

# EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

## FEDERAL MINIMUM WAGE

### \$7.25 PER HOUR

BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

#### OVERTIME PAY

At least 1 1/2 times the regular rate of pay for all hours worked over 40 in a workweek.

#### CHILD LABOR

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in non-manufacturing, non-mining, non-hazardous jobs with certain work restrictions. Different rules apply to agricultural employment.

#### TIP CREDIT

Employers of "tipped employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employees must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employer's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

#### PUMP AT WORK

The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk. Employers must provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

#### ENFORCEMENT

The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate and/or recommend criminal prosecution. Employers may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA's child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violation is determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

#### ADDITIONAL INFORMATION

- Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions. Certain narrow exemptions also apply to the pump at work requirements.
- Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
- Some state laws provide greater employee protections; employers must comply with both.
- Some employees in certain industries are classified as "independent contractors" when they are not under the FLSA. To learn more about the difference between an employee and an independent contractor, visit [www.dol.gov/eisap/whd/whd/whd.htm](http://www.dol.gov/eisap/whd/whd/whd.htm).
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.



# EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

## EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

#### PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

#### EXEMPTIONS

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armed guard, alarm or guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

#### EXAMINE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties against violators. Employees or job applicants may also bring their own court actions.

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#### THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.



# Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave? The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The US Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take up to 12 workweeks of FMLA leave in a 12-month period.

- The FMLA does not affect any federal or state law prohibiting discrimination on the basis of race, sex, religion, national origin, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, or disability in employment, places of public accommodation, including educational institutions, or in state transactions; preserve the public safety, health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

What does the FMLA leave cover? FMLA leave is not paid leave, but you may choose, or be required by your employer, to use any accrued paid leave (vacation, sick leave, or paid time off) during the FMLA leave period. FMLA leave is not paid leave, but you may choose, or be required by your employer, to use any accrued paid leave (vacation, sick leave, or paid time off) during the FMLA leave period.

Am I eligible to take FMLA leave? You are an eligible employee if all of the following apply:

- You work for a covered employer.
- You have worked for your employer for at least 12 months.
- You have at least 1,250 hours of work for your employer during the 12-month period.
- Your employer has at least 50 employees within 75 miles of your workplace.

Where can I find more information? Visit [www.dol.gov/eisap/whd/whd/whd.htm](http://www.dol.gov/eisap/whd/whd/whd.htm) for more information.

What do I request FMLA leave? Generally, you must:

- Follow your employer's normal policies for requesting leave.
- Give notice at least 30 days before your FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

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# LABOR LAW COMPLIANCE CENTER

## Job Safety and Health Protection

The VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) LAW, by AUTHORITY OF TITLE 40.1 OF THE LABOR LAWS OF VIRGINIA, PROVIDES JOB SAFETY AND HEALTH PROTECTION FOR WORKERS. THE PURPOSE OF THE LAW IS TO ASSURE SAFE AND HEALTHFUL WORKING CONDITIONS THROUGHOUT THE STATE. THE VIRGINIA SAFETY AND HEALTH CODES BOARD PROMULGATES AND ADOPTS JOB SAFETY AND HEALTH STANDARDS, AND EMPLOYERS AND EMPLOYEES ARE REQUIRED TO COMPLY WITH THESE STANDARDS. THESE STANDARDS MAY BE FOUND AT THE FOLLOWING WEBSITE: <http://www.doh.virginia.gov/regulatory/information/> YOU MAY ALSO CONTACT THE DEPARTMENT OF LABOR AND INDUSTRY OFFICES LISTED BELOW TO RECEIVE PRINTED COPIES OF THE VIRGINIA UNIQUE STANDARDS AND OBTAIN THE NAMES OF PUBLISHERS OF THE FEDERAL IDENTICAL STANDARDS.

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# Virginia Human Rights Act

## Code of Virginia - Title 2.2, Chapter 39

It is the policy of the Commonwealth of Virginia to safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, or disability in employment, places of public accommodation, including educational institutions, or in state transactions; preserve the public safety, health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

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# Life's a little easier with eitc

## earned income tax credit

EITC is for people who work for someone else or own or run a business or a farm. To qualify, you must have low to mid income and meet the following rules.

To qualify, you and your spouse (if filing a joint return):

- Must have earned income.
- Must have a Social Security number that is valid for employment issued on or before the due date of the return (including extensions).
- Cannot have investment income, such as interest income, over a certain amount.
- Generally must be a U.S. citizen or resident alien all year.
- May not file as married filing separately.
- May not be a qualifying child of another person.
- May not file Form 2552-EZ (related to foreign earned income).
- Must have a qualifying child or you do not have a qualifying child, you must:
  - Be at least age 25 but under age 65 at the end of the year.
  - Live in the United States\* for more than half the year, and
  - Not qualify as a dependent of another person.

To claim the EITC, you have to file a federal tax return even if you owe no tax and are not required to file. File your return as soon as you have all the information you need about how much you earned. However, refunds for returns claiming the EITC can't be issued before mid-February. This delay applies to the entire return, not just the portion associated with the EITC.

EITC provides a boost to help you pay your bills or save for a rainy day. Just imagine what you could do with EITC.

Do you want help with the EITC?

- Go to [www.irs.gov/eitc](http://www.irs.gov/eitc) for free information and to check out the interactive EITC Assistant to see if you qualify for the credit and estimate the amount of your EITC.
- Visit a Volunteer Income Tax Assistance (VITA) site for free tax help and preparation. Go to [www.irs.gov/VITA](http://www.irs.gov/VITA) or call 1-800-908-9087 to find a site.
- Use EITC at [www.irs.gov/efile](http://www.irs.gov/efile) for free online filing through commercially available tax preparation software.

Errors can delay the EITC part of your refund until corrected. If the IRS audits your return and finds an error in your claim of the EITC, you must pay back the amount of the EITC you received for your interest and penalties. You may also have to file Form 8862 for future claims. And, if the IRS finds your incorrect claim was due to reckless or intentional disregard of rules and regulations or fraud, you may be ban from claiming the EITC for 2 years or 10 years, depending on the reason for the error.

\*U.S. military personnel on extended active duty outside the United States are considered to live in the United States while on active duty.

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- Go to [www.irs.gov/eitc](http://www.irs.gov/eitc) for free information and to check out the interactive EITC Assistant to see if you qualify for