

Michigan LEO

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Michigan Wage and Hour

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Michigan Wage and Hour Division

Disclaimer

Information provided in this presentation may contain legal information. Legal information is not the same as legal advice – the application of law to an individual's specific circumstances.

The division will do its best to provide you with information that is accurate and useful, but it is recommended you consult a lawyer if you want professional assurance the information, and your interpretation of it, is appropriate to your particular situation.



Wage & Hour Division

Currently 26 people in the Department of Labor and Economic Opportunity (LEO) who administer Michigan statutes:

- **Public Act 90:** Youth Employment Standards
- **Public Act 390:** Payment of Wages & Fringe Benefits
- **Public Act 337:** Improved Workforce Opportunity Wage (Minimum Wage & Overtime)
- **Public Act 338:** Paid Medical Leave
- **Public Act 62:** Human Trafficking Notification Act



Mission

To provide public service through the fair, effective, and efficient administration of laws that protect the wages and fringe benefits of Michigan workers including paid medical leave, provide for the safe and legal employment of minors, and require posting of notices related to human trafficking, youth employment, paid medical leave, and minimum wage.

State of Michigan Payment of Wages & Fringe Benefits

Public Act 390



PUBLIC ACT 390

The Payment of Wages & Fringe Benefits Act

Applies to most Michigan employees:

- Regulates payment of hourly, salary, piece rate, and commission wages on a regular basis: weekly, biweekly, semimonthly, or monthly.
- Permits payment of wages by US currency, negotiable check, direct deposit, or payroll debit card.
- Restricts deductions from wages to those allowed by law, court ordered garnishment, collective bargaining agreement, or employee signed written consent.
- Allows overpayment deductions resulting from clerical errors without written consent under certain conditions.

The Payment of Wages & Fringe Benefits Act

- Requires fringe benefits of vacation pay, sick pay, holiday pay, bonuses, and authorized expenses be paid in accordance with written contracts or written policies.
- Prohibits employers from receiving payment from employees as condition of or for continued employment.
- Requires employers to provide retainable check stub.
- Provides protection for employees who file a claim or exercise a right protected by Act 390.



State of Michigan
Improved Workforce Opportunity Wage
(Minimum Wage and Overtime)

Public Act 337

The Improved Workforce Opportunity Wage Act

Applies to:

- Employers with 2 or more employees 16 years of age and older.
- Employers not covered by the federal Fair Labor Standard Act (FLSA).
- Individuals covered by the FLSA when state requirement is stricter than federal requirement.



Provides a minimum hourly rate of \$9.87 currently and will potentially increase to **\$10.10/hr. on January 1, 2023, dependent on the state's 2022 unemployment rate being less than 8.5%.**

Cont'd. PUBLIC ACT 337

The Improved Workforce Opportunity Wage Act, cont'd

- Permits a 16 to 17-year-old subminimum wage equal to 85% of minimum wage rate: **currently \$8.39/hour**.
- Allows tipped employees to be paid 38% of minimum wage rate, **\$3.75/hour currently**, if they report in writing receiving tips equal to minimum wage.
- Offers a **\$4.25/hour** 16 to 19-year-old training wage for 90 calendar days of employment.
- Necessitates overtime, **1½ times regular pay rate**, for hours worked over 40 in a 7-day workweek.





Impact of Recent Court of Claims Ruling:

- The adoption of the 2018 ballot initiative and subsequent amendment by the 2018 legislature was ruled unconstitutional on 7/19/2022.
- The current decision increases the Michigan minimum wage.
- There will be changes for businesses that need to determine how to comply.
- An order staying the effect of the decision until 2/19/2023 was issued on 7/29/2022.
- The adopted version of the IWOWA may be found in the legislature's archives at [mcl-Act-337-of-2018.pdf \(mi.gov\)](#).
- The situation is fluid and available updates will be posted at www.Michigan.gov/wagehour.

State of Michigan Youth Employment Standards

Public Act 90

The Youth Employment Standards Act

- Covers all Michigan employers who employ minors, people under 18 years old, along with the Fair Labor Standards Act (FLSA) on federally covered businesses (stricter standard applies).
- Sets work permit requirements.
- Prohibits employment in hazardous or injurious occupations.
- Regulates hours of employment.
- Requires meal and rest periods.
- Mandates adult supervision.
- Contains posting requirement.



State of Michigan Paid Medical Leave

Public Act 338

The Paid Medical Leave Act

Effective March 29, 2019

Applies to employers with 50 or more employees that work anywhere in the United States.

✓ *Employer:*

- any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity.
- does not include the United States government, another state, or a political subdivision of another state.
- number of employees used to determine the count for employer required coverage do not have to work in the State of Michigan.

✓ *Employee:*

- an individual engaged in service to an employer, in the business of the employer, and from whom an employer is required to withhold for federal income tax purposes



There are 12 categories of Employees not covered by the Paid Medical Leave Act. Most common categories are:

- Individuals whose primary work location is not in the state of Michigan.
- Individuals 18 – 19 years-of-age for their first 90 calendar days of employment.
- Employees of a staffing agency contracted to work for a third party are not eligible for PMLA.
- Individuals employed by an employer for 25 weeks or fewer in a calendar year for a job that is scheduled for 25 weeks or fewer.
- Individuals who worked on average fewer than 25 hours per week during the immediately preceding calendar year.
- Variable hour employees as defined in 29 CFR 54.4980H-I.



Accrual, benefit year, carry over, & frontloading

- **Accrual:**
 - Begins March 29, 2019, or an employee's 1st day of employment, whichever is later.
 - 1 hour for every 35 actual hours worked.
 - *However*, employer is not required to allow accrual of over 1 hour in a calendar week or more than 40 hours in a benefit year.
- ***Benefit Year:***
 - Any consecutive 12-month period used by an employer to calculate an eligible employee's benefits.
- **Carry over:**
 - Up to 40 hours allowed from one benefit year to the next.
 - *However*, employer not required to allow employees to use more than 40 hours in a single benefit year.
- **Frontloading 40 hours in lieu of accrual:**
 - May be done at the beginning of the benefit year or on date individual becomes eligible during the benefit year on a prorated basis.
 - Carry over not required.



Usage

- Allowed as leave is accrued:
 - *However*, employer may require employee to wait until the 90th calendar day after commencing employment before using accrued leave.
- Must be used in 1-hour increments:
 - *Unless* employer has a different increment policy set forth in writing in an employee handbook or other employee benefit document.
- Employees must:
 - Follow the employer's usual and customary notice, procedural, and documentation requirements for requesting leave.
 - Be allowed at least 3 days to provide documentation.



Employees may take paid medical leave for any of the following reasons:

- Physical or mental illness, injury, or health condition of the employee or his or her family member.
- Medical diagnosis, care, or treatment of the employee or employee's family member.
- Preventative care of the employee or his or her family member.
- Closure of the employee's primary workplace by order of a public official due to a public health emergency.
- Care of his or her child whose school or place of care has been closed by order of a public official due to a public health emergency.
- Employee's or his or her family member's exposure to a communicable disease that would jeopardize the health of others as determined by health authorities or a health care provider.



For domestic violence and sexual assault situations, employees may use paid medical leave for any of the following:

- Medical care or psychological or other counseling.
- Receiving services from a victim services organization.
- Relocation and obtaining legal services.
- Participation in civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.



The Paid Medical Leave Act in Court

Impact of Recent Court of Claims Ruling:

- The adoption of the 2018 Earned Sick Time Act (ESTA) ballot initiative and subsequent amendment to the Paid Medical Leave Act by the 2018 legislature was ruled unconstitutional on 7/19/2022.
- The current decision expands the eligibility, accrual, and use of paid sick leave.
- There will be changes for businesses that need to determine how to comply.
- An order staying the effect of the decision until 2/19/2023 was issued on 7/29/2022.
- The adopted version of the ESTA may be found in the legislature's archives at [mcl-Act-338-of-2018.pdf \(mi.gov\)](#).
- The situation is fluid and available updates will be posted at [www.Michigan.gov/wagehour](#).



State of Michigan Human Trafficking Notification

Public Act 62

The Human Trafficking Notification Act

Requires conspicuous, public posting of a human trafficking notification in English and Spanish at the following entities:

- Public rest stops and welcome facilities.
- Public bus and rail transportation stations.
- Public airports.
- Adult entertainment establishments.
- Court declared public nuisance properties.

Notification also available in the following languages:

- | | | |
|------------|------------------------------------|--------------|
| 1. Arabic | 4. Chinese Traditional (Cantonese) | 6. Hmong |
| 2. Bengali | 5. Chinese Simplified (Mandarin) | 7. Polish |
| 3. Bosnian | | 8. Ukrainian |

National Human Trafficking Resource

Hotline: 1-888-373-7888

Text: 233733



Where to report misclassification issues?

<https://www.michigan.gov/ag/initiatives/payroll-fraud>

Internal Revenue Service 800-829-1040

Unemployment Misclassification Unit - To report suspected cases of employee misclassification, call UIA Employer Customer Service at 1-855-484-2636.



Claim Filing

Claims for investigation are accepted:

- Within 12-months of alleged violation under the Payment of Wages and Fringe Benefits Act.
- Within 3 years of alleged violation under the Michigan minimum wage and overtime law.
- Anonymous complaints are not accepted under Act 390.
- A claim for Paid Medical Leave must be filed within 6 months of the alleged violation.
- A claim may be filed electronically online at www.michigan.gov/wageclaim by calling Wage and Hour at 855-4MI-WAGE (855-464-9243)



FAQS

- **Can my employer change my rate of pay?**

Yes, if your employer tells you about the reduction before it goes into effect, and you work any hours under the new agreement. The employer cannot reduce your rate of pay on hours that you have already worked.

- **Can my employer make overtime mandatory?**

Yes, if you are over 18, your employer can ask or schedule you to work overtime at any time.

- **Do I have to work 40 hours to be considered full-time?**

The laws the Wage and Hour Division enforces do not define full-time or part-time employment. If your employer chooses to distinguish full time and part time employment in order to determine eligibility for fringe benefits, the employer is required to pay those fringe benefits in accordance with their written contract or written policy.

- **Does my employer have to pay me for training time?**

On the job training which is directly related to the employee's job should be counted as hours worked and paid accordingly.



State of Michigan Recordkeeping, Resources, & Services

Recordkeeping




Maintain records for 3 years:

- Employee name, address, birthdate, occupation, and rate of pay.
- Daily time records with starting and ending times to the nearest 10th of an hour or smaller increment.
- Total hours worked each pay period.
- Total wages paid each pay period along with an itemization of deductions.
- Itemization of fringe benefits including written agreements and paid medical leave taken.
- Signed, dated tip statements each pay period.
- Signed, written deduction authorizations.

Poster Requirements

- **General Requirements**
Minimum Wage and Overtime by all businesses
- **Youth Employment Standards Act**
Posting requirement by businesses who employ minors
- **General Requirements**
Paid Medical Leave Act by businesses with 50 or more employees
- **Human Trafficking Notification**
by certain entities




Michigan Department of Labor and Economic Opportunity
Wage and Hour Division
PO Box 30476
Lansing, MI 48909-7976
REQUIRED POSTER
GENERAL REQUIREMENTS – PAID MEDICAL LEAVE ACT*

GRETCHEN WHITMER
GOVERNOR

JEFF DONOFRIO
DIRECTOR

Coverage
The Paid Medical Leave Act, 2018 Public Act 338, as amended by 2018 Public Act 369, effective March 29, 2019, covers employers who employ 50 or more individuals. The act covers individuals engaged in service to an employer in the business of the employer and from whom an employer is required to withhold for federal income tax purposes. An eligible employee does not include executive, administrative, and professional overtime exempt employees, employees covered by a private collective bargaining agreement that is in effect, employees of the United States government, another state, or a political subdivision of another state, individuals whose primary work location is not in this state, individuals 16-19 years of age being paid the youth training wage in accordance with the Improved Workforce Opportunity Wage Act, temporary employees as described in the Michigan Employment Security Act, variable hour employees as defined by Railway Labor Act and Railroad Unemployment Insurance Act, individuals employed on a seasonal basis, individuals employed on a calendar year for a job scheduled for 25 weeks or fewer, individuals who work during the immediately preceding calendar year. (See section 2 of The Paid Medical Leave Act)

Paid Medical Leave Accrual
Paid medical leave accrual begins on March 29, 2019, or upon commencement later. Paid medical leave is accrued at a rate of 1 hour for every 35 actual hours worked. An employer may provide an alternative method of accrual, but it must allow accrual of over 1 hour in a calendar week or more than 40 hours in a month period used by an employer to calculate an eligible employee's benefit. An employer may provide an alternative method of accrual, but it must allow accrual of over 1 hour in a calendar week or more than 40 hours in a month period used by an employer to calculate an eligible employee's benefit. An employer may provide an alternative method of accrual, but it must allow accrual of over 1 hour in a calendar week or more than 40 hours in a month period used by an employer to calculate an eligible employee's benefit. An employer may provide an alternative method of accrual, but it must allow accrual of over 1 hour in a calendar week or more than 40 hours in a month period used by an employer to calculate an eligible employee's benefit.



Michigan Department of Labor and Economic Opportunity
Wage and Hour Division
PO Box 30476
Lansing, MI 48909-7976
REQUIRED POSTER
GENERAL REQUIREMENTS - MINIMUM WAGE and OVERTIME

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Coverage
The Improved Workforce Opportunity Wage Act (IWOWA), Public Act 337 of 2018, as amended, covers employers who employ 2 or more employees 16 years of age and older.


Minimum Hourly Wage Rate

Employees must be paid at least:

Effective Date	Minimum Hourly Wage Rate	Tipped Employee		85%**
		Minimum Hourly Rate	Reported Average Hourly Tips	
January 1, 2018	\$9.25	\$3.52	\$5.73	\$7.86
March 29, 2019	\$9.45	\$3.59	\$5.86	\$8.03
January 1, 2020*	\$9.65	\$3.67	\$5.98	\$8.20
January 1, 2021*	\$9.87	\$3.75	\$6.12	\$8.39

*An increase in the minimum hourly wage rate as prescribed in subsection (1) does not take effect if the unemployment rate for this state, as determined by the Bureau of Labor Statistics, United States Department of Labor, is 6.5 percent or greater in the calendar year for which the unemployment rate is determined.

** Minors 16-17 years of age



STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
LANSING

GRETCHEN WHITMER
GOVERNOR

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POSTING REQUIREMENT
YOUTH EMPLOYMENT STANDARDS ACT, 1978 PA 90, as amended
MCL 409.110 Minor under 16 years; days and hours of employment.
Sec. 10. A minor under 16 years shall not be employed in an occupation subject to this act for more than 6 days in 1 week, nor for a period longer than a weekly average of 8 hours per day or 48 hours in 1 week, nor more than 10 hours in 1 day. The minor shall not be employed between the hours of 9 p.m. and 7 a.m. A minor who is a student in school shall not be employed more than a combined school and work week of 48 hours during the period when school is in session.

MCL 409.111 Minor 16 years or older; days and hours of employment; definitions.
Sec. 11. (1). Except as provided in subsection (3), a minor 16 years of age or older shall not be employed in an occupation subject to this act for more than any of the following periods:
(a) Six days in 1 week.
(b) A period longer than a weekly average of 8 hours per day or 48 hours in 1 week.
(c) Ten hours in 1 day.
(d) For a minor 16 years of age or older who is a student in school, a combined school and work week of 48 hours during the period school is in session.

(2) Except as provided in subsection (3), a minor 16 years of age or older shall not be employed between 10:30 p.m. and 6 a.m. However, except as provided in subsection (3), a minor 16 years of age or older who is a student in school may be employed until 11:30 p.m. on any of the following days:
(a) On Fridays and Saturdays.
(b) During school vacation periods.
(c) During periods when the minor is not regularly enrolled in school.

State of Michigan Contact Information

Department of Labor and Economic Opportunity Wage and Hour Division

Online:

- michigan.gov/WageHour

Lansing Office:

530 W. Allegan Street
PO Box 30476
Lansing, MI 48909-7976

- **517-284-7800**
- Toll-Free: **855-4MI-WAGE** (855-464-9243)