

Colorado Minimum Wage Order Number 28

The Colorado Minimum Wage Order Number 28 (7 CCR § 1103-1), effective **January 1, 2012** regulates wages, hours, working conditions, and procedures for certain employers and employees in Colorado. The Wage Order is promulgated by the Colorado Division of Labor. The Wage Order, in some instances, provides different requirements than FLSA. Contact the U.S. DOL for information on FLSA and federal wage and hour laws (www.dol.gov or 1-866-4USWAGE).

INDUSTRY COVERAGE
Applies to private sector employers and employees in Colorado in the following 4 industries:
<ol style="list-style-type: none"> 1. Retail and Service 2. Commercial Support Service 3. Food and Beverage 4. Health and Medical
Does not apply to public sector employers.
Does not apply to independent contractors.
Does not apply to a variety of other industries such as construction, manufacturing, wholesale.

MINIMUM WAGE
Minimum wage (MW) is \$7.64 per hour for all adult employees and emancipated minors.
Minimum wage credits and exceptions
<ol style="list-style-type: none"> 1. Up to \$25 per week for lodging furnished by the employer may count toward MW. 2. Reasonable cost of meals provided to the employee may count toward MW. 3. Unemancipated minors under 18 may be paid \$6.49 per hour. 4. Employees with physical disability certified by the Director may be paid \$6.49 per hour. 5. Deductions from wages must be in accordance with the Wage Act.

TIPPED EMPLOYEES
<ol style="list-style-type: none"> 1. An employee engaged in an occupation where he or she customarily and regularly receives more than \$30 per month in tips is defined as a tipped employee. 2. Employers must pay a wage of at least \$4.62 per hour. If tips combined with wages do not equal minimum wage, the employer must make up the difference in cash wages. 3. Employer-required sharing of tips with employees who are not customarily tipped nullifies tip credits toward minimum wage. 4. Deduction of credit card processing fees from tipped employees nullifies tip credits toward minimum wage.

UNIFORMS
<ol style="list-style-type: none"> 1. The employer must pay the cost of the employee uniform if the uniform requires a specific make, logo, or material. 2. Clothing that is considered ordinary street-wear does not constitute a uniform. 3. Employers may require a reasonable deposit up to 50% of the cost of the uniform; must be refunded to the employee upon return.

TIME WORKED
The time during which an employee is subject to the control of an employer, including all the time when the employee is suffered or permitted to work whether or not required to do so, is compensable work time.
Travel time
All travel time spent at the control and direction of the employer, excluding normal home to work travel, is compensable work time.
Sleep time: 24+ hours tour of duty
Up to 8 hours of sleeping time can be excluded from compensable work time under certain circumstances.
Sleep time: Less than 24 hours tour of duty
Periods during which the employee is permitted to sleep are compensable work time, as long as the employee is on-duty.

OVERTIME
In general, non-exempt employees covered by the Wage Order must be paid time and one-half their regular rate of pay for any work in excess of:
<ol style="list-style-type: none"> 1. 40 hours per workweek. 2. 12 hours per workday. 3. 12 consecutive hours without regard to the start and end time of the workday.
Exemptions from overtime
<ol style="list-style-type: none"> 1. Salespersons, parts-persons, and mechanics employed by automobile, truck, or farm implement dealers. 2. Certain commissioned salespersons in retail and service. 3. Certain ski industry employees. 4. Certain medical transportation employees.

MEAL PERIODS
<ol style="list-style-type: none"> 1. Employees are entitled to an uninterrupted and duty-free 30-minute unpaid meal period when their work shift exceeds 5 consecutive hours. 2. The employee must be completely relieved of all duties for the meal period. 3. If the above conditions are not met, then the employee must be allowed to consume a meal on-duty, and be compensated for the entire on-duty meal period.

REST PERIODS
<ul style="list-style-type: none"> • Employees are entitled to a compensated 10-minute rest period for each 4 hours of work or major fractions thereof. Wages may not be deducted for the rest period. • It is not required that the employee be permitted to leave the premises for the rest period.

This complimentary guide is provided by the Colorado Division of Labor. Its condensed and simplified content is for general informational purposes only, and does not constitute legal advice. For more information contact the Division, an attorney, or an HR professional.

Guide Revised December 2011

EXEMPTIONS
<i>Contact the Division for more information on the following exemptions:</i>
<ol style="list-style-type: none"> 1. Administrative 2. Executive/Supervisor 3. Professional 4. Outside sales 5. Domestic employees 6. Companions 7. Casual babysitters 8. Property managers 9. Interstate drivers 10. Driver helpers, loaders, mechanics 11. Taxicab drivers 12. Elected officials 13. Volunteers 14. Interns 15. Prisoners

ENFORCEMENT
<ul style="list-style-type: none"> • The Division has jurisdiction over all questions of fact regarding the Wage Order. • Any person may file a written complaint with the Division regarding alleged violations of the Wage Order. • Complaints must be filed within 2 years of the alleged violation.

REPRISALS
Employers shall not threaten, coerce, or discharge any employee because of participation in any investigation or hearing related to the Minimum Wage Act (C.R.S. 8-6-101 <i>et seq.</i>)

DUAL JURISDICTION
Whenever employers are subject to both federal and Colorado law, the law providing the greater protection or benefit for the employee will apply.

POSTING REQUIREMENTS
Employers covered by the Wage Order must display a Wage Order poster in an area frequented by employees during the workday. Visit www.colorado.gov/cdle/labor to obtain a free poster.