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Division of Labor Standards

Overview of New York State's Labor Laws



Deductions from Wages

Section 193 of the New York State Labor Law

§ 193. Deductions from wages.

1. No employer shall make any deduction from the wages of an employee, except deductions which:

- a) are made in accordance with the provisions of any law or any rule or regulation issued by any governmental agency including regulations promulgated under paragraph c and paragraph d of this subdivision; or
- b) are expressly authorized in writing by the employee and are for the benefit of the employee, provided that such authorization is voluntary and only given following receipt by the employee of written notice of all terms and conditions of the payment and/or its benefits and the details of the manner in which deductions will be made. Whenever there is a substantial change in the terms or conditions of the payment, including but not limited to, any change in the amount of the deduction, or a substantial change in the benefits of the deduction or the details in the manner in which deductions shall be made, the employer shall, as soon as practicable, but in each case before any increased deduction is made on the employee's behalf, notify the employee prior to the implementation of the change. Such authorization shall be kept on file on the employer's premises for the period during which the employee is employed by the employer and for six years after such employment ends. Notwithstanding the foregoing, employee authorization for deductions under this section may also be provided to the employer pursuant to the terms of a collective bargaining agreement. Such authorized deductions shall be limited to payments for:
 - (i) insurance premiums and prepaid legal plans;
 - (ii) pension or health and welfare benefits;
 - (iii) contributions to a bona fide charitable organization;
 - (iv) purchases made at events sponsored by a bona fide charitable organization affiliated with the employer where at least twenty percent of the profits from such event are being contributed to a bona fide charitable organization;
 - (v) United States bonds;
 - (vi) dues or assessments to a labor organization;
 - (vii) discounted parking or discounted passes, tokens, fare cards, vouchers, or other items that entitle the employee to use mass transit;
 - (viii) fitness center, health club, and/or gym membership dues;
 - (ix) cafeteria and vending machine purchases made at the employer's place of business and purchases made at gift shops operated by the employer, where the employer is a hospital, college, or university;
 - (x) pharmacy purchases made at the employer's place of business;
 - (xi) tuition, room, board, and fees for pre-school, nursery, primary, secondary, and/or post-secondary educational institutions;
 - (xii) day care, before-school and after-school care expenses;
 - (xiii) payments for housing provided at no more than market rates by non-profit hospitals or affiliates thereof; and
 - (xiv) similar payments for the benefit of the employee.

- c) are related to recovery of an overpayment of wages where such overpayment is due to a mathematical or other clerical error by the employer. In making such recoveries, the employer shall comply with regulations promulgated by the commissioner for this purpose, which regulations shall include, but not be limited to, provisions governing: the size of overpayments that may be covered by this section; the timing, frequency, duration, and method of such recovery; limitations on the periodic amount of such recovery; a requirement that notice be provided to the employee prior to the commencement of such recovery; a requirement that the employer implement a procedure for disputing the amount of such overpayment or seeking to delay commencement of such recovery; the terms and content of such a procedure and a requirement that notice of the procedure for disputing the overpayment or seeking to delay commencement of such recovery be provided to the employee prior to the commencement of such recovery.
 - d) repayment of advances of salary or wages made by the employer to the employee. Deductions to cover such repayments shall be made in accordance with regulations promulgated by the commissioner for this purpose, which regulations shall include, but not be limited to, provisions governing: the timing, frequency, duration, and method of such repayment; limitations on the periodic amount of such repayment; a requirement that notice be provided to the employee prior to the commencement of such repayment; a requirement that the employer implement a procedure for disputing the amount of such repayment or seeking to delay commencement of such repayment; the terms and content of such a procedure and a requirement that notice of the procedure for disputing the repayment or seeking to delay commencement of such repayment be provided to the employee at the time the loan is made.
2. Deductions made in conjunction with an employer sponsored pre-tax contribution plan approved by the IRS or other local taxing authority, including those falling within one or more of the categories set forth in paragraph b of subdivision one of this section, shall be considered to have been made in accordance with paragraph a of subdivision one of this section.
3. a. No employer shall make any charge against wages, or require an employee to make any payment by separate transaction unless such charge or payment is permitted as a deduction from wages under the provisions of subdivision one of this section or is permitted or required under any provision of a current collective bargaining agreement.
 - b. Notwithstanding the existence of employee authorization to make deductions in accordance with subparagraphs (iv), (ix), and (x) of paragraph b of subdivision one of this section and deductions determined by the commissioner to be similar to such deductions in accordance with subparagraph (xiv) of paragraph b of subdivision one of this section, the total aggregate amount of such deductions for each pay period shall be subject to the following limitations: (i) such aggregate amount shall not exceed a maximum aggregate limit established by the employer for each pay period; (ii) such aggregate amount shall not exceed a maximum aggregate limit established by the employee, which limit may be any amount (in ten dollar increments) up to the maximum amount established by the employer under subparagraph (i) of this paragraph; (iii) the employer shall not permit any purchases within these categories of deduction by the employee that exceed the aggregate limit established by the employee or, if no limit has been set by the employee, the limit set by the employer; (iv) the employee shall have access within the workplace to current account information detailing individual expenditures within these categories of deduction and a running total of the amount that will be deducted from the employee's pay during the next applicable pay period. Information shall be available in printed form or capable of being printed should the employee wish to obtain a listing. No employee may be charged any fee, directly or indirectly, for access to, or printing of, such account information.
 - c. With the exception of wage deductions required or authorized in a current existing collective bargaining agreement, an employee's authorization for any and all wage deductions may be revoked in writing at any time. The employer must cease the wage deduction for which the employee has revoked authorization as soon as practicable, and, in no event more than four pay periods or eight weeks after the authorization has been withdrawn, whichever is sooner.
4. Nothing in this section shall justify noncompliance with article three-A of the personal property law relating to assignment of earnings, with section two hundred twenty-one of this chapter relating to company stores or with any other law applicable to deductions from wages.
5. There is no exception to liability under this section for the unauthorized failure to pay wages, benefits or wage supplements.

For more information, call or write the nearest office of the Division of Labor Standards:

Albany District
1220 Washington Ave.
Building 12 Room 185A
Albany, NY 12226
(518) 457-2730

Buffalo District
295 Main Street
Suite 914
Buffalo, NY 14203
(716) 847-7141

Garden City District
400 Oak Street
Suite 102
Garden City, NY 11530
(516) 794-8195

Syracuse District
333 East Washington St.
Room 121
Syracuse, NY 13202
(315) 428-4057

Bronx District
55 Hansen Place
11th Floor
Brooklyn, NY 11217
(212) 775-3719

New York City District
55 Hansen Place
11th Floor
Brooklyn, NY 11217
(212) 775-3880

Rochester District
276 Waring Road
Room 104
Rochester, NY 14609
(585) 258-4550

White Plains District
120 Bloomingdale Road
White Plains, NY 10605
(914) 997-9521

Division of Labor Standards
1220 Washington Ave.
Building 12
Albany, NY 12226

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Tip Appropriation

Section 196-d of the New York State Labor Law

Section 196-d. Gratuities. No employer or his agent or an officer or agent of any corporation, or any other person shall demand or accept, directly or indirectly, any part of the gratuities, received by an employee, or retain any part of a gratuity or of any charge purported to be a gratuity for an employee. This provision shall not apply to the checking of hats, coats or other apparel. Nothing in this subdivision shall be construed as affecting the allowances from the minimum wage for gratuities in the amount determined in accordance with the provisions of article nineteen of this chapter nor as affecting practices in connection with banquets and other special functions where a fixed percentage of the patron's bill is added for gratuities which are distributed to employees, nor to the sharing of tips by a waiter with a busboy or similar employee.

For more information, call or write the nearest office of the Division of Labor Standards, of the New York State Department of Labor, listed below:

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White Plains, NY 10605
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Fringe Benefits

Section 198c of the New York State Labor Law

Section 198c. Benefits or wage supplements.

1. In addition to any other penalty or punishment otherwise prescribed by law, any employer who is party to an agreement to pay or provide benefits or wage supplements to employees or to a third party or fund for the benefit of employees and who fails, neglects or refuses to pay the amount or amounts necessary to provide such benefits or furnish such supplements within thirty days after such payments are required to be made, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section on hundred ninety-eight-a of this article. Where such employer is a corporation, the president, secretary, treasurer or officers exercising corresponding functions shall each be guilty of a misdemeanor.
2. As used in this section, the term "benefits or wage supplements" includes, but is not limited to, reimbursement for expenses; health, welfare and retirement benefits; and vacation, separation or holiday pay.
3. This section shall not apply to any person in a bona fide executive, administrative, or professional capacity whose earnings are in excess of nine hundred dollars a week.

For more information, write or call the nearest office of the Division of Labor Standards, New York State Department of Labor, listed below:

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Guidelines for Employers: Requirements to Notify Employees About Time Off and Work Hours

Section 195.5 of the New York State Labor Law effective December 12, 1981 provides as follows:

"Every employer shall notify his employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours."

To assist employers in complying with this provision, the Division of Labor Standards has issued the following guidelines:

1. An employer shall distribute in writing to each employee, the employer's policy on the above- enumerated items. The employer upon the request of the Department must be able to affirmatively demonstrate that such written notification was provided to employees by means, which may include, but not be limited to, distribution through company newspapers or newsletters or by inclusion in a company payroll.

Or

An employer shall post and keep posted in each establishment in a conspicuous place where notices to employees are customarily posted, a notice that states where on the employer's premises they may see such information in writing. Such information may be contained in a union contract, employee handbook, personnel manual, or in other written form. Deviations for an employee from such stated policy must be given to said employee in writing.

2. As used in the provision above, "hours" means the hours which constitute a standard workday and workweek for the establishment, and any other regular schedule, such as for part-time employees. Deviations should be given to the affected employee in writing.

For more information, call or write the nearest office of the Division of Labor Standards, of the New York State Department of Labor, listed below:

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Employment Posters Information

In response to your request for required employment posters, we are pleased to send the following, which are within the jurisdiction of the Division of Labor Standards and are mandated by New York State Labor Law:

- Minimum Wage Poster**
- Working Hours for Minors:** Prepare and conspicuously display your own notice showing the daily starting and ending times, including meal periods, for every day each minor is scheduled to work. A copy of "Permitted Working Hours for Minors Under 18 Years of Age" (LS-171) is enclosed.
- Notice of Fringe Benefits and Hours Posting:** Either prepare and conspicuously display your own notice delineating your company's policy concerning fringe benefits and working hours or distribute a copy of your policy to each employee. "Notice Requirements for Fringe Benefits and Hours" (LS-606) is enclosed.
- Prohibited Wage Deductions and Tip Appropriation Posting:** Employers engaged in the sale or service of food or beverages are required to post a copy of Labor Law Sections 193 (prohibited deductions from wages) and 196-d (appropriation of tips). A copy of each Section is enclosed.

For additional information or assistance, contact any of the Division of Labor Standards offices listed on the reverse side.

Other Posters

These required posters are available from the New York State Department of Labor Unemployment Insurance Division and other agencies:

Unemployment Insurance Poster: Issued by the New York State Department of Labor, Unemployment Insurance Division, Registration Section, 1220 Washington Ave., Bldg. 12, Room 363, Albany, NY 12226, (518) 485-8589, following your registration.

Workers Compensation and Disability Benefits Posters: Obtain from your insurance carrier.

Human Rights Poster (Anti-Discrimination Laws): Obtain from the New York State Division of Human Rights, Public Information, 1 Fordham Plaza, 4th Floor, Bronx, NY 10458, (718) 741-8400.

Federal Posters: Obtain from the United States Department of Labor and the Equal Opportunity Commission. To locate the offices nearest you, consult the blue pages of your telephone directory under, "United States Government Offices."

District Offices:

Albany District

1220 Washington Ave.
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Division of Labor Standards

www.labor.ny.gov

One Day Rest in Seven Section 161 of The New York State Labor Law

Section 161. One day rest in seven.

1. Every employer operating a factory, mercantile establishment, hotel, restaurant, or freight or passenger elevator in any building or place shall, except as herein otherwise provided, allow every person employed in such establishment or in the care, custody or operation of any such elevator, at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which motion pictures are shown shall allow the projectionist or operator of the motion picture machine and engineers and firemen therein at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which legitimate theatre productions such as dramatic and musical productions are shown or exhibited shall allow all employees, including the performers in the cast therein and engineers and firemen, at least twenty-four consecutive hours of rest in each and every calendar week, but this shall not apply to any place wherein motion pictures, vaudeville or incidental stage presentations or a combination thereof are regularly given throughout the week as the established policy of such place; except that engineers and firemen employed in such place shall be allowed at least twenty-four consecutive hours of rest in any calendar week. No employer shall operate such establishment, place or elevator on Sunday unless he shall comply with subdivision three. This section does not authorize any work on Sunday not permitted now or hereafter by law.

Every owner, lessee and operator of a dwelling, apartment, loft and office building, garage, storage place and building, wherein or whereat a watchman or watchmen or engineer or fireman are employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every owner, lessee or operator of a warehouse, storagehouse, office, dwelling, apartment, loft and any other building or structure wherein a janitor, superintendent, supervisor or manager or engineer or fireman is employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every person employed as a domestic worker as defined in subdivision sixteen of section two of this chapter, shall be allowed at least twenty-four consecutive hours of rest in each and every calendar week. No provision of this paragraph shall prohibit a domestic worker from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the worker is compensated at the overtime rate for all hours worked on such day of rest. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship. In addition, after one year of work with the same employer a domestic worker shall be entitled to at least three days of rest in each calendar year at the regular rate of compensation.

Every person employed as a farm laborer shall be allowed at least twenty-four consecutive hours of rest in each and every calendar week. This requirement shall not apply to the parent, child, spouse or other member of the employer's immediate family. Twenty-four consecutive hours spent at rest because of circumstances, such as weather or crop conditions, shall be deemed to constitute the rest required by this paragraph. No provision of this paragraph shall prohibit a farm laborer from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the farm laborer is compensated at an overtime rate which is at least one and one-half times the laborer's regular rate of pay for all hours worked on such day of rest. The term "farm labor" shall include all services performed in agricultural employment in connection with cultivating the soil, or in connection with raising or harvesting of agricultural commodities, including the raising, shearing, caring for and management of livestock, poultry or dairy. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the farm laborer for religious worship.

2. This section shall not apply to:

- a. Foreman in charge;
- b. Employees in milk condenseries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed;
- c. Employees, if the board in its discretion approves, engaged in an industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day;
- d. Employees whose duties include not more than three hour's work on Sunday in setting sponges in bakeries, maintaining fires, or making necessary repairs to boilers or machinery.
- e. Employees in resort or seasonal hotels and restaurants in rural communities and in cities and villages having a population of less than fifteen thousand inhabitants, excluding that portion of the population of a third class city residing outside of its corporation tax district where such city embraces the entire area of a former township. As used in this subdivision, the term "resort" shall apply to any establishment enumerated herein which operates for not more than four calendar months and fifteen days in each year, and the term "seasonal" shall apply to any establishment enumerated herein in which the number of employees is increased by at least one hundred percent from the slack to the busiest season.
- f. Employees in dry dock plants engaged in making repairs to ships.

3. Before operating on Sunday, every employer shall designate a day of rest, consisting of at least twenty-four consecutive hours of rest in each and every calendar week for each employee, and shall notify each employee in advance of his or her designated day of rest. No employee shall be permitted to work on his designated day of rest.

4. Every employer shall keep a time book showing the names and addresses of his employees and the hours worked by each of them in each day.

5. If there shall be practical difficulties or unnecessary hardship in carrying out the provisions of this section or the rules promulgated hereunder, the commissioner may make a variation therefrom if the spirit of the act be observed and substantial justice done. Such variation shall describe the conditions under which it shall be permitted and shall apply to substantially similar conditions. A properly indexed record of variations shall be kept by the department.

6. In case of violation of any of the provisions of this section, the commissioner shall issue an order directing compliance therewith, and upon failure so to comply shall commence a prosecution as provided by law.

Inquiries may be addressed or telephone calls may be made to the nearest office of the Division of Labor Standards of the New York State Department of Labor listed below:

Albany District
1220 Washington Ave.
Bldg. 12 Room 185A
Albany, NY 12226
(518) 457-2730

White Plains District
120 Bloomingdale Rd
White Plains, NY 10605
(914) 997-9521

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290 Main Street
Room 226
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Division of Labor Standards

Guidelines for Meal Periods

Section 162 of the New York State Labor Law provides as follows:

Time allowed for meals

1. Every person employed in or in connection with a factory shall be allowed at least sixty minutes for the noonday meal.
2. Every person employed in or in connection with a mercantile or other establishment or occupation coming under the provisions of this chapter shall be allowed at least thirty minutes for the noonday meal, except as in this chapter otherwise provided. The noonday meal period is recognized as extending from eleven o'clock in the morning to two o'clock in the afternoon. An employee who works a shift of more than six hours, which extends over the noonday meal period, is entitled to at least thirty minutes off within that period for the meal period.
3. Every person employed for a period or shift starting before eleven o'clock in the morning and continuing later than seven o'clock in the evening shall be allowed an additional meal period of at least twenty minutes between five and seven o'clock in the evening.
4. Every person employed for a period or shift of more than six hours starting between the hours of one o'clock in the afternoon and six o'clock in the morning, shall be allowed at least sixty minutes for a meal period when employed in or in connection with a factory, and forty-five minutes for a meal period when employed in or in connection with a mercantile or other establishment or occupation coming under the provision of this chapter, at a time midway between the beginning and end of such employment.
5. The commissioner may permit a shorter time to be fixed for meal periods than hereinbefore provided. The permit therefore shall be in writing and shall be kept conspicuously posted in the main entrance of the establishment. Such permit may be revoked at any time.

In administering this statute, the Department applies the following interpretations and guidelines:

Employee Coverage:

Section 162 applies to every "person" in any establishment or occupation covered by the Labor Law. Accordingly, all categories of workers are covered, including white-collar management staff.

Shorter Meal Periods:

The Department will permit a shorter meal period of not less than 30 minutes as a matter of course, without application by the employer, so long as there is no indication of hardship to employees. A meal period of not less than 20 minutes will be permitted only in special or unusual cases after investigation and issuance of a special permit.

One Employee Shift:

In some instances where only one person is on duty or is the only one in a specific occupation, it is customary for the employee to eat on the job without being relieved. The Department of Labor will accept these special situations as compliance with Section 162 where the employee voluntarily consents to the arrangements. However, an uninterrupted meal period must be afforded to every employee who requests this from an employer.

Not all possible meal period questions can be anticipated and, therefore, these "Guidelines" may not cover all situations that might arise. For additional information or assistance, contact any of the Division of Labor Standards offices listed below:

Albany District
1220 Washington Ave.
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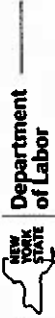
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**Summary of New York State Child Labor Law,
Permitted Working Hours for Minors Under 18 Years of Age**

Age of Minor Girls and Boys	Industry or Occupation	Maximum			Permitted Hours
		Daily Hours	Weekly Hours	Days per Week	
Attending School, When school is in session:	14 and 15 All occupations except farm work, newspaper carrier and street trades.	3 hours on school days. 8 hours on other days.	18 ¹	6	7 AM to 7 PM
	16 and 17 All occupations except farm work, newspaper carrier and street trades.	4 hours on days preceding school days: Monday, Tuesday, Wednesday, Thursday ² . 8 hours on: Friday, Saturday, Sunday and Holidays. ⁴	28 ⁴	6 ⁴	6 AM to 10 PM ³
Attending School, When school is not in session (vacation):	14 and 15 All occupations except farm work, newspaper carrier and street trades.	8 hours	40	6	7 AM to 9 PM June 21 to Labor Day
	16 and 17 All occupations except farm work, newspaper carrier and street trades.	8 hours ⁴	48 ⁴	6 ⁴	6 AM to Midnight ⁴
Not Attending School:	16 and 17 All occupations except farm work, newspaper carrier and street trades.	8 hours ⁴	48 ⁴	6 ⁴	6 AM to Midnight ⁴
Farm Work:	12 and 13 Hand harvest of berries, fruits and vegetables.	4 hours	-----	-----	June 21 to Labor Day, 7 AM to 7 PM.
	14 to 18 Any farm work	-----	-----	-----	Day after Labor Day to June 20, 9 AM to 4 PM. -----
Newspaper Carriers:	Delivers, or sells and delivers newspapers, shopping papers or periodicals to homes or business places.	4 hours on school days. 5 hours on other days.	-----	-----	5 AM to 7 PM or 30 minutes prior to sunset, whichever is later
	11 to 18 Self-employed work in public places selling newspapers or work as a bootblack	4 hours on school days. 5 hours on other days.	-----	-----	6 AM to 7 PM

¹ Students 14 and 15 enrolled in an approved work/study program may work 3 hours on a school day, 23 hours in any one-week when school is in session.
² Students 16 and 17 enrolled in an approved Cooperative Education Program may work up to 6 hours on a day preceding a school day other than a Sunday or Holiday when school is in session, as long as the hours are in conjunction with the Program.
³ 6 AM to 10 PM or until midnight with written parental and educational authorities consent on day preceding a school day and until midnight on day preceding a non-school day with written parental consent.
⁴ This provision does not apply to minors employed in resort hotels or restaurants in resort areas.

Additional Child Labor Law Information

The Employer must post a schedule of work hours for minors under 18 years old in the establishment.

An Employment Certificate (Working Paper) is required for all employed minors under 18 years old.

Penalties for Child Labor Laws violations:

- First violation: maximum \$1,000*
- Second violation: maximum \$2,000*
- Third or more violations: maximum \$3,000*

*If a minor is seriously injured or dies while illegally employed, the penalty is three times the maximum penalty.

Also, Section 14A of the Workers' Compensation Law provides double compensation and death benefits for minors illegally employed.

Note: There are many prohibited occupations for minors in New York State.

For more information about New York State Child Labor Laws and provisions please visit the Department of Labor's website at <http://www.labor.ny.gov>. If you have questions, please send them to one of the offices listed below at:

New York State Department of Labor, Division of Labor Standards:

Albany District 1220 Washington Ave. Bldg. 12 Room 185A Albany, NY 12226 (518) 457-2730	Buffalo District 295 Main Street Suite 914 Buffalo, NY 14203 (716) 847-7141	New York City District 55 Hanson Place 11 th Floor Brooklyn, NY 11217 (212) 775-3880	Syracuse District 333 East Washington Street Room 121 Syracuse, NY 13202 (315) 428-4057
Bronx District 55 Hanson Place 11 th Floor Brooklyn, NY 11217 (212) 775-3719	Garden City District 400 Oak Street Suite 102 Garden City, NY 11530 (516) 794-8195	Rochester District 276 Waring Road Room 104 Rochester, NY 14609 (585) 258-4550	White Plains District 120 Bloomingdale Road White Plains, NY 10605 (914) 997-9521

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Division of Labor Standards
www.labor.ny.gov

Guidelines Civil Penalties Effective September 1, 1991 for Child Labor Violations

Section 141 of the New York State Labor Law, effective September 1, 1991, provides for the imposition of civil penalties of not more than \$1,000 for a first violation, \$2,000 for a second violation and \$3,000 for a third or subsequent violation of Article 4 governing the employment of minors under 18 years of age by an employer.

The following guidelines establish a range of monetary assessments for various types of violations. They are general in nature and may not cover every specific situation. In determining the appropriate monetary amount within the range shown, consideration will be given to the criteria enumerated in the statute, namely "the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations and the failure to comply with record keeping or other requirements." For example, the penalty for a larger firm (25 or more employees) would tend to be in the higher range since such firms should have knowledge of the laws. The gravity of the violation would depend on such factors as the age of the minor, whether required to be in school, and the degree of exposure to the hazards of prohibited occupations. Failure to keep records of the hours of work of the minors would also have a bearing on the size of the penalty.

Penalties

First Violation	\$0 - \$1,000
Second Violation	\$500 - \$2,000
Third and Subsequent Violation	\$2,000 - \$3,000

Penalties May Be Assessed for Violations Pertaining to:

1. Employment of minors under fourteen years of age. (Sec. 130)
2. Employment of minors fourteen or fifteen years of age. (Sec. 131)
3. Employment of minors sixteen or seventeen years of age. (Sec. 132)
4. Prohibited employment of minors. (Sec. 133)
5. Placement of minors by employment agencies. (Sec. 134)
6. Duties of Employers. (Sec. 135)
7. Employment of persons apparently under eighteen years of age. (Sec. 138)
8. Enforcement of violations relating to child performers, child models, street-trades and newspaper carriers. (Sec. 140) (ACAL 35.01) (Ed. L. 3227, 3228)
9. Hours of work for minors fourteen and fifteen years of age. (Sec. 142)
10. Hours of work for minors sixteen and seventeen years of age. (Sec. 143)
11. Posting of hours. (Sec. 144)

Right to Appeal-If the employer is aggrieved by the assessment of a civil penalty, the employer has the right to appeal to the Industrial Board of Appeals (1220 Washington Ave., Building 12, Room 136, Albany, NY 12226) within 60 days of the date of issuance of an Order to Comply as prescribed by the Board's Rules of Procedure.

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Department
of Labor

EMPLOYERS CANNOT RETALIATE AGAINST YOU FOR COMPLAINING ABOUT LABOR LAW VIOLATIONS

SECTION 215 OF THE NEW YORK STATE LABOR LAW

Makes it unlawful for an employer, or anyone on behalf of an employer, to discharge, penalize, or in any manner discriminate or retaliate against an employee for:

- Making a complaint about a possible labor law violation to the Department of Labor or to anyone
- Providing information to the Department of Labor
- Starting a proceeding under the Labor Law
- Testifying in an investigation or other proceeding under Labor Law
- Exercising any rights that are protected under Labor Law
- Causing the employer to receive an adverse determination from the Department of Labor

If an employer violates this law, the New York State Department of Labor can:

- Assess a penalty from \$1,000 to \$10,000 (first offense) or up to \$20,000 (second offense)
- Order payment of lost compensation to the employee
- Order payment of damages
- Any other appropriate relief

The employee also can bring a private civil action in court. The employee has two years from the date of the retaliatory act to start such a legal action.

WHAT IS RETALIATION?

Retaliation is an action taken against an employee to punish that employee for complaining about labor law violations, providing information to the Department of Labor, or participating in proceedings at the Department of Labor. It can take many forms. These actions could be considered retaliatory under certain circumstances:

- Dismissal from employment
- Cut in work hours
- Reschedule for less desired hours
- Reassign to less desired work location

- Cut in pay
- Disciplinary action
- More intensive or critical supervision
- Demotion or transfer
- Withdrawal of previously allowed privileges
- Assignment to more difficult duties
- Demanding increased production
- Threats to take such actions, and/or threats to subject the employee to a lawsuit or criminal authorities, or deportation authorities

This list does not cover all possibilities. If you have questions, contact the Division of Labor Standards.

WHAT CAN YOU DO?

You have the right to:

- Find out what the Labor Law requires
- Complain and ask your employer to fix a possible violation of the Labor Law
- File a complaint with the Labor Department
- Pursue all wages owed to you either through the Labor Department or through a private legal action
- Give information to the Labor Department
- Answer truthfully when interviewed by a Labor Department investigator
- Testify in an official proceeding under the Labor Law
- Not be retaliated against (punished) because you exercised any of your rights under the Labor Law
- Take an absence that is legally protected by federal, state, or local law

All workers have these rights, regardless of their citizenship or immigration status.

CONTACT THE NYS DEPARTMENT OF LABOR, DIVISION OF LABOR STANDARDS

Phone: 1-888-52-LABOR

E-mail: LSAsk@labor.ny.gov

WE ARE YOUR DOL



NEW YORK STATE PAID SICK AND SAFE LEAVE

All private sector workers in New York State are now covered under the state's new sick and safe leave law, regardless of industry, occupation, part-time status, overtime exempt status, and seasonal status.

The law requires employers with five or more employees to provide their employees with paid sick and safe leave. Businesses with fewer than five employees and a net income of \$1 million or less must provide unpaid sick and safe leave to employees.

AMOUNT OF LEAVE

Employees will receive an amount of sick and safe leave depending on the size of their employer:

Number of Employees	Employer Leave Requirements
0 - 4	If net income is \$1 million or less in the previous tax year, the employer is required to provide up to 40 hours of unpaid sick leave per calendar year.
0 - 4	If net income is greater than \$1 million in the previous tax year, the employer is required to provide up to 40 hours of paid sick leave per calendar year.
5 - 99	Up to 40 hours of paid sick leave per calendar year.
100+	Up to 56 hours of paid sick leave per calendar year.

A January 1 – December 31 calendar year must be used for purposes of counting employees. Small employers who reported net income of less than \$1 million do not need to pay their employees sick leave, but must provide the additional allotted leave time. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.

SAFE LEAVE

After January 1, 2021, employees may use accrued leave following a verbal or written request to their employer for sick or safe leave for reasons impacting the employee or a member of their family for whom they are providing care or assistance with care.

Safe leave may be used for an absence from work when the employee or employee's family member has been the victim of domestic violence as defined by the State Human Rights Law, a family offense, sexual offense, stalking, or human trafficking due to any of the following as it relates to the domestic violence, family offense, sexual offense, stalking, or human trafficking:

- to obtain services from a domestic violence shelter, rape crisis center, or other services program;
- to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
- to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
- to file a complaint or domestic incident report with law enforcement;
- to meet with a district attorney's office;
- to enroll children in a new school; or
- to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

CAN AN EMPLOYEE USE SAFE LEAVE IF THE POLICE HAVE NOT BEEN CONTACTED OR THE PERPETRATOR HAS NOT BEEN CONVICTED?

Yes. An employee's eligibility for safe leave is not dependent on reporting to law enforcement or a criminal conviction.

WHO QUALIFIES AS A "FAMILY MEMBER" FOR THE PURPOSES OF THIS LAW?

"Family member" is defined as an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent; and the child or parent of an employee's spouse or domestic partner. "Parent" is defined as a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child. "Child" is defined as a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

DOES AN EMPLOYEE'S IMMIGRATION STATUS AFFECT WHETHER THEY ARE ENTITLED TO SICK OR SAFE LEAVE UNDER THE LAW?

No. An employee's immigration status has no effect on their eligibility for sick or safe leave benefits under this law.

DO EMPLOYEES CONTINUE TO EARN SICK OR SAFE LEAVE WHILE USING PAID SICK OR SAFE LEAVE UNDER THIS LAW?

No. Employees are only required to be credited with leave time for hours worked, and not for hours spent using sick or safe leave time under this law.

MAY PAID FAMILY LEAVE BE USED CONSECUTIVELY WITH PAID SICK LEAVE (E.G. THREE DAYS OF PAID SICK LEAVE, TWO DAYS OF PAID FAMILY LEAVE)?

An employee can only choose to use sick leave during Paid Family Leave (PFL) if the employer allows it. Taking sick leave at the same time as PFL may allow the employee to receive their full salary for all or part of the leave. However, an employee cannot receive more than their full wages while receiving PFL benefits.

CAN AN EMPLOYER HAVE A POLICY THAT PERMITS EMPLOYEES TO DONATE UNUSED LEAVE TO OTHER EMPLOYEES?

Yes. An employer can have a policy that allows employees to donate unused leave to other employees, if the policy is entirely voluntary.

WHAT DO I DO IF MY EMPLOYER ISN'T PROVIDING ME WITH SICK OR SAFE LEAVE AS REQUIRED BY THE LAW?

Employees may file a complaint with the Department of Labor by calling **888-469-7365**.

For more information about New York State's Paid Sick and Safe Leave, including additional FAQs, regulations, and more, please visit **ny.gov/paidsickleave**.

To get additional help, please visit New York State's Office for the Prevention of Domestic Violence at **opdv.ny.gov**.

WE ARE YOUR DOL



NEW YORK PAID SICK LEAVE

All private sector workers in New York State are now covered under the state's new sick and safe leave law, regardless of industry, occupation, part-time status, overtime exempt status, and seasonal status.

The law requires employers with five or more employees to provide their employees with paid sick and safe leave. Businesses with fewer than five employees and a net income of \$1 million or less must provide unpaid sick and safe leave to employees.

KEY DATES

- **September 30, 2020:** Covered employees in New York State will start to accrue leave at a rate of one hour for every 30 hours worked.
- **January 1, 2021:** Employees may start using accrued leave.

AMOUNT OF LEAVE

Employees will receive an amount of sick leave depending on the size of their employer:

Number of Employees	Employer Sick Leave Requirements
0 - 4	If net income is \$1 million or less in the previous tax year, the employer is required to provide up to 40 hours of unpaid sick leave per calendar year.
0 - 4	If net income is greater than \$1 million in the previous tax year, the employer is required to provide up to 40 hours of paid sick leave per calendar year.
5 - 99	Up to 40 hours of paid sick leave per calendar year.
100+	Up to 56 hours of paid sick leave per calendar year.

A January 1 – December 31 calendar year must be used for purposes of counting employees. Small employers who reported net income of less than \$1 million do not need to pay their employees sick leave, but must provide the additional allotted leave time. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.

ACCRUALS

Employees begin accruing leave on September 30, 2020. Leave must be accrued at a rate not less than one hour for every thirty hours worked.

PERMITTED USES

After January 1, 2021, employees may use accrued leave following a verbal or written request to their employer for the following reasons impacting the employee or a member of their family for whom they are providing care or assistance with care:

Sick Leave

- For mental or physical illness, injury, or health condition, regardless of whether it has been diagnosed or requires medical care at the time of the request for leave; or
- For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or need for medical diagnosis or preventive care.

Safe Leave

- For an absence from work when the employee or employee's family member has been the victim of domestic violence as defined by the State Human Rights Law, a family offense, sexual offense, stalking, or human trafficking due to any of the following as it relates to the domestic violence, family offense, sexual offense, stalking, or human trafficking:
 - to obtain services from a domestic violence shelter, rape crisis center, or other services program;
 - to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
 - to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
 - to file a complaint or domestic incident report with law enforcement;
 - to meet with a district attorney's office;
 - to enroll children in a new school; or
 - to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

WHO IS ELIGIBLE

All private-sector employees in New York State are covered, regardless of industry, occupation, part-time status, and overtime exempt status. Federal, state, and local government employees are **NOT** covered, but employees of charter schools, private schools, and not-for-profit corporations are covered.

LEAVE INCREMENTS

Employers are permitted to require that leave be used in increments (e.g., 15 minutes, 1 hour, etc.) but may not set the minimum increment at more than 4 hours.

Employers are permitted to limit the leave taken in any year to the maximum amount required to be provided to such employee (e.g., 40 hours for midsized employers and 56 hours for large employers). Any limitations permitted by the law must be put into writing and either posted or given to employees.

Employers must notify employees in writing or by posting a notice in the worksite, prior to the leave being earned, of any restrictions in their leave policy affecting the employees' use of leave, including any limitations on leave increments.

RATE OF PAY

Employees must be paid their normal rate of pay for any paid leave time under this law, or the applicable minimum wage rate, whichever is greater. No allowances or credits (e.g., tip credits) may be claimed for paid leave hours, and employers are prohibited from reducing an employee's rate of pay for sick leave hours only.

ALTERNATIVE ACCRUAL SYSTEM

As an alternative to employees accruing 1 hour for every 30 hours worked, employers may choose to provide the full amount of sick leave required by this law at the beginning of each calendar year (e.g., a business with over a 100 employees could provide 56 hours of sick leave to each employee starting January 1 of each year or at the beginning of a twelve month period as determined by the employee. Such up-front sick leave is not subject to later revocation or reduction if, for instance, the employee works fewer hours than anticipated by the employer).

EXISTING POLICIES

If an employer, including those covered by a collective bargaining agreement, has an existing leave policy (sick leave or other time off) that meets or exceeds the accrual, carryover, and use requirements, this law does not present any further obligations on that employer.

COLLECTIVE BARGAINING AGREEMENTS

Collective bargaining agreements that are entered into after September 30, 2020 are not required to provide the sick leave described above so long as the agreement provides for comparable benefits/paid days off for employees and specifically acknowledges the provisions of Labor Law 196-b. For the purposes of collective bargaining agreements, the Department of Labor considers leave time which has fewer restrictions on its use to be comparable to that required by this law, regardless of the label of such leave (e.g., annual or vacation time) and multiple leave benefits which meet the use requirements of this law may be combined to satisfy the “comparable benefit” requirement. To satisfy the requirements of this law, any agreement entered into after September 30, 2020 must specifically reference Labor Law Section 196-b.

RETALIATION

An employer cannot retaliate against an employee in any way for exercising their rights to use sick leave. Furthermore, employees must be restored to their position of employment as it had been prior to any sick leave taken. Employees who believe that they have been retaliated against for exercising their sick leave rights should contact the Department of Labor’s Anti-Retaliation Unit at **888-52-LABOR** or **LSAsk@labor.ny.gov**. **Recordkeeping.**

Employers must keep payroll records for six years which must include the amount of sick leave accrued and used by each employee on a weekly basis.

Upon the request of an employee, employers are required provide, within three business days, a summary of the amounts of sick leave accrued and used by the employee in the current calendar year and/or any previous calendar year.

RECORDKEEPING

Employers must keep payroll records for six years which must include the amount of sick leave accrued and used by each employee on a weekly basis.

Upon the request of an employee, employers are required provide, within three business days, a summary of the amounts of sick leave accrued and used by such employee in the current calendar year and/or any previous calendar year.

For more information about New York State’s Paid Sick Leave, including additional FAQs, regulations, and more, please visit **ny.gov/paidsickleave**.

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LABOR RIGHTS AND PROTECTIONS For Domestic Workers in New York

INFORMATION FOR DOMESTIC WORKERS

Domestic workers and their employers have rights and responsibilities under the Labor Law, including the Domestic Workers' Bill of Rights, which took effect on November 29, 2010. For more details, go to labor.ny.gov.

WHO IS A DOMESTIC WORKER?

A "domestic worker" is someone who works in another person's home. Their jobs include:

- Caring for children or a sick or elderly person
- Housekeeping chores
- Other domestic duties performed in the employers' homes

This law does not cover domestic workers:

- Who work on a casual basis, such as part-time baby-sitters in the home of their employers
- Who are relatives of their employers or of the person(s) for whom they offer care

DOMESTIC WORKERS SHOULD KNOW

Under New York State labor law, including the Domestic Workers' Bill of Rights, you:

- Must be paid at least the minimum wage
- Must receive overtime pay at 1 1/2 times your basic rate of pay after 40 hours of work in a calendar week (If you live in your employer's home, you must be paid overtime after 44 hours of work in a week)
- Must be given one day (24 hours) of rest per week – or, if you agree to work on that day, you must be paid at an overtime rate
- Are entitled to at least three paid days off after one year of work for the same employer

If you work at least 40 hours per week, you are also covered by:

- Workers' Compensation Insurance if you are hurt on the job
- Disability Benefits Insurance if you are injured or become ill outside of work and miss more than seven days of work as a result
- If you are employed by an agency to provide "companionship services," such as caring for an elderly person, the rules about overtime and a required day of rest do not apply to you
- If you complain to your employer or the Labor Department about a violation of these labor laws, your employer cannot retaliate against you. To file a complaint with the Labor Department, call **888-469-7365** or go to labor.ny.gov/workerprotection/laborstandards/workprot/lsdists.shtm for a list of Labor Department district offices
- The Domestic Workers' Bill of Rights protects you from certain forms of harassment by your employer. Your employer cannot subject you to unwelcome sexual advances or other verbal or physical actions of a sexual nature. They cannot harass you based on gender, race, religion or national origin and they cannot retaliate if you file a complaint. You can file an official complaint in court or with the New York State Division of Human Rights. You can get information at dhr.ny.gov or by phone at **888-392-3644** (toll-free)
- To learn about low-cost health insurance for you and your family, visit the New York State Department of Health web site at nyhealth.gov. Look for the "Health Insurance Programs" button on the "Site Contents" area at the right of the home page

INFORMATION FOR EMPLOYERS OF DOMESTIC WORKERS

If you employ a domestic worker or workers, you must:

- Provide the minimum benefits listed on the reverse
- Pay your worker(s) weekly
- Not deduct money from your worker's pay without written permission
- (Deductions must be authorized by law and for the worker's benefit. You may not make deductions from your worker's wages for breakage or other such reasons. You must give your worker a written notice that lists all deductions.)
- Keep detailed payroll and time records of the hours your employee(s) work, wages paid and any deductions made from wages
- Give your employee a written notice about your policies on sick leave, vacation, personal leave, holidays and hours of work
- Give your employee a written notice that includes their regular and overtime rates of pay and their regular payday
- (You can find this form at: labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm.)
- Not retaliate against a worker(s) for complaining to you or to the Labor Department about alleged labor law violations

- File for and pay Unemployment Insurance contributions on behalf of your worker(s)

(For more information, see the NYS Department of Labor Publication IA 318.D, Householder's Guide for Unemployment Insurance. This publication is available at labor.ny.gov/formsdocs/ui/IA318D.pdf.)

- Provide Workers' Compensation Insurance coverage and Disability Benefit Insurance coverage for any employee(s) who work(s) at least 40 hours per week

(You may obtain this insurance through the New York State Insurance Fund (NYSIF) or another company that sells these types of insurance in New York. NYSIF is a full-service insurance carrier that sells low-cost Workers' Compensation and Disability Benefit Insurance to any employer doing business in New York State. To find out more, visit nysif.com.)

There are federal and state tax obligations for both employers and workers. For information about your tax responsibilities, see the New York State Department of Taxation and Finance Tax Bulletin MU-350, available at tax.ny.gov.

Note to immigrant domestic workers and their employers:

Labor and tax laws, including the Domestic Workers' Bill of Rights, apply to all workers, regardless of their immigration status.