

Minimum Wage in California

In California, your employer must pay you at least the minimum wage, or \$9.00 per hour. Effective January 1, 2016 the minimum wage will be \$10.00 per hour.

In San Francisco, the minimum wage for work performed in San Francisco in 2015 is \$12.55 per hour. Effective July 2016 the SF min wage will be \$13.00/hr; effective July 2017 it will be \$14.00/hr; effective July 2018 it will be \$15.00/hr

In Oakland, effective March 2015, the min wage is \$12.25/hr, with yearly increases to adjust for inflation. **In Emeryville**, effective July 2015, the hourly min wage is \$12.25/\$14.44 depending on the size of the employer, with yearly increases up to \$16/hr by 2019

Other minimum wage local ordinances may also apply. Contact the Asian Law Caucus for more information.

Overtime Rate

If you work more than 40 hours in a week or more than 8 hours in a day, you must be paid overtime at the rate of 1.5 times your hourly rate. If you work more than 12 hours in a day, you must be paid 2 times your hourly rate.

For example, if your hourly wage is \$9.00 per hour and you work 13 hours per day, for 6 days a week, you should be paid:

Regular rate	\$9.00 x 40 hours =	\$360
OT rate	\$9.00 x 1.5 x 32 hours=	\$432
Double time	\$9.00 x 2.0 x 6 hours =	\$108
Total gross pay		\$900

* Assuming you receive a ½-hour unpaid lunch break

If you work seven consecutive days in a workweek, on the seventh day, you must be

paid 1.5 times your hourly rate for the first 8 hours and 2 times your hourly rate for any additional hours. For example, if your hourly rate is \$9.00 an hour and you work 12 hours a day, for 7 days in a row, you should be paid:

Regular rate	\$9.00 x 40 hours =	\$360
OT rate	\$9.00 x 1.5 x 40 hours=	\$540
Double time	\$9.00 x 2.0 x 4 hours =	\$72
Total gross pay		\$972

* Assuming you receive a ½-hour unpaid lunch break

NOTE: Some workers are exempt from the minimum wage and overtime laws. Contact the ALC to determine if you are an exempt employee.

Additional Rights

No Waivers: You cannot give up your right to minimum wage and overtime pay. Even if you agreed to be paid less than the minimum wage, your employer is still obligated by law to pay you minimum wage and overtime pay. Regardless of any agreement you made with your employer to “give up” these rights, you can and should file a wage claim.

Retaliation: It is illegal for an employer to fire or discipline you for filing a wage claim or asking to be paid minimum wage or overtime wages. Generally, retaliation claims must be filed within 6 months of the illegal act.

Meals/Rest Breaks: You have the right to take a paid rest period of at least 10 minutes for each 4 hours you work. You also have the right to take an unpaid meal period of at least 30 minutes for each 5 hours of work.

Working During Meal Periods: If you are required to work during your meal period, you are entitled to be paid for the “on-duty” meal period.

Employer-Provided Meals: Meals provided by the employer cannot be credited toward the minimum wage, unless you agree in writing.

If You Quit or Are Discharged

Immediate Payment of Earned Wages: If you are terminated, your employer must pay you immediately all wages earned. If you quit without providing notice, your employer may take up to 72 hours to issue payment of the wages you earned.

Vacation and Holiday Pay: If you have been promised paid vacation time and/or holiday pay, you must be paid a pro-rata share of vacation and/or holiday pay earned at the time you quit or are discharged.

Waiting Time Penalties: If your employer fails to pay your wages on time, you may be awarded a waiting time penalty in an amount equal to one day’s wages for each day payment of your wages is delayed, up to a limit of 30 days.

Restaurant Workers

Split Shift: Each day you work a split shift (for example, working the lunch shift and returning later to work the dinner shift), you may be entitled to be paid an additional hour at minimum wage.

Tips: Your employer cannot pay you less than minimum wage by counting your tips as part of your wages.

However, tip pooling, or distributing tip among non-management staff, is legal.

Remedies

You have the right to file an administrative claim against your employer for minimum and overtime wages going back up to 3 years.

You do not need an attorney to file a claim with any of the following government agencies:

For violations of the SF Minimum Wage Ordinance:

Office of Labor Standards Enforcement
City Hall, 1 Dr. Carlton B. Goodlett, Room 430
San Francisco, CA 94102
(415) 554-6292

For violations of State minimum wage and other labor laws, file in the county where you worked:

Department of Labor Standards Enforcement (DLSE) (or, CA State Labor Commissioner)
455 Golden Gate Avenue, 10th Floor East
San Francisco, CA 94102-7001
(415) 703-4810 (English, Spanish, Cantonese)

1515 Clay Street, Suite 801
Oakland, CA 94612
(415) 622-3273

For the locations of other DLSE offices, go to www.dir.ca.gov/dlse/districtoffices.htm.

For violations of the federal minimum wage:

U.S. Department of Labor
90 7th Street, Suite 12-100
San Francisco, CA 94103
(415) 625-7720

You can also file a lawsuit in court. Small claims courts decide cases for wages under \$7,500 and provide an advisor to help you prepare forms. You do not need an attorney, and attorneys are not allowed in small claims court. You can also file your case in superior court if you are owed over \$7,500, but you should hire an attorney to assist you in court.

Take Precautions, Before A Problem Arises

Know Your Employer: Get the full English name of your employer, plus the address and telephone number of your workplace.

Keep Your Own Records: Write your work hours on a calendar each day, so that you can prove how many hours you worked. If you write a letter to your employer asking for your wages, keep a copy of the letter as proof that your employer knew he owed you wages.

Make Copies of Important Documents: You have the right to get a copy of all your time cards and payroll records, even after you leave your job. Ask for a copy of anything you are asked to sign, and keep copies of your pay check stubs and W-2 forms. Save any bank statements proving you were unable to cash your paycheck.

If You Are Undocumented: All California workers, whether or not they are legally authorized to work in the United States, are protected by state and federal wage and hour protections. Even if you are undocumented, you have the right to file a wage claim or lawsuit for wages owed to you.

If You Have Questions About Your Rights, call (415) 896-1701 to make an appointment to attend ALC's Employment Clinic on the 1st and 3rd Thursdays of each month.

KNOW YOUR RIGHTS: WAGE AND HOUR



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The mission of Advancing Justice - Asian Law Caucus is to promote, advance and represent the legal and civil rights of the Asian and Pacific Islander communities. Recognizing that social, economic, political and racial inequalities continue to exist in the United States, the Asian Law Caucus is committed to the pursuit of equality and justice for all sectors of our society with a specific focus directed toward addressing the needs of low-income Asian and Pacific Islanders.

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