

STATE EMPLOYMENT REGULATIONS FOR MAINE

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What's New

- 051205 – Maine law now prohibits discrimination based on sexual orientation, that is, a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.
- 051205 – Employers must notify all affected employees at least one day prior to reducing their rate of pay.
- 081505 – Maine now requires that employees who are volunteer firefighters not be penalized for being late to work when responding to a fire emergency call.
- 081505 – Maine law has been modernized to allow employers to pay employees with direct deposit, ATM card or other electronic funds transfer. Employees must be given detailed information about their pay at the time of the transfer.
- 081505 – Maine allows any permanent employee to take a leave of absence to act as a legislator for one two-year term. This leave need not be paid. Employees must be returned to the position they left after the leave.
- 100106 – Maine's minimum wage is now \$6.75, effective October 1, 2006 (it will rise again to \$7.00 per hour on October 1, 2007, then to \$7.25 on October 1, 2008, and to \$7.50 on October 1, 2009). Tipped employees may be paid a minimum of 50% of the current minimum wage.
- 100107 – Maine's minimum wage is now \$7.00 per hour as of October 1, 2007 (it will rise again to \$7.25 on October 1, 2008, and to \$7.50 on October 1, 2009). Tipped employees may be paid a minimum of 50% of the current minimum wage.
- 100108 – Maine's minimum wage is now \$7.25 per hour as of October 1, 2008 (it will rise again to \$7.50 on October 1, 2009). Tipped employees may be paid a minimum of 50% of the current minimum wage.
- 100109 – Maine's minimum wage is now \$7.50 per hour as of October 1, 2009. Tipped employees may be paid a minimum of 50% of the current minimum wage.
- 120612 - Changes were made to the following sections: Discrimination, Military Leave, Family Leave, Payment of Wages, Work Hours and Breaks, Child Labor and Jury Duty. The following sections were added: Breast Feeding, New Hire Reporting, Access to Personnel Files, Job Reference Liability and Smoking.
- 041013 - Changes were made to the following sections: State Continuation of Benefits and Minimum Wage.
- 101813 - Changes were made to the following section: New Hire Reporting.
- 041014 - The following section was added: Disaster and Emergency Services Leave.

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Introduction

Employment laws vary from state to state with some being more employee-friendly than others. Federal regulations set minimum standards of worker protections that all employers of a given size must meet. Individual states, however, are free to grant workers additional or expanded rights or protections above this federal minimum.

Virtually all employers in the U.S. are subject to federal employment regulations. Only the smallest, strictly local employers are not subject to federal regulations. If an employer does any of the following, they are participating in interstate commerce and are subject to federal employment regulations:

- Production of goods for commerce, such as transportation or communication
- Use of mail over state lines
- Interstate communications using the telephone
- Use of the Internet over state lines
- Interstate communications using electronic mail
- Make purchases from out-of-state vendors
- Sell to customers in other states

This summary of employment regulations does not include information for those few employers not subject to the federal minimum employment regulations.

Many states have regulations for public employers that are different than those for employers in the private sector. This document also does not include information on regulations (federal and state) that apply only to public sector employers.

In this document we summarize the workplace regulations and worker protections available in Maine. Although not an exhaustive list, it covers the major topics small to mid-sized employers must deal with on a regular basis. Covered areas include:

- Wage, hour and overtime rules (including child labor and break rules);
- Leaves of absence (family leaves, voting time and jury duty);
- Discrimination and harassment regulations; and
- State rules on continuation of benefits.

The federally mandated, but state run new-hire reporting requirements are covered under a separate document, available for download from Libretto or from the Agent 77 store.

The following Quick View table summarizes these regulations. This is followed by a more detailed description of these regulations. Please be sure to read both carefully to understand your responsibilities under Maine and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR MAINE

Topic	Maine Regulation
Minimum Wage	<ul style="list-style-type: none"> • \$7.50 / hour • Maximum tipped employee credit is 50% of wages
Overtime	<p>Non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week</p>
Payment of Wages	<ul style="list-style-type: none"> • Employees must be paid in full at least every 16 days, no more than 8 days after the close of the period. • Employers may now pay employees with direct deposit, ATM card or other electronic funds transfer. Employees must be given detailed information about their pay at the time of the transfer • Employers must notify all affected employees at least one day prior to reducing their rate of pay • Final paychecks must be delivered no later than 14 days after termination • Vacation pay must be paid upon employment termination.
Work Hours and Breaks	<p>Employees working at least 6 contiguous hours must be given a 30-minute or more meal break</p>
Child Labor	<ul style="list-style-type: none"> • Employers employing minors under 16 must keep an employment certificate on file (issued by Superintendent of Schools) • Federal and Maine law prohibit minors in certain occupations. See the U.S. Department of Labor and the Maine Department of Labor for information on these prohibitions (contact information is in the reference section). • See the details section below for restrictions on hours minors may work • Posting and record-keeping provisions apply.
Military Leave	<ul style="list-style-type: none"> • Employers must grant up to 5 years of military leave • Employee must be reinstated to same or equivalent position after completion of military leave • Employers must continue health and other benefits for the first 30 days of leave at no cost to the employee • After 30 days employers must offer to continue benefits at cost to the employee for the duration of the leave • Employers may not terminate or threaten to terminate any employee called to military service. • Employees who are volunteer firefighters may not be penalized for being late to work when responding to a fire emergency call. • Maine has a separate military leave law - see details below. • Maine has a family military leave law - see details below.

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Jury Duty	<ul style="list-style-type: none"> • Leave is required, but is unpaid • Employee must be reinstated to same position after completion of jury duty
Voting Time and Legislative Leave	<ul style="list-style-type: none"> • Maine has no voting time rules • Permanent employee may take an unpaid leave of absence to act as a legislator for one two-year term, and must be returned to the position they left after the leave.
Family Leave and Disaster and Emergency Services Leave	<ul style="list-style-type: none"> • Employers with 15 or more employees: <ul style="list-style-type: none"> Must grant up to 10 weeks of unpaid family medical leave to employees who have completed a year of service Leave must be granted for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition or to donate an organ Employee must be reinstated to same or equivalent position Benefits must be made available to continue at employee's expense during leave • Employers with 50 or more employees: <ul style="list-style-type: none"> Must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours Leave must be granted for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for military leave. Employee must be reinstated to same or equivalent position Benefits must be maintained during leave • Victims of violence must be granted reasonable leave (paid or unpaid) to attend court, get medical attention for themselves or a family member or receive other services necessary to remedy a domestic crisis • Volunteer firefighters and municipal firefighters are protected from discharge or discrimination because of the employee's failure to report for work under certain circumstances detailed below.
Access to Personnel Files	<ul style="list-style-type: none"> • Employees have the right to access certain records in their personnel files.
Breast Feeding	<ul style="list-style-type: none"> • A woman may breast feed her child in any location where she is authorized to be present. Employers must provide adequate break time for an employee to express breast milk.
New Hire Reporting	<ul style="list-style-type: none"> • Employers are required to report certain information for new hires/rehires within 7 days of such hire/rehire.
Job Reference Liability	<ul style="list-style-type: none"> • Employers are generally immune for liability if providing truthful information in good faith.

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Smoking in the Workplace	<ul style="list-style-type: none">• Smoking is prohibited in places of employment and employers must establish and post a written policy on smoking effects.• No smoking signs must be posted.
State Continuation of Benefits	<ul style="list-style-type: none">• Details and contact information are listed below.

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Wage, Hour and Overtime Rules

Employers are subject to the federal minimum wage, hour and overtime rules through the Fair Labor Standards Act. This act specifies that businesses that do at least \$500,000 in gross revenue, as well as all health care facilities and schools are subject to the federal rules. Also, employers involved in interstate commerce are subject to the federal rules.

Minimum Wage

Maine minimum wage is \$7.50 per hour. Also, employers may apply a credit of up to 50% of the minimum for tipped employees (or a minimum cash wage of \$3.75 per hour), provided that the total wages plus tips come to at least the minimum of \$7.50 per hour. Some instances are allowed for sub-minimum wage.

Finally, both federal and Maine regulations allow employers to apply for licenses to pay sub-minimum wages to certain disabled persons. Please contact the U.S. Department of Labor or the Maine Department of Labor for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

Overtime

Maine also has the same overtime rules as the federal government. That is, for any hours worked over 40 in a given week, non-exempt employees must be paid at least one and one-half times their regular pay.

Like the federal rules Maine exempts certain employees from minimum wage and overtime rules. Excluded employee classes include: executive, administrative, professional, outside salespeople and computer professionals. (Use Libretto's FLSA Resource Package for help in determining whether a given employee is exempt). Maine also permits exemptions for certain small employers not involved in interstate commerce. See the Maine Department of Labor web site for a list of these exemptions.

Payment of Wages

Maine law requires that employees be paid in full at least every 16 days, and payment must be made no more than 8 days after the close of that period. These regular pay periods must be established and published for all employees. Maine law has been modernized to allow employers to pay employees with direct deposit, ATM card or other electronic funds transfer. Employees must be given detailed information about their pay at the time of the transfer including: total hours worked, amount and purpose of each deduction, total net compensation, and pay period covered. This may be provided either in printed form or electronically, but in either case must be provided at no cost to the employee.

Employers must notify all affected employees at least one day prior to reducing their rate of pay.

Final paychecks must be delivered no later than 14 days after termination. Deductions from the final paycheck may not be made without the employees written consent.

If an employee receives vacation pay under an employer's policy, vacation pay must be paid upon termination.

Work Hours and Breaks

Maine also requires employees working 6 contiguous hours to have at least a 30-minute rest break (unless otherwise established through a collective bargaining agreement). Exempted from this regulation are employers where fewer than three employees are on duty at a time and places of employment where the nature of the work allow for frequent rest breaks.

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Child Labor

Maine child labor law requires all employers employing minors under the age of 16 to have employment certificates on file (issued by a city or county superintendent of schools).

Employers who employ minors under 16 years of age are subject to strict limits for hours worked per day and per week for their minor employees (there are some exceptions authorized by the Department of Labor):

Minors under the age of 18 who are enrolled in school may NOT work.

- More than 24 hours in any week or more than 6 hours per day when school is in session, except that the minor may work up to 8 hours on the last scheduled day of the school week.
- More than 10 hours per day when school is not in session; nor
- More than 50 hours per week when school is not in session.
- More than 50 hours during any week that the approved school calendar for the minor's school is less than 3 days or during the first or last week of the school calendar.
- More than six (6) consecutive days;
- After 10:15 PM on a day preceding a day on which the minor's school is in session or after 12 midnight on a day that does not precede such a school day; or
- Before 7:00 AM on a day on which the minor's school is in session or before 5:00 AM on any other day.

A minor under the age of 17 cannot be employed during the hours that the local public school where the minor resides is in session.

A minor under 16 years of age may not be employed:

- More than 40 hours in any week or 8 hours in any day when school is not in session
- More than 18 hours in any week or more than 3 hours in any day when school is in session
- More than six (6) consecutive days; or
- Between the hours of 7:00 PM or 7:00 AM, except during summer vacation when the minor may not work between the hours of 9:00 PM and 7:00 AM.

Both federal and Maine law prohibits minors from working in hazardous or certain other occupations. Please contact the U.S. Department of Labor or the Maine Department of Labor for more information on restricted occupations for minor employees.

Maine law also requires that any minor working 5 or more continuous hours in a day be given a 30-minute break.

The Department of Labor will produce and furnish to employers posters or notices in printed form outlining laws applicable to those who employ minors. Time records must be kept.

Leaves of Absence

Military Leave

Federal law provides that employees must be granted up to 5 years of military leave and must be restored to their position (or an equivalent position) within the company as if they had been on furlough. Maine requires that employees on military leave be continued on health, dental and life insurance for the first 30 days at no cost to the employee and after 30

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days must be offered the option to continue benefits at their own cost during their leave of absence. Also, employers may not terminate or threaten to terminate any employee called to military service. Please see Libretto's White Paper on USERRA for more details on military leave.

Employees who are volunteer firefighters may not be penalized for being late to work when responding to a fire emergency call, provided that the employee reports for work as soon as possible after being released from the emergency. The employer may request proof that the employee's absence was due to an emergency response and of the timing of the emergency. Also, employers may charge the missed time against the employee's pay or available leave time.

Maine provides that any member of the military forces, who in response to federal or state orders, takes a military leave of absence must give notice of an intended absence for military duty. Military leave may be with or without pay, at the employer's discretion. Employees must be reinstated without loss of pay, seniority, benefits or status or any other advantages of employment as if they had been continuously employed.

Employers with more than 15 employees must provide up to 15 days of unpaid leave per deployment to eligible employees whose spouses, domestic partners or children are called to military service lasting longer than 180 days. Leave may be taken: 1) 15 days immediately prior to deployment; 2) during deployment, if the military member is granted leave and/or 3) 15 days immediately following the period of deployment. Employees taking at least five (5) consecutive days off must give at least 14 days' notice. An employer cannot discharge, fine, suspend, expel or discipline an employee for taking family military leave.

Jury Duty

Employers must provide leave for jury duty, but need not pay for the leave. Also, employers may not terminate or threaten to terminate any employee or the employee's access to healthcare coverage if called to jury duty, and employees must be restored to their position within the company as if they had been on furlough.

Employees covered by FLSA exemptions serving on a jury must be paid their full salary (minus jury stipend) or risk losing their exemption status.

Voting Time and Legislative Leave

Maine has no voting time leave provisions.

Maine allows any permanent employee of a company with 6 or more employees to take a leave of absence to act as a legislator for one two-year term. This leave need not be paid. The employee must provide written notice of their intent to take this leave at least 10 days before taking action to place their name in a primary or general election. Following the legislative term, if the employee is still qualified, they must be returned to the position they left before the leave or to a position with similar status, seniority, benefits, and pay.

Family Leave

Employers with 15 or more employees must grant up to 10 weeks in any two (2) years of unpaid family medical leave to employees who have completed a year of service. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition. This leave extends to domestic partnerships.

Leave must be requested at least one month in advance unless a medical emergency prohibits this. Employers may require medical certification of the necessity for the leave. After completion of the leave the employee must be reinstated to the same or an equivalent

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position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be made available to the employee to continue at the employee's expense.

Under federal regulations, employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition; qualifying exigency for military leave and illness/injury of covered service member for military leave.

After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave.

Victims of violence, sexual assault, assault and stalking must be granted reasonable leave (paid or unpaid) to attend court, obtain medical treatment for himself or herself or a family member, or to obtain other services necessary to remedy a crisis of domestic violence. This leave need only be granted if requested in a reasonable time before the leave, it would not cause undue hardship to the employer and if it is reasonable and necessary given the facts disclosed to the employer. Crime victim leave may be unpaid; however, employees who have accrued applicable leave time may choose to use it.

Disaster and Emergency Services Leave

An employee who is a volunteer firefighter or a municipal firefighter is protected from discharge or discrimination because of the employee's failure to report for work when such failure is because the employee was responding to an emergency. The protection would not apply to the absence of a firefighter from the firefighter's regular employment as a law enforcement officer, a utility worker, or medical personnel, when the services of that person are essential to protect public health or safety or if the employee is designated as essential to the employer's operations when such employee's absence would cause disruption to the employer's business.

It is unlawful for employers to discharge or take any other disciplinary action against employees who fail to report to work at the beginning of their shift because they were responding to an emergency as a firefighter, provided that they report for work as soon as reasonably possible after being released from the emergency.

If the time permits, an employee responding as a firefighter to an emergency, or the employee's designee, must notify the employer that the employee will not report to work at the appointed time. At the request of an employer, an employee losing work time must provide the employer with a statement from the chief of the fire department or the chief's designee stating that the employee was responding to an emergency call and the time of release from the call.

Employers may charge the time lost to emergency leave against the employee's regular pay or against the employee's available leave time.

Other Employment Regulations

Breast Feeding

Employers must provide adequate unpaid break time or permit the use of paid break time or meal time each day so that an employee can express breast milk for her child for up to three (3) years following childbirth. Employers must make reasonable efforts to provide a clean,

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private room or other location, other than a toilet stall, where the employee can express breast milk.

Employers are prohibited from discriminating in any way against employees who choose to express breast milk at work. Additionally, a woman may breast feed in any location where she is authorized to be present.

New Hire Reporting

Employers must report new hires/rehires' name, address, SSN, date of hire and the employer's name, address, FEIN, state UC number and independent contractors who anticipate receiving \$2,500 or more. The report must be completed within seven (7) days of hire on federal form W-4 or equivalent and sent to Maine New Hire Reporting Agency.

A newly hired person means a person who resides or works in the state to whom the employer anticipates paying earnings and who was previously employed by the employer, but who has separated from employment for at least sixty (60) consecutive days or has not previously been employed by the employer. Contracting services with an independent contractor whose reimbursement for such services is anticipated to be equal to or exceed \$2,500 must also be reported.

Access to Personnel Files

Employees are allowed to review their personnel file, including formal or informal evaluations and report relating to the employee's character, credit, work habits, compensation and benefits, and non-privileged medical records.

Job Reference Liability

It is unlawful for employers to use intimidation, force, or blacklisting to prevent a wage earner from gaining employment.

An employer is generally immune from liability from disclosing truthful information in good faith about a former employee's job performance or work record to a prospective employer.

Employers must, upon written request of the affected employee, give that employee the written reasons for the termination of that person's employment.

Smoking in the Workplace

Smoking is prohibited in all enclosed areas of a business facility. Smoking is permitted outdoors, but only in designated smoking areas which must be at least 20 feet away from the facility's entryways, vents and doorways.

Every employer must establish a written policy on smoking that aims to protect the employer and employees from the detrimental effects of smoking on others. The employer shall post the policy, supervise its implementation, and provide a copy of the policy to any employee upon request.

Discrimination and Harassment

Maine prohibits discrimination or harassment based on:

- Ancestry or national origin
- Race or color
- Age
- Mental or physical disability

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- Religion
- Military Service
- Genetic testing results
- Sexual orientation
- Sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions)
- Previous claims brought under worker's compensation
- Previous actions brought under the Whistleblower's Protection Act, or
- Smoking off-site
- AIDS or AIDS-related virus

Whistleblowing is protected.

Employers with more than 15 employees are covered by GINA, which prohibits discrimination based on genetic testing.

Employers must obtain written, informed consent before testing for AIDS.

Each year employers must provide employees with an individual notice that includes information about sexual harassment, including the definition and an internal complaint process. In workplaces with 15 or more employees, employers must also conduct an education and training program for new employees within one year of the commencement of employment. Such employers must also conduct additional training for supervisory and managerial employees within one year of the commencement of their employment.

All employers must display a sexual harassment poster, which may not exceed 6th grade literacy standards, in a prominent and accessible location within the workplace.

The Bureau of Labor produces printed posters and notices outlining employment laws that must be posted in a place accessible to all employees.

State Continuation of Benefits

Benefits change frequently. Currently continuation coverage requirements apply to employer-sponsored group health plans that do not meet federal COBRA requirements. Eligible employees have the right to continue coverage for up to 12 months. Eligibility has been expanded to include individuals who are permanently laid off from their eligible employment; previously, eligibility was limited to individuals who were temporarily laid off or who lost employment because of a workers' compensation compensable injury or disease.

The details of the state law can be accessed through the following link:

[www.maine.gov>PFR Home>Insurance Regulation/](http://www.maine.gov/PFR/Home/Insurance/Regulation/)

Resources/Posters

Maine Department of Labor

<http://www.state.me.us/labor/>

United States Department of Labor

<http://www.dol.gov/>

Maine New Hire Reporting

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www.maine.gov/dhhs/ofi/dser/employer/new-hire.html/

Maine Human Rights Commission

www.maine.gov/mhrc/

Related Libretto Products

FLSA Resource Package (for help in determining overtime exempt / non-exempt status of employees)

Overtime Guidelines

Break Period Guidelines

Family Medical Leave of Absence Policy

Military Leave of Absence Policy

Jury Duty-Witness Leave Policy

Voting Time Policy

Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement

COBRA Continuation Coverage Policy

General Notice of COBRA Continuation Coverage Rights

COBRA Continuation Coverage Election Information. Notice And Form

New Hire Reporting for Maine