



Montana Department of LABOR & INDUSTRY

EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

\$7.25 PER HOUR
BEGINNING JULY 24, 2009

OVERTIME PAY

At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment.

TIP CREDIT

Employers of “tipped employees” who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

PUMP AT WORK

The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk for their nursing child for one year after the child’s birth each time the employee needs to express breast milk. Employers must provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

ENFORCEMENT

The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate and/or recommend criminal prosecution. Employers

may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA’s child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violations are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

ADDITIONAL INFORMATION

- Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions. Certain narrow exemptions also apply to the pump at work requirements.
- Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
- Some state laws provide greater employee protections; employers must comply with both.
- Some employers incorrectly classify workers as “independent contractors” when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA’s minimum wage and overtime pay protections and correctly classified independent contractors are not.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

The law requires employers to display this poster where employees can readily see it.

WHD 1088 (Revised 4/2023)

KNOW YOUR RIGHTS WORKPLACE DISCRIMINATION IS ILLEGAL

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that protect you from discrimination in employment. If you believe you’ve been discriminated against at work or in applying for a job, the EEOC may be able to help.

WHO IS PROTECTED?

- Employees (current and former), including managers and temporary employees

WHAT ORGANIZATIONS ARE COVERED?

- Most private employers
- State and local governments (as employers)
- Educational institutions (as employers)
- Unions
- Staffing agencies

WHAT EMPLOYMENT PRACTICES CAN BE CHALLENGED AS DISCRIMINATORY?

- All aspects of employment, including:
 - Discharge, firing, or lay-off
 - Harassment (including unwelcome verbal or physical conduct)
 - Hiring or promotion
 - Assignment
 - Pay (unequal wages or compensation)
 - Failure to provide reasonable accommodation for a disability; pregnancy, childbirth, or related medical condition; or a sincerely-held religious belief, observance or practice
 - Benefits
 - Job training
 - Classification
 - Referral
 - Obtaining or disclosing genetic information of employees
- Requesting or disclosing medical information of employees
- Conduct that might reasonably discourage someone from opposing discrimination, filing a charge, or participating in an investigation or proceeding
- Conduct that coerces, intimidates, threatens, or interferes with someone exercising their rights, or someone assisting or encouraging someone else to exercise rights, regarding disability discrimination (including accommodation) or pregnancy accommodation

WHAT TYPES OF EMPLOYMENT DISCRIMINATION ARE ILLEGAL?

Under the EEOC’s laws, an employer may not discriminate against you, regardless of your immigration status, on the bases of:

- Race
- Color
- Religion
- National origin
- Sex (including pregnancy, childbirth, and related medical conditions, sexual orientation, or gender identity)
- Age (40 and older)
- Disability
- Genetic information (including employer requests for, or purchase, use, or disclosure of genetic tests, genetic services, or family medical history)
- Retaliation for filing a charge, reasonably opposing discrimination, or participating in a discrimination lawsuit, investigation, or proceeding.
- Interference, coercion, or threats related to exercising rights regarding disability discrimination or pregnancy accommodation

WHAT CAN YOU DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED?

Contact the EEOC promptly if you suspect discrimination. Do not delay, because there are strict time limits for filing a charge of discrimination (180 or 300 days, depending on where you live/work). You can reach the EEOC in any of the following ways:

Submit: an inquiry through the EEOC’s public portal:

<https://publicportal.eeoc.gov/Portal/Login.aspx>

Visit: an EEOC field office (www.eeoc.gov/field-office)

E-Mail: info@eeoc.gov

Call: 1-800-669-4000 (toll free), 1-800-669-6820 (TTY), 1-844-234-5122 (ASL video phone)

Additional information about the EEOC, including information about filing a charge of discrimination, is available at www.eeoc.gov.



Employers Holding Federal Contracts or Subcontracts

The Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) enforces the nondiscrimination and affirmative action commitments of companies doing business with the Federal Government. If you are applying for a job with, or are an employee of, a company with a Federal contract or subcontract, you are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits employment discrimination by Federal contractors based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

ASKING ABOUT, DISCLOSING, OR DISCUSSING PAY

Executive Order 11246, as amended, protects applicants and employees of Federal contractors from discrimination based on inquiring about, disclosing, or discussing their compensation or the compensation of other applicants or employees.

DISABILITY

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals with disabilities from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment by Federal contractors. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship to the employer. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

PROTECTED VETERAN STATUS

The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits employment discrimination against, and requires affirmative action to recruit, employ, and advance in employment, disabled veterans, recently separated veterans (i.e., within three years of discharge or release from active duty), active duty wartime or campaign badge veterans, or Armed Forces service medal veterans.

RETALIATION

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination by Federal contractors under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under OFCCP’s authorities should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP)

U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, D.C. 20210, 1-800-397-6251 (toll-free)

If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services. OFCCP may also be contacted by submitting a question online to OFCCP’s Help Desk (<https://ofccphelpdesk.dol.gov/s/>), or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor and on OFCCP’s “Contact Us” webpage (<https://www.dol.gov/agencies/ofccp/contact>).

(Revised 06/27/2023)

Programs or Activities Receiving Federal Financial Assistance

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- are a past or present member of the uniformed service;
- have applied for membership in the uniformed service; or
- are obligated to serve in the uniformed service;
- then an employer may not deny you:
 - initial employment;
 - reemployment;
 - retention in employment; because of status.
 - promotion; or
 - any benefit of employment

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <https://www.dol.gov/agencies/vets/programs/userrra/poster>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.

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EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

WHAT IS FMLA LEAVE?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor’s Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take up to **12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less than each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer’s paid leave policy covers the reason for which you need FMLA leave.

AM I ELIGIBLE TO TAKE FMLA LEAVE?

You are an **eligible employee** if all of the following apply:

- You work for a covered employer,
 - You have worked for your employer at least 12 months,
 - You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
 - Your employer has at least 50 employees within 75 miles of your work location.
- Airline flight crew employees have different “hours of service” requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
 - You work for an elementary or public or private secondary school, or
 - You work for a public agency, such as a local, state or federal government agency
- Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

HOW DO I REQUEST FMLA LEAVE?

Generally, to request FMLA leave you must:

- Follow your employer’s normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.

This poster is available free from OSHA.

Contact OSHA. We can help.

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1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

Job Service MONTANA

A proud partner of the AmericanJobCenter network

Job Service Montana is available to support and assist Montana businesses.

TO LOCATE A JOB SERVICE MONTANA OFFICE:
go to **MontanaWorks.gov** or email dliwscustomersupport@mt.gov

MTDLI (Revised 1/2025)

Montana’s state laws prohibiting discrimination based on protected class make it unlawful for an employer (of one or more employees) to discriminate based on: race, creed, religion, color, national origin, age (includes under 40), disability, marital status, and sex. Employers that are public entities are prohibited from discriminating based on political ideas. Learn more at <https://erd.dli.mt.gov/human-rights/>.



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THIS POSTER IS PROVIDED AT NO COST TO MONTANA EMPLOYERS.

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