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Guide to Maine Minimum Wage Law 1966

Maine Department of Labor and Industry

Maine Division of Minimum Wage, Women and Child Labor

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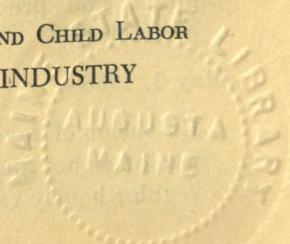
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THE AMENDED LAW
THIS BILL OF THE MAINE LEGISLATURE WAS PASSED BY THE SENATE AND HOUSE OF REPRESENTATIVES AND ENACTED BY THE GOVERNOR OF THE STATE OF MAINE
GUIDE TO
MAINE MINIMUM WAGE LAW



DIVISION OF MINIMUM WAGE, WOMEN AND CHILD LABOR
DEPARTMENT OF LABOR AND INDUSTRY
Augusta, Maine 04330



DLI No. 62 Rev. 2

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THE AMENDED LAW

(Title 26, Chapter 7, subchapter III, R.S. 1964, as amended by Chapters 399 and 410, P.L. 1965)

Amendments enacted by the 102nd Maine Legislature to the Maine minimum wage law will become effective as follows:

September 3, 1965—

Administrative changes:

- 1) Counting of **all employees**, including those not previously counted, such as executives, professionals, taxi-cab drivers, and car hops, in determining coverage of establishment;
- 2) Requirement for preservation of records for 3 years;
- 3) Requirement for statements of wages, hours and deductions to be given to employees with each payment of wages;
- 4) Elimination of registered letter requirement;
- 5) Definite establishment of employer's liability for all unpaid minimum wages; and
- 6) Provision for injunction proceedings.

October 15, 1965—

Extension of coverage to nursing homes and hospitals at \$1.00 an hour

and

Increase in rate to \$1.15 an hour for all covered employment except nursing homes and hospitals

and

Payment of $1\frac{1}{2}$ times the regular hourly rate after 48 hours in all covered employment except nursing homes and hospitals, and processing of sardines and other perishable products.

May 1, 1966—

Extension of coverage to municipal fire departments at \$1.15 per hour but not including the payment of $1\frac{1}{2}$ times the regular hourly rate after 48 hours.

October 15, 1966—

Increase in rate to \$1.25 an hour for all covered employment
except nursing homes and hospitals
and

Increase in rate to \$1.15 an hour for nursing homes and
hospitals.

October 15, 1967—

Increase in rate to \$1.25 an hour for nursing homes and
hospitals.

SMALL ESTABLISHMENTS NOT COVERED

Only employers who employ four or more persons are required to pay the minimum wage. These employees need not be in one location. In other words, any employer who employs four or more persons, whether these employees are in one location or in several locations in the State of Maine, must pay the minimum wage to all employees not otherwise exempt. All employees are counted to determine the size of the establishment, whether or not they are exempt.

PART-TIME AND SEASONAL EMPLOYEES

In the case of a business or service establishment which regularly employs three or less persons, but on certain days of the week or during certain seasons of the year employs one or more additional persons, the minimum wage must be paid for any week during which four or more are employed in any day.

Employment of a substitute for a regular employee in a three-employee business would not bring the count to four employees unless both the substitute and the regular employee actually worked the same day.

EXEMPTIONS

The following workers are exempt from the minimum wage law :

- Any individual employed in agriculture as defined in the Maine Employment Security Law and the Federal Unemployment Insurance Tax Law.
- Any individual employed in domestic service in or about a private home.
- Any individual employed as a waiter, waitress or car hop, not to include counter waiters or waitresses, or those whose tips are required to be divided with others.
- Any individual employed as a doorman or bellhop.
- Any individual employed as a chambermaid in a resort establishment (any hotel, motel, sporting camp, cottage colony or similar establishment which primarily offers lodging accommodations of a vacational rather than a transient nature).
- Any employee whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer.
- Any individual employed as a taxicab driver.
- Any individual employed in the activities of a public-supported nonprofit organization or in a program controlled by an educational nonprofit organization.
- Any counselors or junior counselors at summer camps for boys or girls, or any other employees of such summer camps who are under the age of 19 and are regularly enrolled in an educational institution or are on vacation therefrom.
- Any individuals who do not replace regular employees of any business and who are under the age of 19 and are regularly enrolled in an educational institution or are on vacation therefrom.
- Any individual employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquat-

- ic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as incident to, or in conjunction with, such fishing operations, including the going to and returning from work and including employment in the loading and unloading when performed by any such employee.
- Any individual employed as a switchboard operator in a public telephone exchange which has less than 750 stations.
 - Any home worker who is not subject to any supervision or control by any person whomsoever, and who buys raw material and makes and completes any article and sells the same to any person, even though it is made according to specifications and the requirements of some single purchaser.
 - Members of the family of the employer who reside with and are dependent upon the employer.
 - Any individual employed in a bona fide executive, administrative, or professional capacity.

ALLOWANCES FOR ROOM AND BOARD

The law permits inclusion as part of the minimum wage, the reasonable cost to the employer who furnishes to his employee board or lodging.

The Department of Labor and Industry considers an allowance of 50¢ for a breakfast or lunch-type meal to be reasonable, or 75¢ for a regular dinner which includes meat, vegetable, bread, beverage and dessert. An allowance of \$8.00 a week for a room would be considered reasonable for a single occupancy, or \$4.00 if the room is shared with one or more persons. Any allowance above these figures must be justified by records made available to the Department.

FIGURING OVERTIME

The "regular hourly rate" does **not** mean the minimum wage rate; it means the regular hourly rate at which the individual employee is paid.

An employee working for an hourly rate of \$1.30 an hour who works 54 hours in one week would be paid as follows:

48 hours at	\$1.30	\$62.40
6 hours at $1\frac{1}{2} \times$	\$1.30 or \$1.95	11.70
		<hr/>
		\$74.10

An employee working on a weekly salary basis such as \$60.00 for a regular 48-hour week would be employed at a "regular hourly rate" of \$60 divided by 48 or \$1.25 an hour. Any week when he worked hours in excess of 48, he should receive \$1.875 an hour for each hour after the 48, in addition to the regular salary of \$60.00.

RECORDS

Every employer subject to the provisions of the minimum wage law is required to keep a true and accurate record of the hours worked by employees covered by the law and the wages paid, such record to be preserved by the employer for a period of at least 3 years. Since any room or board furnished by employers to employees may be considered as part of the wage, the allowance made for room or board should be shown in the payroll records, and employers should be prepared to justify the allowance with cost figures.

The Commissioner of Labor and Industry or his authorized representative may enter any place of business subject to the minimum wage law for the purpose of examining and inspecting the records required by law, and may copy any or all of such records as deemed necessary or appropriate.

STATEMENT GIVEN TO EMPLOYEE

Every employer must furnish to each employee subject to the minimum wage law, with each payment of wages, a statement clearly showing the hours, total earnings and itemized deductions.

POSTING OF SUMMARY

Every employer subject to the minimum wage law must post a summary of the law, furnished without charge by the Com-

missioner of Labor and Industry, in a conspicuous place in or about the premises where employees subject to the law are employed, or in a place accessible to his employees.

PENALTIES AND REMEDIES

- Any employer who is found guilty of violating the minimum wage law shall be punished by a fine of not less than \$50 nor more than \$200.
- Any employer who discharges or in any other manner discriminates against any employee because such employee makes a complaint to the Commissioner or to the county attorney concerning a violation shall be punished by a fine of not less than \$50 nor more than \$200.
- Any employer shall be liable to the employee or employees for the amount of unpaid minimum wages.
- When a judgment is rendered in favor of the employee or employees, the employer shall also pay an additional amount equal to the unpaid wages as liquidated damages, and the costs of suit including a reasonable attorney's fee.
- In the event of the violation of any of the provisions of the law, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violations thereof.

HANDICAPPED WORKERS

Any employee who is physically handicapped because of age or otherwise, or who is mentally handicapped, **if his disability is an actual handicap for the performance of his job**, may apply to the Commissioner of Labor and Industry for authorization to accept employment at a rate lower than the applicable minimum wage rate. Application forms for this purpose may be obtained without charge from the Commissioner upon request.

Each authorization will be for a particular job category and if the handicapped person transfers from one type of job to another, even for the same employer, a new authorization

should be obtained, since a person handicapped for the performance of one job might not be so handicapped for a different job.

In industries covered by the Federal Fair Labor Standards Act, any Handicapped Workers Certificates issued under that Act will have the same force and validity of authorizations issued by the Commissioner, and it will not be necessary to apply for a second certificate.

APPRENTICES

Under the minimum wage law, apprentices under an approved apprentice training program means only those apprentices who are indentured under a program approved by the Maine State Apprenticeship Council. Any employer who wishes to undertake such an apprentice program should write to the Apprenticeship Council, State House, Augusta, for information. Only after the program has been approved by the Council, should the employer apply to the Commissioner of Labor and Industry for authorization to employ apprentices at a subminimum wage.

LEARNERS

Any employer who has a training program for new employees may apply to the Commissioner of Labor and Industry for authorization to employ learners for a specified time at a subminimum wage. Application forms for this purpose may be obtained without charge from the Commissioner upon request.

This provision does not apply to simple orientation of a new worker, but applies to those jobs which require a training period of some length of time.

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