

# Wage and Hour- Fair Labor Practices Frequently Asked Questions

## **Q: What labor law posters are required postings in a workplace?**

**A:** Employers are required to post in a common area, posters with information pertaining to minimum wage, sexual harassment, child labor, workers compensation, reinstatement liability, parental leave, safety and health protection on the job, healthcare whistleblower protection, unemployment insurance, and workplace smoking. These posters can be found at under forms and publications, Wage and Hour forms.

## **Q: What is minimum wage?**

**A:** Minimum wage will change yearly based upon legislation enacted in 2005. To review current and future minimum wage rates click here [minimum wage \[PDF\]](#).

## **Q: I have been fired or laid off, when is my pay due?**

**A:** An employee who has been discharged from employment shall be paid within 72 hours of the discharge. An employee who voluntarily leaves employment shall be paid on the last regular payday, or if there is no regular payday, on the following Friday.

## **Q: Does my employer have to pay the Vermont minimum wage or the Federal minimum wage?**

**A:** All employers doing business in Vermont are required to pay at a minimum Vermont's current minimum wage. There are some exemptions from state minimum wage, exemptions are but not limited to:

- full time high school students
- agriculture workers
- taxi cab drivers
- outside salespersons
- newspaper or advertisement home delivery persons
- persons employed in the activities of a publicly supported
- non-profit organization (except laundry employees and nurses aides or practical nurses)
- a person employed in a bona fide executive, administrative, or professional capacity
- a person employed in domestic service in or about a home
- a person employed by the United States

Although full time high school students are exempt from Vermont's minimum wage requirement, federal law provides for a minimum compensation for these students.

These exemptions are only from state minimum wage laws; they do not include federal minimum wage laws. Please call the federal Dept. of Labor for further information. They can be reached at (802) 951-6283.

## **Q: Can an employer pay an employee through an electronic deposit? can they issue an**

### **electronic wage statement?**

**A:** With the written authorization of an employee, an employer may pay wages due the employee by deposit through electronic funds transfer or other direct deposit systems to a checking, savings or other deposit account maintained by the employee in any financial institution within or without the state. An employer may provide an electronic itemized wage statement in lieu of a paper statement provided:

The employer obtains written authorization from employee pursuant 21V.S.A. §342

The statement is made available at the time wages are paid;

The statement can be accessed and printed by the employee at no cost to the employee, and;

Measures are taken by the employer to protect confidential information from access by anyone other than the employee.

### **Q: Can an employer pay an employee wages with a debit card?**

**A:** Yes. Vermont law allows an employer to pay wages through a payroll card if certain conditions are met, including the written authorization of the employee. See [21 V.S.A. § 342](#) for more information.

### **Q: My employer let me go and did not give me any reason (or gave me an unfair reason). What can I do?**

**A:** Under Vermont law an employer is not required to provide their reason for termination. If you were discriminated against based on age, sex, race, creed, national origin, physical or mental impairment, pregnancy or sexual preference, you should contact the [Civil Rights Division](#) of the Attorney Generals Office at 802-828-3657. For any other reason you must consult with a private attorney.

### **Q: If I quit or am discharged, will I receive pay for vacation or sick leave?**

**A:** Your employer does not have to pay you unless he/she had provided you with a written statement agreeing to pay for earned, but unused time. If you feel that you meet the terms and conditions provided in the employer's written statement of benefits, but did not receive payment, you may complete a wage claim form.

### **Q: What happens to my pension if I quit my job, am fired, or if my employer goes out of business?**

**A:** Most private pension plans are covered by the federal Employee Retirement Income Security Act (ERISA), not by state law. The Employee Benefits Security Administration (EBSA) of the U.S. Department of Labor is responsible for regulations in this area. Call (617) 569-9600 or visit the EBSA website at <http://www.dol.gov/ebsa>.

### **Q: If I work more than 40 hours a week do I automatically get overtime pay?**

**A:** Employees are generally due overtime pay of one and one-half times the regular wage rate for

work performed in excess of 40 hours during a workweek. Under Vermont law, however, exceptions to overtime pay requirements include employment in retail, service, hotels recreation, hospitals or nursing homes. Employment that is not subject to Vermont overtime requirements may be subject to federal overtime, if the work is in interstate commerce (eg. credit card transactions); or, in a business with an annual gross volume of sales of \$500,000 or more. Additional federal information is available from the Federal Wage and Hour Office in Burlington at 802-951-6283 or in New Hampshire at 603-666-7716.

**Q: If I work a holiday am I entitled to time and a half?**

**A:** Not necessarily. Holidays and Sundays are normal workdays insofar as wage and hour laws are concerned, unless your employer has a written agreement stating otherwise.

**Q: What determines overtime hours?**

**A:** Overtime is usually based on more than 40 hours of actual work per week. Benefit hours are separate and should be shown as separate in the payroll records. For example, if you actually worked 36 hours in a workweek and had 8 hours off, paid for a holiday, you are NOT entitled to overtime.

**Q: I am on salary. When I take a day off my employer reduces my salary, and when I work overtime my employer does not pay extra. What can I do?**

**A:** Although salary agreements are not covered directly under Vermont law, an employer is required to pay the minimum wage, unless the position is exempt as a bona fide executive, administrative, professional. Therefore, unless salaried-exempt, you are entitled to the minimum wage for hours worked. If you are truly exempt then you are due your salary but not entitled to overtime. For further information concerning federal law concerning salaried employees you should contact the Federal Wage and Hour Office in Burlington at 802-951-6283 or in New Hampshire at 603-666-7716 concerning their written reference to "salaried employees" in the Federal Fair Labor Standards Act for overtime exemption purposes.

**Q: Can my employer suspend me without pay?**

**A:** Yes, under Vermont law, an employer can suspend you without pay as long as there is no violation of the terms and conditions of a written policy. You should also contact the Federal Wage & Hour Office at 802-951-6283 or 603-666-7716, regarding federal law.

**Q: Can my employer take money out of my wages to cover cash register shortages or damages?**

**A:** No, your employer cannot do this. You can either inform your employer that there is no provision in the law that allows them to do this or you can contact the Wage & Hour Program.

**Q: Can my employer make me pay for my uniform?**

**A:** An employer may not deduct from an employee's wage any amount for providing or maintaining required apparel, including a uniform, nor shall any other compensation pass to any employer from an employee for required apparel, including a uniform or the maintenance thereof, unless the

employee voluntarily consents to such deduction or compensation in writing and such deduction does not:

- Reduce the total remuneration received by an employee below the hourly minimum wage;
- Include any administrative fees or charges;
- Amend, nulify or violate the terms and conditions of any collective bargaining agreement.

**Q: Can my employer require that I work mandatory overtime? Can my employer require that I work 8 days in a row without a day off?**

**A:** Vermont law places no limits on the number of hours an employer can require an employee to work. Absent a written agreement or a union contract, an employer has complete discretion to require mandatory overtime.

**Q: Can my employer fire me or lay me off without notice?**

**A:** Yes, unless it is a massive layoff or plant closure, in which case you should contact the U. S. Department of Labor at 202-535-0577, or [VT Department of Labor](#) at (802) 828-4177.

**Q: Am I entitled to severance pay if I get laid off without notice?**

**A:** Severance pay is considered a benefit insofar as wage and hour laws are concerned and individuals are not entitled to it unless the employer has a written agreement to provide it.

**Q: Is it legal for my employer to change the hours on my time card?**

**A:** Vermont law does not cover time cards. Time cards are considered a means for an employer to obtain actual hours of work for the payroll. Payroll records, by law, must show accurate hours of work. You may wish to contact the Federal Wage and Hour Office in Burlington at 802-951-6283 or in New Hampshire at 603-666-7716 in reference to the provision of the Fair Labor Standards Act regarding time clocks.

**Q: Is my employer required to provide me with rest periods or lunch breaks?**

**A:** Vermont law requires that an employer provide “reasonable opportunities” to eat and use toilet facilities. However, neither Vermont nor Federal law specify a minimum break period nor identify what a “reasonable opportunity” is. Rest periods and lunch breaks are provided at the discretion of the employer or under the terms and conditions of a bargaining agreement, such as a union contract. There is also no restriction (except for child labor purposes) on the number of hours and days an employee may be made to work without a rest period. The employer may select the time or hour of the break(s.) Federal law does state that if an employer provides a lunch break, it must pay the employee unless the break is at least 30 minutes in duration (if the lunch break is 30 minutes or longer, employees do not have to be paid for that time)

**Q: I earn wages plus a sales commission. I have received my regular wages but I am owed commissions for two months. How can I collect?**

**A:** Commissions are considered wage supplements or benefits. The Vermont Wage & Hour Program can investigate and review wage complaints, however, program jurisdiction is limited with regard to

such benefits. In the event you have a written agreement clearly establishing your right to wage supplements or commissions, then the program can investigate your claim and pursue it with your employer.

**Q: What work can a teenager perform?**

**A:** Child labor rules detail the work permitted under the age of 18. Here is a snapshot:

Ages 16-18 may work at non-hazardous jobs, outside of school hours.

Ages 14-15 prohibited from work in manufacturing, mining or work deemed hazardous.

Ages 12-13 may work at an agricultural job, non-hazardous, with parental permission

Under age 12 may work at agricultural job if farm is FLSA "small farm" exempt and work is non-hazardous and with parental permission.

There are also restrictions on work hours per day and per week.

**Q: What if I have questions that are not answered on this page?**

**A:** The Wage & Hour Program at the Vermont Department of Labor is able to answer any questions that you may have. Feel free to give us a call at 828-0267 or [email us](#).