citation:</i> Ind. Code § 22-2-2-3.	Farm workers. <i>Citation:</i> I.C. § 22-2-2-3.	There is no provision for this topic in this state.	Those employed by employers with fewer than two employees. Minors under age 16. Those performing work not in course of the employer's business. Certain students and interns. Certain workers with disabilities employed by nonprofit organizations. Employees of certain camps or recreational facilities. Those employed no more than four weeks in four consecutive three-month periods. Employees of certain motor carriers. Those employed on a commission basis. Employer's immediate family. Members working for religious group. <i>Citation:</i> I.C. § 22-2-2-3.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
IA	Administrative, executive, and professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Iowa Code § 91D.1; Iowa Admin. Code r. 875-215.4(91D).	Outside salespeople. <i>Citation:</i> Iowa Code § 91D.1; Iowa Admin. Code r. 875-215.4(91D).	Farm workers employed by employers using fewer than 500 person-days in any calendar quarter of previous year; certain local seasonal harvesters including those under the age of 17; transporters of farm products; those engaged in range production of livestock. <i>Citation:</i> Iowa Code § 91D.1; Iowa Admin. Code r. 875-215.4(91D).	Domestic workers not covered by the Social Security Act or employed more than eight hours per week. Baby-sitters employed on casual basis and those employed as companions. <i>Citation:</i> Iowa Code § 91D.1; Iowa Admin. Code r. 875-215.4(91D).	Workers who are exempt from the FLSA, except employees of certain small retail and service establishments. <i>Citation:</i> Iowa Code § 91D.1; Iowa Admin. Code r. 875-215.4(91D).
KS	Executive, administrative, or professional employees earning weekly salary of at least \$155 (\$170 for professionals), and who do not devote more than 20% of his or her hours per week in non-exempt activities. State definition for administrative exemption requires the employee to supervise two other employees. Apply federal salary and duties requirements if covered by both state and federal law. Each category has additional and detailed nuances delineated in the regulations. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(e), Kan. Admin. Reg. § 49-30-1.	Outside commissioned salespeople. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(e), Kan. Admin. Reg. § 49-30-1.	Agricultural employees. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(e), Kan. Admin. Reg. § 49-30-1.	Domestic workers in private homes. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(e), Kan. Admin. Reg. § 49-30-1.	Employees under age 19 employed on a casual or part-time basis. Federal employees. Persons rendering service gratuitously for a nonprofit. Persons employed by a school district in an executive, administrative, or professional capacity, if the individual is engaged in such capacity 50% or more of the hours during which the person is employed. Students age 18 or younger working between academic terms, regardless of the number of hours worked. <i>Citation:</i> Kan. Stat. Ann. § 44-1202(e), Kan. Admin. Reg. § 49-30-1.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
KY	Administrative, executive, professional, or supervisory employees. State salary threshold of \$455 per week. Federal duties requirements for executive, administrative, and professional employees. <i>Citation:</i> KRS § 337.010(2)(a)(2); 803 KAR 1:070.	Outside salespersons. <i>Citation:</i> KRS § 337.010(2)(a)(2).	Agricultural employees. <i>Citation:</i> KRS § 337.010(2)(a)(1).	Domestic employees in or about a private home. Certain babysitters and live-in companions. The live-in companion's principal duties must not include housekeeping, but may include caring for a sick individual. <i>Citation:</i> KRS § 337.010(2)(a)(4)-(2)(a)(7).	Federal employees. Those earning subminimum wage under certificate from commissioner. Employees of certain retail or service establishments. Certain newspaper carriers. Employees of nonprofit, seasonal camps or conference centers. Certain emergency personnel. Any employee of a third-party employer or agency providing in-home companionship services for a sick, convalescing, or elderly person. Individuals employed to provide 24-hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused, and who are in the care of private, nonprofit child care facilities licensed by the Cabinet for Health and Family Services. Individuals employed to provide 24-hour residential care in his or her own home as a family caregiver to an adult with disability through a contractual relationship with a community board for mental health, or is licensed by the Cabinet for Health and Family Services to provide adult foster care. <i>Citation:</i> KRS § 337.010(2)(a).
LA	No provision.	No provision.	No provision.	No provision.	No provision.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
ME	Administrative, executive, and professional employees. State salary threshold, when weekly salary is converted to an annual rate; must exceed 3,000 times Maine's minimum hourly wage. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation: 26 M.R.S.A. § 663(3).</i>	Outside salespeople paid by commission if their hours and places of employment are not substantially controlled by the employer. <i>Citation: 26 M.R.S.A. § 663(3).</i>	Most agricultural employees. <i>Citation: 26 M.R.S.A. § 663(3).</i>	There is no provision for this topic in this state.	Employees of public-supported and educational nonprofit organizations, except political bodies. Counselors at children's summer camps. Employees in fishing operations and first processors of seafood. Switchboard operators in certain small public telephone exchanges. Home workers who are not subject to supervision or control by another. Members of employer's immediate family who are employer's dependents. Taxi drivers. <i>Citation: 26 M.R.S.A. § 663(3).</i>
MD	Administrative, executive, or professional employees. State regulations adopt federal requirements. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation: Md. Code Ann., Lab. and Employ. § 3-403 et seq.</i>	Outside salespeople and others compensated on a commission basis. <i>Citation: Labor and Empl. art. § 3-403 et seq.</i>	Farm workers employed by employer using no more than 500 worker-days in any calendar quarter of previous year, those engaged in range production of livestock. Non-migrant hand-harvesters employed no more than 13 weeks or under age 17, and farm workers employed by a family member. <i>Citation: Md. Code Ann., Lab. & Employ. § 3-403 et seq.</i>	There is no provision for this topic in this state.	Employees in cafés, drive-ins, drug stores, restaurants, taverns, and other similar establishments that sell food and drink and gross \$400,000 or less per year. Movie theater employees. Cannery and first processors of seafood, poultry, or horticulture products. Minors under age 16 working no more than 20 hours a week. Members of employer's immediate family. Special education students working in public school training program. Camp workers, except those employed in administrative capacity. <i>Citation: Md. Code Ann., Lab. & Employ. § 3-403 et seq.</i>

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
MA	Individuals employed in a bona fide administrative, executive, or professional service. State regulations adopt federal requirements. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Mass. Gen. Laws ch. 151, § 2, § 9.	Salespeople who work away from the employer's place of business and do not report daily to the office or plant. <i>Citation:</i> Mass. Gen. Laws ch. 151, § 2, § 9.	Agricultural workers. <i>Citation:</i> Mass. Gen. Laws ch. 151, § 2, § 9.	Domestic workers under age 18 employed in private homes. <i>Citation:</i> Mass. Gen. Laws ch. 151, § 2, § 9.	Those working in certain rehabilitation or training programs. Members working for religious orders. Those earning sub-minimum wage under certificate from commissioner. Golf caddies. <i>Citation:</i> Mass. Gen. Laws ch. 151, § 2, § 9.
MI	State salary threshold of \$250 per week. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> MCL § 408.394.	There is no provision for this topic in this state.	Workers employed by agricultural employers that traditionally contract for harvest on a piecework basis. <i>Citation:</i> MCL § 408.394.	Domestic workers who are under the age of 18, provide services for fewer than 20 hours per week, or live-in. <i>Citation:</i> MCL § 408.394.	Those employed by employer of fewer than two people. Minors under the age of 16. Summer camp employees. Workers with disabilities employed under permit from commissioner. <i>Citation:</i> MCL § 408.394.
MN	Administrative, executive, or professional employees are exempt. <i>Citation:</i> Minn. Stat. § 177.23, subd. 7; See Minn. R. § 5200.0180, <i>et seq.</i> for requirements of administrative, executive, and professional employees.	Outside salespeople who conduct no more than 20 percent of sales on the premises of the employer. <i>Citation:</i> Minn. Stat. § 177.23.	Certain salaried agricultural workers and most minors employed in agriculture. Corn detasslers under age 18. Minors working with parents as field hands. <i>Citation:</i> Minn. Stat. § 177.23, subd. 7.	Babysitters. <i>Citation:</i> Minn. Stat. § 177.23, subd. 7.	Seasonal workers at certain camps. Certain government workers. Taxi drivers. Minors working part time for town recreation programs. Those under jurisdiction of U.S. Department of Transportation. Seafarers. Certain resident workers at county-owned home schools. Members of religious orders who serve in nonprofit institutions pursuant to their religious obligations. Certain emergency personnel. <i>Citation:</i> Minn. Stat. § 177.23, subd. 7.
MS	No provision.	No provision.	No provision.	No provision.	No provision.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
MO	Administrative, executive, or professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> RSMo. § 290.500.	Outside salespeople compensated primarily by commission. <i>Citation:</i> Mo. Rev. Stat. § 290.500.	Agricultural labor. <i>Citation:</i> RSMo. § 290.500.	Casual or occasional workers in or about private residence including babysitters, domestic workers, and companions for the elderly or infirm. <i>Citation:</i> RSMo. § 290.500.	Foster parents. Seasonal workers at certain camps and conference centers. Those working for schools in exchange for tuition, housing, or state fees. Individuals with disabilities employed in certified sheltered workshops. Employees of employers subject to U.S. Department of Transportation regulations. Those employed on casual basis as golf caddies or newspaper carriers. Employees of certain small retail or service establishments. Inmates at corrections facilities. Employees of certain small newspapers. Federal employees. <i>Citation:</i> RSMo. § 290.500.
MT	Administrative, executive, professional, and computer employees as defined by federal law. <i>Citation:</i> Mont. Code Ann. § 39-3-406(1).	Commissioned outside salespeople or marketing representatives in food distribution industry or in selling newspaper ads. <i>Citation:</i> Mont. Code Ann. § 39-3-406(1).	Retired people performing part-time work on farm or ranch as condition of residence and certain other farm workers. Learners under age 18 employed as farm workers may be paid 50% of the minimum wage for the first 180 days of employment. <i>Citation:</i> Mont. Code Ann. § 39-3-406(1).	Persons performing menial tasks in private homes and those employed by head of household to care for children. <i>Citation:</i> Mont. Code Ann. § 39-3-406(1).	Members of employer's immediate family. Students in certain accredited educational programs. Certain workers with disabilities. Federal employees. Resident managers of lodging or personal care facilities. Persons who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis. <i>Citation:</i> Mont. Code Ann. § 39-3-406(1).

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
NE	Superintendents, supervisors, and other bona fide administrative, executive, or professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Wage and Hour Act § 48-1202(1)-(3).	There is no provision for this topic in this state.	Agricultural employees. <i>Citation:</i> Wage and Hour Act § 48-1202(1)-(3).	Baby-sitters in private homes. <i>Citation:</i> Wage and Hour Act § 48-1202(1)-(3).	Those employed by employer with fewer than four employees. Individuals engaged in seasonal employment of not more than 20 weeks a year. Government workers. Apprentices and learners as otherwise provided by law. Veterans in special training programs. Employer's child or parent. Individuals with disabilities receiving government aid or welfare and working in rehabilitation programs. <i>Citation:</i> Wage and Hour Act § 48-1202(1)-(3).
NV	There is no provision for this topic in this state.	Not exempt. Although NRS 608.250 purports to exempt certain salespersons, it conflicts with the limited exemptions contained in Article 15, § 16 of the Nevada Constitution. See <i>Thomas v. Nevada Yellow Cab Co.</i> , 327 P.3d 518 (Nev. 2014).	Not exempt. See <i>Thomas v. Nevada Yellow Cab Co.</i> , 327 P.3d 518 (Nev. 2014).	Not exempt. See <i>Thomas v. Nevada Yellow Cab Co.</i> , 327 P.3d 518 (Nev. 2014).	Minors under age 18. Employees of nonprofit organizations for after-school or summer employment. Trainees for a period not longer than 90 days. Employees subject to a collective bargaining agreement with a clear waiver of constitutional requirements for minimum wage, tip credit, and other provisions. <i>Citation:</i> Nev. Const. Art. 15 § 16(B)-(C); NAC 608.100(3).

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
NH	Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21, VIII (b), § 275:42, VI.	Outside salespeople. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21, I.	Farm labor. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21, I.	There is no provision for this topic in this state.	Tipped employees; employees of summer camps for minors; employees engaged as newsboys, non-professional ski patrolmen or golf caddies; persons with less than 6 months' experience in an occupation if approved by the Department of Labor; persons 16 years of age or younger; child employed by his or her parent(s), grandparent(s), or guardian; a spouse working for a spouse on a volunteer basis subject to certain conditions; independent contractors who meet specific state law requirements. <i>Citation:</i> N.H. Rev. Stat. Ann. § 279:21, I, II, § 279:26-a.
NJ	Administrative, executive, and professional employees are exempt. New Jersey has adopted the federal provisions defining these exemptions, except for the provisions applying to government employees, and except that "administrative" also includes an employee whose primary duty consists of sales activity and who receives at least 50 percent of his or her total compensation from commissions and a total compensation of not less than \$400.00 per week. <i>Citation:</i> N.J.S.A. 34:11-56a4 and N.J.A.C. 12:56-7.1 <i>et seq.</i>	Outside salespeople and motor vehicle salespeople. <i>Citation:</i> N.J.S.A. 34:11-56a4 and N.J.A.C. 12:56-7.2.	Volunteers at agricultural fairs by nonprofit organization receiving only incidental benefits. <i>Citation:</i> N.J.S.A. 34:11-56a4.	Part-time child care workers in the employer's home. <i>Citation:</i> N.J.S.A. 34:11-56a4.	Employees of summer camps, conferences, and retreats operated by nonprofit or religious organization. Minors under age 18 not possessing special vocational graduate permit. Volunteer firefighters and rescue workers. Volunteers caring for the ill, elderly, etc. Full-time students working for their colleges or universities. Trainees. <i>Citation:</i> N.J.S.A. 34:11-56a4, 34:11-56a4.1, N.J.A.C. 12:56-2.1.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
NM	Executive, administrative, and professional employees, superintendents, and supervisors. Apply federal test for executive, administrative, and professional employees. <i>Citation:</i> NMSA, 1978 § 50-4-21(C).	Sales personnel compensated on a commission basis. <i>Citation:</i> N.M. Stat. Ann. § 50-4-21(C).	Hand-harvesters paid on a piecework basis. Employees in range livestock production. Farm workers employed by employers using less than 500 man-days in any calendar quarter of previous year. Local seasonal harvesters employed for 13 weeks or less in prior year. Members of employer's immediate family. <i>Citation:</i> NMSA, 1978 § 50-4-21(C).	Domestic or household workers in private homes. <i>Citation:</i> NMSA, 1978 § 50-4-21(C).	Government employees. Employees paid on piecework, flat-rate, or commission basis. Noncollege students working after school and during vacation. Employees under age 18 who are not students or high school graduates. Ambulance service workers. GI Bill trainees. Seasonal employees of youth camps under certificates from commissioner. <i>Citation:</i> NMSA, 1978 § 50-4-21(C).
NY	Administrative and executive employees who earn the following amounts depending on their size and location, effective January 1, 2018: New York City employers with 11 or more employees - \$975 per week. New York City employers with 10 or fewer employees - \$900 per week. Employers in Nassau, Suffolk, or Westchester Counties - \$825 per week. Employers outside of New York City and Nassau, Suffolk, or Westchester Counties - \$780 per week. There is no salary threshold for exempt professional employees under New York State Law. <i>Citation:</i> Labor Law art. 19 § 651.	Outside salespeople. <i>Citation:</i> Labor Law art. 19 § 651.	Agricultural workers. <i>Citation:</i> Labor Law art. 19 § 651.	Part-time babysitters in the employer's home. Live-in companions to the ill or elderly. <i>Citation:</i> Labor Law art. 19 § 651.	Taxi drivers. Learners. Apprentices. Students. Individuals with disabilities working for nonprofit institutions. Those whose work is incidental to or in return for charitable aid. Members of religious orders and their leaders. Certain camp employees. College students working for nonprofit groups. Government employees. Volunteers at certain recreational events (must sign a waiver). <i>Citation:</i> Labor Law art. 19 § 651.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
NC	Administrative, executive, or professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Wage and Hour Act § 95-25.14.	Outside salespeople. <i>Citation:</i> Wage and Hour Act § 95-25.14.	Agricultural workers. <i>Citation:</i> Wage and Hour Act § 95-25.14.	Domestic workers, babysitters, and companions whose main duties do not include housekeeping. <i>Citation:</i> Wage and Hour Act § 95-25.14.	Pages in state General Assembly or governor's office. Prisoners and confined mental patients. Models, actors, and performers. Production workers in outdoor theater. Employees of children's summer camps and nonprofit educational conference centers. Employees in fishing operations and those in first processing or first sale of seafood. Employer's immediate family. Rideshare drivers. Employees of town's seasonal recreation program. Computer systems analysts, computer programmers, software engineers, or other similarly skilled workers. Volunteer firefighters in an incorporated, nonprofit volunteer or community fire department. Volunteer rescue and emergency medical services personnel in an incorporated, nonprofit volunteer or community fire department or rescue squad. <i>Citation:</i> Wage and Hour Act § 95-25.14.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
ND	There is no provision for this topic in this state.	Outside salespeople paid by commission. <i>Citation:</i> N.D.C.C. § 34-06-01(5).	There is no provision for this topic in this state.	Certain companions to the elderly or infirm, and casual babysitters. <i>Citation:</i> N.D.A.C. § 46-02-07-02.	Those earning sub-minimum wage under permit from commissioner. Firefighters, police officers, and rideshare drivers. Employees of nonprofit youth camps. Golf course caddies. A guide, cook, or camp-tender for hunting or fishing guide service. Any person in a program for youthful or first-time offenders designed as an alternative to incarceration if the person, subject to certain conditions. Prison or jail inmates who do work directly associated with the incarceration program. Actors or extras for a motion picture. Volunteers who donate their time and services. Certain student trainees. <i>Citation:</i> N.D.A.C. § 46-02-07-02.
OH	Administrative, executive, or professional employees. Ohio follows federal law. Ohio uses the federal salary threshold and duties tests. <i>Citation:</i> Ohio Rev. Code § 4111.14(B).	Outside salespeople paid by commission. Ohio follows federal law. <i>Citation:</i> Ohio Rev. Code § 4111.14(B).	Farm workers employed by employers using less than 500 man-days in any calendar quarter of previous year; certain seasonal harvesters, including those working with their parents, under 17. Ohio follows federal law. <i>Citation:</i> Ohio Rev. Code § 4111.14(B).	Babysitters employed on casual basis and those employed as companions whose main duties do not include housekeeping. Ohio follows federal law. <i>Citation:</i> Ohio Rev. Code § 4111.14(B).	Those employed by employers grossing less than \$297,000 annually are exempt from state law but must be paid the Federal minimum wage. Federal workers. Newspaper carriers. Members of employer's immediate family. Employees of fire and police agencies. Students employed by town or city on part-time or seasonal basis. Employees of children's camps or recreation areas run by nonprofit or tax-exempt groups.

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Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
OK	Administrative, executive, or professional employees. <i>Citation:</i> Okla. Stat. tit. 40 § 197.4(e).	Outside salespeople. <i>Citation:</i> Okla. Stat. tit. 40 § 197.4(e).	Farm workers. <i>Citation:</i> Okla. Stat. tit. 40 § 197.4(e).	Domestic workers in private homes. <i>Citation:</i> Okla. Stat. tit. 40 § 197.4(e).	Minors under age 18 who are not high school or vocational training graduates. Employees of organizations with gross annual sales of less than \$100,000 and fewer than 10 employees. Federal employees. Newspaper carriers or vendors. Temporary employees working less than 25 hours a week. Students under age 22 who are regularly enrolled in school. Retail feed store employees. Reserve force deputies. Employees of common carriers subject to the federal Interstate Commerce Act. <i>Citation:</i> Okla. Stat. tit. 40 § 197.4(e).
OR	Administrative, executive, or professional employees. Almost all Oregon employers are subject to federal law, including salary basis. Federal duties requirements for executives and administrative. Federal and state duties requirements for professionals are essentially similar. <i>Citation:</i> ORS § 653.020, OAR § 839-020-0005.	Outside salespeople. <i>Citation:</i> Ore. Rev. Stat. § 653.020, Admin. Rules § 839-020-0005.	Farm workers employed on piecework basis by employers using fewer than 500 piece-rate work hours in any calendar quarter of previous year. Hand-harvesters under the age of 16 who are paid the same piece rate as workers over the age of 16. Members of the agricultural employer's immediate family. Those mainly engaged in range production of livestock on salary basis. <i>Citation:</i> ORS § 653.020, OAR § 839-020-0005.	Domestic workers employed on a casual basis. Babysitters and live-in companions to the elderly and infirm in private homes. <i>Citation:</i> ORS § 653.020, OAR § 839-020-0005.	Students working for their primary or secondary schools. Taxi drivers. Those paid for specific hours to ensure availability for recall to duty. Live-in managers of multiunit accommodations. Counselors employed on seasonal basis at nonprofit camps or camps grossing less than \$500,000 a year. Employees of nonprofit conference centers. Federal employees. Volunteer firefighters. Golf caddies in training. <i>Citation:</i> ORS § 653.020, OAR § 839-020-0005.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
PA	Administrative, executive, or professional employees. State salary threshold of \$250 per week. Federal duties requirements for executives and administrative. Federal and state duties requirements for professionals are essentially similar. <i>Citation:</i> 43 Pa. C.S. § 333.105 and 34 Pa. C.S. §§ 231.82-84.	Outside salespeople. <i>Citation:</i> 43 P.S. § 333.105 and 34 Pa. C.S. § 231.85.	Farm labor. <i>Citation:</i> 43 Pa. C.S. § 1301.201.	Domestic servants in private homes. <i>Citation:</i> 43 Pa. C.S. § 333.105 (a)(2).	Certain newspaper deliverers. Those employed by certain small newspapers. Seasonal employees under age 18, or under age 24 if students, of certain nonprofit agencies or children's camps. Employees of certain seasonal amusement centers, camps, and conference centers. Golf caddies. Certain switchboard operators. Elected and appointed officials, their staffs, and advisors. <i>Citation:</i> 43 Pa. C.S. § 333.105.
RI	State salary threshold of \$200 per week. Rhode Island uses the federal duties tests. <i>Citation:</i> R.I. Gen. Laws § 28-12-4.3(a)(4).	Traveling or outside salespeople. <i>Citation:</i> R.I. Gen. Laws §§ 28-12-2(5)(v), -4.3(a)(8).	Agricultural workers. <i>Citation:</i> R.I. Gen. Laws § 28-12-4.3(a)(9).	Domestic workers in private homes. <i>Citation:</i> R.I. Gen. Laws § 28-12-2(5)(i).	Federal employees. Ushers in theaters, newspaper carriers, golf caddies, shoe shiners, and the like. Seasonal employees of certain resorts. Employer's parent, spouse, or child under age 21. Counselors employed on seasonal basis at organized camp. Volunteers in educational, charitable, religious, or nonprofit organizations. <i>Citation:</i> R.I. Gen. Laws § 28-12-2(5).
SC	No provision.	No provision.	No provision.	No provision.	No provision.
SD	There is no provision for this topic in this state.	Outside salespeople. <i>Citation:</i> SDCL § 60-11-3.	There is no provision for this topic in this state.	Babysitters. <i>Citation:</i> SDCL § 60-11-3.	Any employee younger than 20 years of age may be paid an "opportunity wage" of \$4.25 for first 90 days of employment. <i>Citation:</i> SDCL § 60-11-4, § 60-11-3.
TN	No provision.	No provision.	No provision.	No provision.	No provision.

State Law Chart Builder

Customizable employment law answers for HR

Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
TX	Administrative, executive, or professional employees. <i>Citation:</i> Tex. Labor Code § 62.153.	Outside salespeople. <i>Citation:</i> Tex. Labor Code § 62.153.	Employees engaged in dairying and production of livestock. <i>Citation:</i> Tex. Labor Code § 62.160.	Domestic workers in a private home. Babysitters. Live-in companions providing personal care. <i>Citation:</i> Tex. Labor Code § 62.154.	Individuals covered by the FLSA. Members performing services for their religious orders. Minors under age 18 who have not graduated from high school or vocational school. Students under age 20, except those in agriculture. Prison inmates. Members of employer's immediate family. Individuals with disabilities under age 21 in vocational rehabilitation school/work program. Employees of certain amusement or recreation establishments. Employees of Girl or Boy Scouts of America. Employees of certain camps. Except for agricultural workers, employers who are not subject to liability for contributions to unemployment compensation fund under state law. Certain married couples employed as substitute parents for institutionalized children. <i>Citation:</i> Tex. Labor Code § 62.151 <i>et seq.</i>
UT	There is no provision for this topic in this state.	Outside salespeople. <i>Citation:</i> Utah Code Ann. § 34-40-104(1).	Range livestock production employees, harvesters paid by the piece, seasonal farm workers employed less than 13 weeks per year, and retirees performing part-time work as condition of residence on farm or ranch. <i>Citation:</i> Utah Code § 34-40-104(1).	Domestic employees. Companions to the ill or elderly. <i>Citation:</i> Utah Code § 34-40-104(1).	Casual employees. Seasonal employees of certain camps, programs, and nonprofit groups. Federal workers. Prison inmates. Registered apprentices and students working for their schools. Hourly workers with certain seasonal amusement establishments. Employer's immediate family. Workers with disabilities (wage regulated by labor commission). <i>Citation:</i> Utah Code § 34-40-104(1).

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
VT	Administrative, executive, or professional employees. <i>Citation: 21 V.S.A. § 383.</i>	Outside salespeople. <i>Citation: 21 V.S.A. § 383.</i>	Agricultural employees. <i>Citation: 21 V.S.A. § 383.</i>	Domestic workers in a private home. <i>Citation: 21 V.S.A. § 383.</i>	Individuals working for employers with fewer than two employees. Federal workers. Full-time high school students. Employees of public, nonprofit organizations, except laundry workers, nurse's aides, and LPNs. Newspaper carriers. Taxi drivers. <i>Citation: 21 V.S.A. §§ 382, 383.</i>
VA	There is no provision for this topic in this state.	Traveling and outside salespeople paid on commission basis. <i>Citation: Minimum Wage Act VA Code § 40.1-28.9(B)(5).</i>	Farm laborer or farm employee. <i>Citation: Minimum Wage Act VA Code § 40.1-28.9(B)(1).</i>	Domestic workers in and about private homes and publicly supported institutions. <i>Citation: Minimum Wage Act VA Code § 40.1-28.9(B)(2).</i>	Individuals covered by the FLSA. Those working for employers of fewer than four people, not including members of employer's immediate family. Employees of publicly supported charitable institutions. Newspaper carriers. Caddies. Shoe shiners. Ushers. Concession and door attendants and cashiers in theaters. Taxi drivers. Children working for their parents or guardians. Persons confined in any penal, corrective, or mental institution. Employees of children's summer camps. Employees under the age of 16. Employees paid by the piece. Workers with disabilities who have impaired earning capacity. Students in bona fide training programs. Full-time students under age 18 working no more than 20 hours a week. Full-time students in school work/study program. Minors under age 18 under jurisdiction of juvenile court. <i>Citation: Minimum Wage Act VA Code § 40.1-28.9(B)(1)-(17).</i>

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
WA	Administrative, executive, or professional employees. State salary threshold of \$250 per week. Federal duties requirements for executives and administrative. Federal or state duties requirements for professionals are essentially similar. <i>Citation:</i> Wash. Rev. Code § 49.46.010.	Outside salespeople. <i>Citation:</i> Wash. Rev. Code § 49.46.010.	Hand-harvesters paid on piecework basis. <i>Citation:</i> Wash. Rev. Code § 49.46.010.	Casual laborers working in or about employer's home. <i>Citation:</i> Wash. Rev. Code § 49.46.010.	Newspaper carriers or vendors. Those covered by the federal Interstate Commerce Act. Those in forest protection and fire prevention. Employees of certain charitable institutions. Those who are required to spend a substantial portion of work time on call and not on active duty. Inmates and patients. Government officers and officials. Crews on state ferries. Seafarers on foreign vessels. Minors under the age of 16. <i>Citation:</i> Wash. Rev. Code § 49.46.010.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
WV	Administrative, executive, or professional employees. Executives – federal duties requirements plus state requirement that employee exercise discretionary powers. Administrative – federal duties requirements plus the state requirements that employee assist proprietor or exempt employee, or perform specialized or technical work or executive’s specialized tasks with only general supervision. Professionals – federal duties requirements plus state requirements that both creative and learned professionals perform intellectual and varied work requiring discretion and judgment. <i>Citation:</i> W. Va. Code § 21-5C-1(f).	Traveling and outside salespeople. Salespeople employed by retail motor vehicle dealerships as to maximum hours and overtime provisions. <i>Citation:</i> W. Va. Code § 21-5C-1(f).	Agricultural workers as defined under the FLSA. <i>Citation:</i> W. Va. Code § 21-5C-1(f).	There is no provision for this topic in this state.	People working for employers with fewer than six employees. Federal employees. Newspaper carriers. Shoe shiners. Caddies. Pin chasers at bowling lanes. Members of employer’s immediate family. Job trainees. Certain workers with disabilities. Employees of children’s summer camps. Those 62 years of age or older who receive Social Security benefits. Local bus company workers. State firefighters. Students working part time. Theater ushers. Parts people and mechanics at retail motor vehicle dealers. Workers under the jurisdiction of U.S. DOT. Persons employed on a per diem basis by the Senate, House of Delegates, or the joint committee on government finance. Other employees of the Senate or House of Delegates designated by the presiding officer, as well as additional employees of the joint committee on government and finance. Commercial whitewater outfitters’ seasonal employees working less than seven months each calendar year. <i>Citation:</i> W. Va. Code § 21-5C-1(f).
WI	There is no provision for this topic in this state.	Real estate agents and salespeople paid solely by commission. Retail salespeople. <i>Citation:</i> Wis. Stat. § 104.01(2)(b) Ind. 72.05, 72.06; Wis. Admin. Code DWD 272.06.	There is no provision for this topic in this state.	Casual domestic workers in and about the employer’s home. Babysitters. Live-in companions who spend less than 15 hours a week on general work. <i>Citation:</i> Wis. Stat. § 104.01(2)(b) Ind. 72.05, 72.06; Wis. Admin. Code DWD 272.06.	Newspaper carriers. <i>Citation:</i> Wis. Stat. § 104.01(2)(b) Ind. 72.05, 72.06; Wis. Admin. Code DWD 272.06.

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Minimum Wage--Exemptions

- Does your state have exemptions to its minimum wage requirement?

State	Administrative, executive, and professional employees	Sales	Agriculture	Domestic service	Other exempt employees
WY	Administrative, executive, and professional employees. Apply federal salary and duties requirements if covered by both state and federal law. <i>Citation:</i> Wyo. Stat. § 27-4-201.	Outside salespeople paid solely by commission. <i>Citation:</i> Wyo. Stat. Ann. § 27-4-201.	Agricultural workers. <i>Citation:</i> Wyo. Stat. § 27-4-201.	Domestic workers in private homes. <i>Citation:</i> Wyo. Stat. § 27-4-201.	Government workers. Ambulance and other on-call vehicle drivers. Volunteers or individuals engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer/employee relationship does not exist. <i>Citation:</i> Wyo. Stat. § 27-4-201.