

Title: Florida Minimum Wage and Overtime

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References: Florida Department of Economic Opportunity Florida's
Minimum Wage Updated 09-24-2021
US Department of Labor/Wage & Hour Division/Overtime
US Department of Labor/Wage & Hour Division/Fact
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FLORIDA MINIMUM WAGE AND OVERTIME

The following is a brief summation of the current minimum wage law in Florida and the overtime rules for all employees. It is important that we properly report all payments to employees and pay all applicable taxes timely to avoid an audit by the state. It is also important to remember that an unhappy employee may file a complaint with the State Labor Department. This could create a very unpleasant experience for all involved. The main way to avoid this is to know the law and always be in control.

Currently, the federal labor minimum wage is \$7.25 per hour. However, on Sept. 30, 2021, the state of Florida increased the state minimum wage to \$10 per hour. This began a six-year rise to the minimum wage ending in September 2026 with the wage rate being \$15 per hour. Below is a list of the increase dates and the amount of increase to tipped employees.

Date	Wage Rate	Tipped Employee
Sept. 30, 2021	\$10	\$ 6.98
Sept. 30, 2022	\$11	\$ 7.98
Sept. 30, 2023	\$12	\$ 8.98
Sept. 30, 2024	\$13	\$ 9.98
Sept. 30, 2025	\$14	\$10.98
Sept. 30, 2026	\$15	\$11.98

Generally, overtime is to be paid employees who work more than 40 hours per workweek at the rate of 1.5 times the hourly rate. There are exceptions to this rule and the exceptions are guided by rules that may be different in various states. For the purpose of this information, this guidance will be based on Florida.

Employees are divided into two types - exempt and nonexempt. Exempt employees are usually paid on a salary basis and not on hours worked. Exempt employees must meet certain guidelines. To be exempt from overtime, the requirements are that the job must be administrative in nature, be executive in duties, be an outside sales person or be professional that requires specific education and training, and be computer professionals who perform a high level of work. A management job must be predominately administrative and not be the same as the people they supervise. They must supervise a minimum of two people, and have influence and impact in the job status of the employees they supervise. This means the authority to hire, fire, discipline or otherwise have some measure of control over employment status with the company. Additionally, the salary must be no less than \$684 per week or \$35,568 per year. Outside sales people is basically what it says, and professional usually refers to people like lawyers or accountants, etc.

In 2016, the law was changed to make the exempt salary begin at \$913 per week or \$47,476 per year. However, a lawsuit was filed by several states, and a federal court agreed to change the law. On Jan.1, 2020, a revised law went into effect that reduced the amount to the current amount mentioned above.

Nonexempt employees are to be paid no less than the minimum wage and are to be paid for all hours worked. It is up to the management to be sure that the hours are properly recorded. All must receive wages of no less than the prevailing minimum wages for your state. If any week's work is more than 40 hours, then 1.5 times the hourly rate must be paid that employee. If an employee takes a break or a meal break and is not subject to being called back to work, that time may be deducted from the day's hours. If possible, the employee should note time in and out during such breaks on the time sheet. If management uses such a rule, it would be best to advise the employee at hire of this and have them sign a sheet that they understand the rule. If the employee is subject to call during their break, then the time is to be paid. It should be noted that it is up to management to see that the hours are adhered to as overtime will still be required even if the extra time is unapproved. Therefore, management should be aware of all time on the job by employees. An employee may be disciplined, but management may not reduce the time spent working.

Many nonprofits have volunteers working in various roles in the organization. It is important to note that a volunteer may be used to promote and assist the designed charitable purpose of the nonprofit. The volunteer may not be used to take a job that is more operational in nature and not directly related to the charitable purpose of the nonprofit. Any compensation received by the volunteer may make that volunteer an employee and subject to all applicable state and federal payroll tax requirements. Compensation does not have to only be in the manner of monetary payment to be considered as such. Compensation of food and drink or other form of "free" benefit may be considered compensation. Tips earned at the bar is also a form of compensation.

Donating tips to a charity is a good thing for us to do, but may still be considered compensation, as you have to have earned it in order to donate. It is suggested that a sign be placed by a tip jar explaining that all tips will be considered as a donation to the charity of choice.