

# Can My Employer Do That?

## Overtime Pay

An employer must pay an employee at least 1-½ times the employee's regular wage rate for all hours worked over 40 on a workweek.

Exemptions from this overtime requirement include:

- Retail or service establishments;
- Hotels, motels or restaurants;
- State and political subdivisions of the state;
- Certain amusement or recreational establishments; and
- Certain employees engaged in transportation if also exempt from the F.L.S.A.

Employees exempted under Vermont law may still be entitled to overtime under federal law.

## Forms of Payment

Employers shall not pay employees through any form of debt including, without limitation:

- All scrip
- Vouchers;
- Due bills; or
- Store orders

The only exceptions are:

(1) The employer is a cooperative corporation in which the employee is a stockholder. However, such cooperative corporation shall, upon request of any such shareholding employee, pay him; or

(2) Payment is made by check as defined in Title 9A.

## **Electronic or Direct Deposit**

With the written authorization of an employee, an employer may pay wages due the employee by any of the following methods:

1) Deposit through electronic funds transfer or other direct deposit systems to checking, savings, or other deposit account maintained by the employee in any financial institution within or outside the state.

2) Credit to a payroll card account directly or indirectly established by an employer in a federally insured depository institution to which electronic fund transfers of the employee's wages, salary, or other employee compensation is made on a recurring basis. Please see [21 V.S.A § 342](#) for more information.

## **Fired or Quit – When is pay due?**

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.

An employee who is discharged from employment shall be paid within 72 hours of the discharge.

## **Benefits and / or Wage Supplements**

An employer is not required to provide its employees with:

- Paid or unpaid holidays (such as “Memorial Day” or “Thanksgiving”);
- Paid or unpaid vacation time or severance pay when an employee leaves the business.

However, employers who are parties to written agreements, which can be in the form of an employee handbook, memorandum, or correspondence, that provide for vacation time, sick leave, holidays and/or severance pay are liable to their employees for these benefits.

In a collective bargaining agreement (union contract) where benefits and/or wage supplements are offered, an aggrieved employee should contact his/her union representative.

Employees aggrieved over unpaid retirement or profit sharing plans should contact the ERISA Division of the U.S. Department of Labor at (617) 565-9600 or e-mail at <https://www.dol.gov/agencies/ebsa>

## **No Reason for Termination / Discrimination**

Vermont is considered an “at will” state. An employer may terminate an employee for any reason as long as it is not one of the protect classes e.g.: race, color, national origin, religion, sex, age or mental or physical disability.

Vermont law prohibits discrimination based on sexual orientation, HIV status, place of birth, and age over 18.

It is unlawful to retaliate or discriminate against employees or applicants that have alleged employment discrimination.

If you feel you have been discharged due to discrimination please contact the Attorney General’s office at <http://www.ago.vermont.gov/>

## **Wage Deductions**

The only deductions that may be made from employees’ wages are those, which are permitted or required by law. Those would include taxes, Social Security, etc. and, with the employee’s written authorization or sufficient employer documentation, cost of goods or services provided by the employer to the employee for which repayment was intended.

Lacking a statutory provision, which would require or permit employers to do so, employers may not deduct or withhold wages for such things as:

- An employee's refusal or inability to provide or sign documents such as I-9 forms, tax withholding forms;
- An employee's refusal to provide a notice of or reason for termination;
- An employee's refusal to sign a document written by the employer;
- An employee's inability or refusal to accept the wages in person (postal delivery is an acceptable means for the employer to comply with the timely payment of wage law);
- The maintenance of uniforms;
- Poor job performance;
- Alleged shortages, bad checks or credit cards;
- Destruction of or missing property;

Allegations of damages and improper payment of wages are separate issues and must be dealt with, if necessary, in separate court actions.

Recovery of alleged damages may be possible through civil action, whereas illegal withholding of wages is in violation of Vermont's criminal statutes and criminal prosecution is possible.

## **Breaks and Lunch Periods**

An employer must provide its employees with "reasonable opportunity" to eat and use toilet facilities in order to protect the health and hygiene of the employee.

Federal law mandates that if an employer provides a lunch period, it is counted as "hours worked" and must be paid UNLESS the lunch period lasts at least thirty minutes and the employee is completely uninterrupted and free from work.

## **Nursing Mothers**

Vermont law requires an employer to provide reasonable time

and privacy to allow a nursing mother to express breast milk during the work day. More information on this subject is available at the following link.  
<http://women.vermont.gov/sites/women/files/pdf/Nursingwebfactsheet.pdf>

## **Minimum Wage**

Vermont's minimum wage will increase on January 1, each year as noted below.

Effective 01/01/2015	\$9.15 per hour worked
Effective 01/01/2016	\$9.60 per hour worked
Effective 01/01/2017	\$10.00 per hour worked
Effective 01/01/2018	\$10.50 per hour worked