Employment Standards Service
IMPORTANT NOTE

Please note: This document is for informational purposes only. Nothing in this document is to be construed as legal advice and is not to be used as a substitute for the advice of legal counsel. Please consult an attorney or other tax professional for advice concerning compliance with federal and state employment laws.
Minimum Wage Rates

$8.75 per hour

$10.75 per hour

Montgomery and Prince George’s County
Minimum Wage Rates

Increase Effective July 1, 2017

$9.25 per hour
State

$11.50 per hour
Montgomery County
Minimum Wage:

Who is Exempt?

• Employees age 18 and under working under 20 hours per week are exempt from this rate.

• Employees under 20 years of age: must earn at least 85% of the State Minimum Wage Rate for the first 6 months of employment.
Minimum Wage Rates:

**Tipped Employees**

<table>
<thead>
<tr>
<th>Maryland:</th>
<th>PG County:</th>
<th>Montgomery County:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 8.75</td>
<td>$10.75</td>
<td>$10.75</td>
</tr>
<tr>
<td>- $ 3.63</td>
<td>- $ 3.63</td>
<td>- $ 4.00</td>
</tr>
<tr>
<td>$ 5.12</td>
<td>$ 7.12</td>
<td>$ 6.75</td>
</tr>
</tbody>
</table>

- **Tipped employees** must earn the required minimum wage rate per hour.
- **Employers** must pay at least $3.63 per hour. **Montgomery County workers only** – employers must pay at least $4.00 per hour. This amount PLUS tips must equal at least the required Minimum Wage Rate.
Minimum Wage Rates: Amusement and Recreational Establishments

Amusement and recreational Establishments who meet certain requirements must pay employees at least 85% of the State Minimum Wage Rate or $7.25, whichever is higher.
Overtime

Most employees must be paid 1.5 times their usual hourly rate for all work over 40 hrs. per week.
Overtime Exceptions

• Employees of bowling establishments

• Institutions providing on-premise care to the sick, elderly or individuals with disabilities (other than hospitals) for all work over 48 hours per week

• Agricultural workers who work over 60 hours per week
Exemption Types

- Wage rate (minimum wage) only exemption
- Overtime only exemption
- Wage rate and overtime exemption
Exemption Categories

- Agricultural Related
- Social Services Related
- Experience Related
- Sale of Food and Drink Related
- Amusement & Recreation Related
- Federal Transportation Law Related
- Miscellaneous Exemptions
# Agricultural Related Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemption</th>
<th>Overtime Only Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employers engaged in canning, freezing, packing, or first processing of perishable produce, poultry, or seafood</td>
<td>Overtime after 60 hours worked per week for workers exempt from FLSA but not MD Wage and Hour Law</td>
</tr>
<tr>
<td>Agricultural workers whose employer used ( \leq 500 ) agricultural-worker days per quarter in the previous year</td>
<td></td>
</tr>
<tr>
<td>Employees engaged in the range production of livestock</td>
<td></td>
</tr>
</tbody>
</table>
| Hand-harvest Laborers, if:  
  • Commutes from their permanent residence and worked \(<13 \) weeks in agriculture last year  
  • \(<17 \) years old, works on the same farm as their guardian, and earns as much as someone at least \(17 \) years old |  |
# Social Services Related Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemptions</th>
<th>Wage Rate Only Exemptions</th>
<th>Overtime Only Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees part of the training in a public school system special education program</td>
<td>Work activity centers and sheltered workshops granted a certificate by U.S. DOL or DLLR</td>
<td>Overtime after 48 hours worked per week for employees of residential care facilities (not hospitals)</td>
</tr>
<tr>
<td>Volunteers in a charitable, educational, non-profit or religious organization where no employer-employee relationship exists</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# Experience Related Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemptions</th>
<th>Wage Rate Only Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers &lt;16 years old who work ≤20 hours per week</td>
<td>Workers &lt;20 years old may be paid 85% of the minimum wage (or at least $7.25) for the 1st six months of employment</td>
</tr>
<tr>
<td></td>
<td>Workers employed under a Training Wage</td>
</tr>
<tr>
<td></td>
<td>• No Training Wage has been adopted by regulation. This exemption can not be used by an employer</td>
</tr>
</tbody>
</table>
# Food and Drink Sales Related Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemptions</th>
<th>Wage Rate Only Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cafés, drive-ins, drugstores, restaurants, taverns, other establishments with an annual gross income $\leq 400,000 that sells food and drink for consumption on the premises</td>
<td>Employers may apply a tip credit to employees who regularly earn $&gt;30 in tips per month</td>
</tr>
</tbody>
</table>
## Amusement and Recreational Related Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemptions</th>
<th>Overtime Only Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drive-In Theaters</td>
<td>Bowling Establishments – overtime calculated after 48 hours worked per week</td>
</tr>
<tr>
<td>Non-administrative workers at an organized camp</td>
<td>Nonprofit concert promoters, legitimate theaters, music pavilions, and theatrical shows</td>
</tr>
</tbody>
</table>
| Amusement & Recreational establishments can pay 85% of the minimum wage (or at least $7.25) and do not have to pay overtime, if:  
  - operating ≤7 months per year  
  OR  
  - during 6 months of the previous year at least 2/3 of the average receipts were received |
Federal Transportation Law
Overtime Exemption

### Overtime Only Exemptions

<table>
<thead>
<tr>
<th>Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees subject to 49 U.S.C. §10501 (Rail Transportation)</td>
</tr>
<tr>
<td>Employees subject to 49 U.S.C. §31502 who the U.S. DOT Secretary sets qualifications and maximum hours</td>
</tr>
</tbody>
</table>

Unless a collective bargaining agreement says otherwise, employees subject to the federal Railway Labor Act who voluntarily agree to trade schedules with another employee and as a result work more than 40 hours in a single workweek.
## Miscellaneous Minimum Wage and Overtime Exemptions

<table>
<thead>
<tr>
<th>Wage Rate and Overtime Exemptions</th>
<th>Overtime Only Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate family members of the employer</td>
<td>Taxicab drivers</td>
</tr>
<tr>
<td>Administrative, Executive, and Professional workers</td>
<td>Mechanics, parts-persons, and salespersons, selling or servicing automobiles, farm equipment, trailers, or trucks for an employer who primarily sells such items</td>
</tr>
<tr>
<td>Commission-based workers</td>
<td></td>
</tr>
<tr>
<td>Outside salesman</td>
<td></td>
</tr>
</tbody>
</table>
Salaried Employees Overtime Exemption

The following types of salaried employees are generally exempt from receiving overtime:

• Executive

• Administrative

• Professional
“Executive”
Salaried Employees

Executive:

- Earns a salary ≥ $455 per week
- Primary duty is management of the enterprise or of a recognized department or subdivision
- Regularly directs the work of two or more other employees
- Authority to hire or fire other employees or whose personnel suggestions and recommendations are given particular weight.
Administrative:

- Earns a salary \( \geq \$455 \) per week
- Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers includes the exercise of discretion and independent judgment with respect to matters of significance.
“Professional”
Salaried Employees

Professional:

– Earns a salary ≥ $455 per week
– Primary duty is the performance of work:
  • Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or
  • Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.
ESS Trivia
Question:

Is an employer required to pay an employee for reporting to work 15 minutes early every day?

Answer:

Any time an employer requires an employee to be at work is compensable time, whether or not the employee is officially "on the clock".
Question:

How often must an employee be paid?

Answer:

Employees in Maryland must be paid at least once every two weeks or twice in a month. However, Executive, Professional and Administrative employees may be paid less frequently.
Question:

When a payday falls on a non-work day (weekend, holiday, etc.), when must an employee be paid?

Answer:

If payday falls on a non—working day such as a weekend or holiday, wages must be paid on the preceding workday.
Question:
When should an employee receive their final pay?

Answer:
Each employer shall pay an employee, or the authorized representative of an employee, all wages due for work that the employee performed before the termination of employment, on or before the day on which the employee would have been paid the wages if the employment had not terminated.
Question:
Are employers allowed to change an employee’s rate of pay?

Answer:
An employer may lower the pay of an employee at any time following one full pay period advance notice. Prior notice of a pay increase is not required.
Question:

Are employers allowed to change an employee’s work hours?

Answer:

An employer may shorten or lengthen an employee's work hours, or change the shift or times for employment, at any time at the employer's discretion.
Is an employer required to pay an employee unused vacation and/or sick leave upon separation?

Answer:

The answer to this question depends on the employer's written policy, and whether this policy was communicated to the employee.
Work, whether satisfactory or not, must be awarded compensation. Wage deductions are extraordinary, and are prohibited unless:

1. A court has ordered or allowed the employer to make the deduction.
2. The Commissioner of the Maryland Division of Labor and Industry has allowed the deduction to offset or "pay for" something of value the employee has received.
3. Allowed by some law or regulation of the government.
4. The employee has given express written authorization to the employer to make the deduction. This should take the form of a separate and distinct statement, signed by the employee, concerning only the deduction and nothing more. Finally, an authorized deduction may be invalid if it violates or is inconsistent with other federal or state laws or regulations.
Question:
Are employers required to offer benefits (vacation, holiday pay, comp time, sick leave, severance pay, bonuses)?

Answer:
Maryland law does not require the award of benefits. The right to claim benefits only arises through a prior agreement of the parties or practices.
Question:
Can an employer require an employee to work holidays, overtime, night-shift or perform extra duties or different duties?

Answer:
In the absence of a specific contract of employment limiting such action, an employer may require an employee to work overtime, to work on holidays, to work at night, or to perform extra or different duties than the employee was originally hired to perform.
Question:
Are employers allowed to pay compensatory time in lieu of overtime?

Answer:
Employers may not pay compensatory time in lieu of overtime when overtime is required by law.
Question:

How long must an employer maintain employee records?

Answer:

Employers must maintain records for three years.
Employment of Minors Law

LABOR AND EMPLOYMENT ARTICLE
TITLE 3, SUBTITLE 2
ANNOTATED CODE OF MARYLAND
Employment of Minors

The policy of the State of Maryland is to encourage the development of minors by allowing them to engage in occupations that prepare them for responsible citizenship, yet protect them from occupations that will be injurious to their mental, moral or physical welfare. The Employment of Minors Law regulates employment for persons who are under the age of 18.

The law includes required hours of employment and it also prohibits the employment of minors in certain occupations. All minors 14–17 must also have a completed Maryland Minor Work permit prior to performing any work for an employer.
Employment of Minors:

- ALL minors may not be employed or permitted to work more than five hours continuously without a non-working period of at least ½ hour.

- A minor of any age may not be employed to transfer monetary funds in any amount over $100.00 between 8a.m. and 8p.m. unless that minor is the child of the owner or operator of the business. Or if the funds have been received in payment of goods or services delivered by the minor.
Employment of Minors:

Hours of Employment (Minors 14-15)

Minors 14-15:

- Four (4) hours on any day when school is in session.
- Eight (8) hours on any day when school is not in session.
- 23 hours in any week when school is in session for five days.
- 40 hours in any week when school is not in session.
- May only work between the hours of 7:00 a.m. and 8:00 p.m.
- May work until 9:00 p.m. from Memorial Day until Labor day.
- The hours worked by a minor enrolled in a bona fide work-study or student learner program when school is normally in session may not be counted towards the permissible hours of work prescribed.
Employment of Minors:  
*Non-Permissible Areas of Employment (Minors 14-15)*

- Manufacturing, mechanical or processing occupations including occupations in workrooms, workplaces or storage areas where goods are manufactured or processed.

- Operation, cleaning or adjusting of any power-driven machinery other than office machines.

- Occupations in, about or in connection with (except office or sales work not performed on site):  
  - Scaffolding
  - Acids
  - Construction
  - Dyes
  - Brickyard
  - Gases
  - Lumberyard
  - Lye
  - Airports
  - Railroads
  - Occupations causing dust or gases in injurious quantities
  - Boats engaged in navigation or commerce
  - Any occupation deemed injurious by the Commissioner after investigation.
Employment of Minors:

*Hours of Employment (Minors 16-17)*

- May not spend more than 12 hours in a combination of school hours and work hours each day.
- Must be allowed at least eight (8) consecutive hours of non-work, non-school time in each 24 hour period.
For a list of non-permissible occupations for all minors, please refer to the Minors Fact Sheet that will be available after this presentation.
Employment of Minors: Work Permit Process

The Work Permit process may be completed on-line.

- Minor completes work permit.
- Minor signs the work permit.
- Parent signs the Work permit.
- Permit is then forwarded to the Employer for signature and retention.
- When all of the appropriate parties have signed the work permit, the process is complete and the minor is ready to work!
Maryland Leave Laws
Adoption Leave

Employers who provide leave with pay to an employee following the birth of the employee’s child shall provide the same leave with pay to an employee when a child is placed with the employee for adoption.
Maryland Leave Laws:

Deployment Leave

Authorizes leave from work on the day that an immediate family member, which includes a spouse, parent, step-parent, child, step-child or sibling of the employee is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States.
Maryland Leave Laws: Deployment Leave Individuals Covered

Applicable to individuals of employers:

• With 50 or more employees;
• who work full-time or part-time; and,
• who have worked for the employer for the last 12 months, and has worked at least 1,250 hours during the last 12 months.
Maryland Leave Laws:
*Deployment Leave Requirements*

- An employer may not require an employee to use compensatory, sick, or vacation leave when taking leave under this section.

- An employer may require an employee requesting leave under this section to submit proof to the employer verifying that the leave is being taken.
Flexible Leave Act (FLA)

Authorizes employees of employers with 15 or more individuals to use "leave with pay" for an illness in the employee's immediate family - a child, spouse or parent. The Flexible Leave Act prohibits an employer from discharging, demoting, suspending, disciplining or otherwise discriminating against an employee or threatening to take any of these actions against an employee who exercises rights under this law.

The FLA does not affect leave granted under the Federal Family and Medical Leave Act of 1993 (FMLA).
Maryland Leave Laws:  
**Flexible Leave Act**

*What is Leave with Pay?:*
Leave with pay is considered time away from work for which an employee is paid and includes sick leave, vacation time, and compensatory time.

*When can Leave with Pay be used?:*
An employee may only use leave with pay that has been earned and employees who earn more than one type of leave with pay may elect the type and amount of leave to use.

*Requirements:*
An employee who uses leave with pay under this law is required to comply with the terms of any collective bargaining agreement or employment policy.
Maryland Healthy Retail Employee Act (Shift Break Law)
Shift Break Law

Who is covered under the Shift Break Law?

Employees who work in certain retail establishments are entitled to a non-working shift break depending upon the number of hours worked. However, certain employees are exempt.
## Shift Break Law:  
### Break Requirements

**Break Requirements Per Hours Worked:**

<table>
<thead>
<tr>
<th>Employee Works:</th>
<th>Break Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 4 but 6 or less consecutive hours</td>
<td>None</td>
</tr>
<tr>
<td>4 to 6 consecutive hours</td>
<td>15 minute break*</td>
</tr>
<tr>
<td>More than 6 consecutive hours</td>
<td>30 minute break</td>
</tr>
<tr>
<td>8 or more consecutive hours</td>
<td>30 minute break plus a 15 minute break for every additional 4 consecutive hours.**</td>
</tr>
</tbody>
</table>
Question:

What is considered a retail establishment?

Answer:

A retail establishment is an employer whose primary purpose is to sell goods to a consumer with the consumer present in the retail establishment at the time of sale, and does not include restaurants or wholesalers.
Question:

What is a working shift break and is it allowed?

Answer:

Any employer can provide a "working shift break" in the following circumstances:
- the type of work prevents the employee from being relieved of work; or;
- the employee is permitted to consume a meal while working, the employee is paid for this time, and the employer and the employee mutually agree in writing to the working shift break.
Question:

What retail employees are exempt from the shift break law?

Answer:

- Employees covered by a collective bargaining agreement or other employment policy that provides for shift breaks of equal or greater duration to those required by this law;
- Employees exempt from the overtime pay requirements of the Fair Labor Standards Act (FLSA);
- Commissioned sales employees of retail or service establishments;
- Employees of the state, or a county or municipality within the state;
- Employees who work in a corporate office or other office location; and,
- Employees who work at a single location with five or fewer employees.
Question:

What retail employers does the shift break law apply to?

Answer:

This law applies only to employers who are engaged in a retail business or retail franchise with the same trade name with 50 or more retail employees for each working day in the last 20 or more calendar weeks.
Question:

Is compensation required for break time?

Answer:

This Maryland law does not address whether an employee is paid during their break time.
Question:

Are employers required to keep records of breaks taken?

Answer:

Yes. Employers are already required to maintain records of the times and hours worked. In addition to this existing requirement, employers will need to keep records documenting employee breaks. This is necessary to ensure compliance with the law.
Contact Information:

For additional information, contact:

The Division of Labor and Industry
Employment Standards Service
(410) 767-2357

Email: DLDLIEmploymentStandards-DLLR@maryland.gov

www.dllr.state.md.us/labor/wages
For information regarding our outreach workshops, free classes and seminars and speaker requests covering employment standards, prevailing wage, worker classification or Maryland Occupational Safety and Health, please contact:

Melissa Myer, Outreach Coordinator
(410) 767-2182
Email: Melissa.myer1@maryland.gov
Poster Requirements
State & Federal

http://www.dllr.state.md.us/oeope/poster.shtml