

EMPLOYMENT LAW SUMMARY

Washington: Minimum Wage Laws



Federal minimum wage law is governed by the Fair Labor Standards Act (FLSA). The current federal minimum wage rate is \$7.25 per hour for nonexempt employees. The Washington Minimum Wage Act (WMWA) complements federal law and, in some cases, prescribes more stringent or additional requirements that employers in the state must follow. Whenever both state and federal laws apply, the law that is more favorable to the employee prevails. The [Washington State Department of Labor and Industries](#) (L&I) enforces the WMWA and investigates minimum wage violation claims.

MINIMUM WAGE RATE

Washington updates the state minimum wage rate annually to account for changes in the cost of living. The table below provides information on the state's minimum wage rate. Employers must also be mindful of local laws, ordinances, rules or regulations that require higher minimum wage rates.

Effective date	Jan. 1, 2021	Jan. 1, 2022	Jan. 1, 2023
Washington minimum wage rate	\$13.69	\$14.49	\$15.74
Seattle minimum wage rate	\$16.69 (\$15 *)	\$17.27 (\$15.75 *)	\$18.69 (\$16.50*)

*For 2022, The lower minimum wage rate in Seattle applies to employees who (1) work for small employers (500 or fewer employees) and (2) receive at least \$1.52 per hour in employer contributions toward their medical benefits or earn at least \$1.52 per hour in tips. For 2023, employees who work for small employers must receive at least \$2.19 per hour in employer contributions toward their medical benefits or earn at least \$2.19 per hour in tips..

Seattle Minimum Wage Ordinance

Seattle has an [ordinance](#) that sets a minimum wage rate for individuals who work in the city. While the ordinance affects all employers within Seattle, it applies differently based on employer size. The [Seattle Office of Labor Standards](#) (SOLS), part of the Seattle Office for Civil Rights, enforces compliance with the ordinance.

Employees are covered by the ordinance for each hour they work within the city of Seattle's geographic boundaries. If an employee works in Seattle on an occasional basis only, he or she is covered after working two hours in the city during any two-week period.

However, an individual is exempt from Seattle's minimum wage if he or she:

- Is exempt from the Washington State Minimum Wage Act;
- Performs services under a work-study agreement;
- Works under a special certificate for subminimum wages (the subminimum wage rate will usually be lower than the city wages, but higher than the state rate); or
- Is under the age of 18 (minor workers remain subject to state and federal child labor laws).

POSTING AND RECORDKEEPING

Employers must notify their employees of their rights under the Seattle minimum wage ordinance. The notices must be provided in English, Spanish and any other language commonly spoken by the employees at the workplace. Employers may satisfy these obligations by [posting notices](#) in all workplaces or job sites where any covered employees work.

In addition, employers must maintain payroll records as proof of compliance for each affected employee for up to three years.

PROHIBITED ACTIONS

Employers may not interfere with, restrain or prevent an employee from exercising rights granted by the minimum wage ordinance. These include an employee's rights to:

- File an oral or written complaint with the SOLS about an alleged minimum wage violation;
- Inform an employer, union or labor representative, or legal counsel about an alleged minimum wage violation;
- Cooperate with the SOLS in the investigation of an alleged violation of the minimum wage ordinance;
- Oppose any policy, practice or act that is unlawful under the minimum wage ordinance; and
- Inform other employees of their potential rights.

Similarly, employers may not retaliate or discriminate against employees who exercise their rights under the minimum wage ordinance. Prohibited retaliation or discrimination includes discharging, threatening, harassing, demoting, penalizing or taking any other adverse employment action against an employee solely because he or she has exercised his or her rights in good faith. Reporting, threatening to report or informing an employee of the employer's willingness to report the employee's immigration or citizenship status to the federal government is also considered retaliation.

TIPPED EMPLOYEES

Although federal law allows for a lower minimum wage rate for tipped employees under certain conditions, the WMWA does not consider gratuities as part of an employee's wages. Under the WMWA, employers are responsible for ensuring that their tipped employees receive the applicable minimum wage rate.

Employers that impose an automatic service charge related to food, beverages, entertainment or portage must disclose an itemized receipt showing their customers the percentage of the automatic service charge or tip that will be paid to the employees serving the customers.

SUBMINIMUM WAGE CERTIFICATES

Under the WMWA, employers may obtain a special certificate that allows them to pay less than the minimum wage to certain workers. The L&I sets the duration and conditions for these certificates and will only approve one if it determines that paying a subminimum wage is necessary to afford individuals an opportunity for employment.

Any person affected by an L&I decision on a subminimum wage rate certificate may file a written request for reconsideration within 15 days of the certificate's issuance date.

Workers with Disabilities

State law allows employers to pay employees with disabilities a wages rate lower than the state's minimum wage rate if the employees' earning capacity or productivity is impaired because of age, physical or mental deficiency or injury. Employees with disabilities may receive subminimum wages at a rate that adequately reflect their earning capacity, but generally no less than 75% of the applicable wage rate.

Employers must apply for a certificate from the L&I as an authorization to pay this lower minimum wage rate. However, after July 31, 2023, L&I will no longer issue any new special certificates for subminimum wages for individuals with disabilities. Certificates that have not expired by July 31, 2023 will remain valid until their expiration date.

Learners

A learner is an individual with insufficient experience to be considered proficient in an authorized learner occupation. The WMWA does not define what these occupations may be but it does require the L&I to review the nature of a learner's employment to determine whether a subminimum wage certificate is warranted. If so, a learner may receive wages as low as 85 % of the applicable minimum wage rate.

The L&I will approve a learner certificate if, among other things, there is an inadequate supply of qualified, experienced workers (not caused by a labor issue like a strike or lock-out) and the employer is making reasonable efforts to recruit experienced workers. Learner certificates are valid for the period specified on them, and must be renewed annually. An employer must post a copy of its certificate in a conspicuous place where the learner-employee may see it.

Students

Student-workers and student-learners may receive wages as low as 75% of the minimum wage rate. A student-worker is an individual who works part-time for the institution where he or she receives instruction as a means to defray part of his or her school expenses. A student-learner is an individual receiving instruction in an accredited school, college or university who is employed on a part-time basis in a vocational training or job-training program established by the institution where he or she receives instruction. The program must be approved by the L&I.

Camp Counselors and Staff

Camp counselors and other camp staff are subject to special minimum wage regulations. For example, Washington law requires kitchen helpers, camp cooks and all camp employees, other than counselor staff, to receive a minimum wage rate of at least:

- \$2.00 per hour if they are 18 years of age or older; and
- \$1.75 per hour if they are under 18 years old.

Counselor occupations are subject to the weekly rates shown in the table to the right. These weekly rates do not apply to resident campers under the age of 18 who are part of a training program. Weekly rates for counselors must be prorated on a daily basis when necessary.

In addition, Washington law limits the number of Counselor I and Counselor II workers that an employer may employ in any given week. An employer's counselor personnel may not consist of more than 30% of Counselor I positions, and Counselor I and II rates may not represent more than 80% of the total staff. The L&I may allow exceptions for camps with 40 or fewer campers.

Apprentices

An apprentice is an individual of at least 16 years of age who participates in an apprenticeship program for at least 4,000 hours of scheduled, continuous employment and 144 hours per year of related technical instruction. Employers may receive approval to pay as low as 75 percent of the minimum wage rate to an apprentice if:

- The apprenticeship program has been registered with the L&I;
- The apprenticeship program allows for subminimum wage certificates; and
- The wage rate and other terms and conditions of employment comply with the standards dictated by the Washington state apprenticeship council.

MINIMUM WAGE RATE EXEMPTIONS

The WMWA minimum wage requirements do not apply to:

- American and foreign vessel crew members;
- Bona fide executive, administrative and professional employees;
- Casual labor employees working in or about a private home when labor is performed outside the scope of the employees' trade, business or profession;
- Computer system analysts, programmers, engineers and similarly skilled workers that meet the overtime threshold, and whose primary duty is to apply system analysis techniques and procedures, consult with users or determine, design, develop, document, analyze, create, test or modify hardware, software or system functional specifications;
- Hand harvest laborers who:
 - Are paid on a piece-rate basis, where this rate is customary for the type of work performed;
 - Commute daily from their permanent residence to the farm where they work; and
 - Have been employed in agriculture less than 13 weeks during the preceding calendar year;
- Individuals engaged in forest protection and fire protection activities;
- Individuals who reside at their place of employment or who spend a substantial amount of their time on call and not engaged in the performance of active duties;
- Individuals employed by a charitable institution charged with child care responsibilities, and who are primarily engaged in:

- The development of character or citizenship;
- Promoting health or physical fitness; or
- Sponsoring or providing recreational opportunities or facilities for young people or members of the U.S. armed forces;
- Inmates, residents and patients of correctional, detention, treatment or rehabilitative institutions;
- Newspaper vendors and carriers;
- Outside sales personnel;
- Volunteer employees working for educational, charitable, religious, state or local government or non-profit organizations where an employment relationship does not exist;

WORKPLACE POSTER

Washington no longer requires employers to post a notice with the current minimum wage rate every time the rate is adjusted. However, employers are required to post a [notice](#) advising employees of their employment rights. This poster directs employees to contact the L&I directly for information on the current minimum wage rate. The notice must be displayed in a conspicuous place where employees regularly pass by and can see it.

PENALTIES

Employers that fail to comply with the WMWA can be ordered to cover all unpaid wages and face the possibility of criminal and civil penalties. An agreement between an employer and an employee for wages lower than the minimum wage rate does not exempt employers from liability under the WMWA.

A minimum wage violation can result in gross misdemeanor charges, which are punishable by imprisonment for up to one year, a fine of up to \$5,000 or both. Criminal violations include:

- Discharging or otherwise discriminating against an employee because he or she filed a complaint, instituted an action or otherwise acted as a result of an employer's violation of minimum wage requirements; and
- Hindering, delaying, refusing to cooperate with, falsifying or otherwise interfering with an investigation.

Repeated willful violations expose employers to a fine of at least \$1,000 or 10% of the total amount of unpaid wages, whichever is greater. The maximum fine an employer can pay under these circumstances is \$20,000.

Finally, beginning Jan. 1, 2022, state law will allow employees (except for highly compensated employees) to obtain wage liens against their employers real or personal property for unpaid wages.

MORE INFORMATION

Contact Marsh McLennan Agency for more information on wage payment and work hour laws in Washington.

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