

## Rest periods

Although Minnesota law does not require an employer to give any specific amount of time for breaks, employers are required by law to allow an employee to use the nearest restroom facility once every four hours and sufficient time to eat a meal once every eight hours.

The meal break need not be paid time unless it is less than 20 minutes long or if the employer requires the employee to eat while working.



For additional exemptions from overtime after 40 hours, contact the federal Wage and Hour Division at (612) 370-3341 or toll-free at 1-866-487-9243.



## Where do I go with questions?

Minnesota Department of Labor and Industry  
Labor Standards  
443 Lafayette Road N.  
St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI  
(1-800-342-5354)  
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**Visit our website:**  
[www.dli.mn.gov](http://www.dli.mn.gov)

This document can be provided in different forms, such as large print, Braille or audiotape, by calling (651) 284-5005 or (651) 297-4198/TTY.

Minnesota Department of Labor and Industry  
443 Lafayette Road N.  
St. Paul, MN 55155

A guide to Minnesota's

# Overtime Laws



Labor Standards  
443 Lafayette Road N.  
St. Paul, MN 55155-4307

Note: This pamphlet is a brief summary of the Minnesota overtime laws and is intended as a guide. It is **not** to be considered a substitute for Minnesota Statutes §177.21-177.35.

## Overtime laws

### State

The **Minnesota Fair Labor Standards Act** requires employers to pay overtime for all hours worked in excess of **48** hours per workweek.


### Federal

The **federal Fair Labor Standards Act** requires some employers to pay overtime for all hours worked in excess of **40** hours per workweek. These employers include:

- businesses that produce or handle goods for interstate commerce;
- businesses with gross annual sales of more than \$500,000;
- businesses that were covered before April 1, 1990, under the \$250,000 (\$362,500 retail and services) dollar volume test; and
- certain other businesses, including hospitals and nursing homes, private and public schools, and federal, state and local government agencies.

## What is the overtime rate?


Overtime rates must be at least one and one-half the employee's regular rate of pay.



***The regular rate of pay is determined by dividing the employee's total pay in any workweek by the total hours worked in the workweek.***

An employee's pay includes credits allowed against the minimum wage for meals and/or lodging.

## Who must pay?



***Overtime pay is not discretionary. Both state and federal laws prohibit any agreement to not pay overtime to employees.***

All firms must pay **Minnesota's** overtime wage regardless of:

- the firm's size, location or gross sales;
- the method of compensation (i.e. hourly, salary, commission, piece rate or other); or
- designations such as part-time, temporary, seasonal or contract.

## How are hours counted?

***Except for bona fide meal periods, all hours the employee is required to be on the premises, whether working or not, are counted for overtime purposes.***

Holiday hours, vacation time or sick leave are not counted in figuring overtime hours.

Overtime is computed on a workweek basis regardless of the length of the pay period. Hours worked may not be averaged over the pay period or used to offset shorter workweeks. The workweek can be any consecutive seven-day period that the employer chooses, but may not vary once chosen.

**Hospitals, nursing homes and other health care facilities** may choose to pay overtime after eight hours per day and 80 hours per two-week period.

Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime.

## Who is exempt?

Some employees are exempt from Minnesota's overtime wages. The following is a partial list.

### Various employees

- Executive, administrative or professional employees who meet the **salary\*** and duty requirements of the department's rules;
- A retail or service employee paid on a commission basis, if the regular rate of pay exceeds one and one-half times the minimum wage;
- An outside salesperson.



### Vehicle dealership employees

A salesperson, partsperson or mechanic who:

- sells or services automobiles, trailers, trucks or farm implements; and
- is paid on a commission or incentive basis; and
- is employed by a dealer selling to the consumer.

### Agricultural workers

- Any minor (at least 12 years of age and under the age of 18);
- Any two specific workers being paid a **salary\***;
- Any worker paid a **salary\*** of at least 73.5 times the appropriate minimum wage.

Note: Minors employed as corn detasslers or hand field workers (with parent or guardian) are not exempt.

\*A **salary** is defined as a guaranteed predetermined wage for each workweek that does not vary based on productivity, the weather or how many hours the employee works. It is **not** an hourly rate.