



OFFICIAL NOTICE

New Mexico

Minimum Wage Act



Minimum Wage - Every employer shall pay to each employee wages not less than the following:

Effective January 1, 2009

\$7.50 *per hour*

MINIMUM WAGES

- A. An employer shall pay an employee the minimum wage rate of six dollars fifty cents (\$6.50) an hour. As of January 1, 2009, an employer shall pay the minimum wage rate of seven dollars fifty cents (\$7.50) an hour.
- B. An employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.
- C. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage of two dollars thirteen cents (\$2.13).
- D. An employee shall not be required to work more than forty hours in any week of seven days, unless the employee is paid one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty hours. **50-4-22.**

TEMPORARY STATE PREEMPTION; SAVING CLAUSE

A local law or ordinance, whether advisory or self-executing, in effect on January 1, 2007 that provides for a higher minimum wage rate than that set forth in the Minimum Wage Act shall continue in full force and effect until repealed. **50-4-22.1.**

EMPLOYERS EXEMPT FROM OVERTIME PROVISIONS FOR CERTAIN EMPLOYEES

- A. An employer of workers engaged in the ginning of cotton for market, is exempt from the overtime provisions of Subsection D of Section **50-4-22** NMSA 1978 if each employee is employed for a period of not more than fourteen weeks in the aggregate in a calendar year.
- B. An employer of workers engaged in agriculture is exempt from the overtime provisions set forth in Subsection D of Section **50-4-22** NMSA 1978.
- C. An employer is exempt from the overtime provisions set forth in Subsection D of Section **50-4-22** NMSA 1978 if the hours worked in excess of forty hours in a week of seven days are: (1) worked by an employee of an air carrier providing scheduled passenger air transportation, (2) not required by the employer, and (3) arranged through a voluntary agreement among employees to trade scheduled work shifts. **50-4-24.**

POSTING OF SUMMARY OF THE ACT

Every employer subject to the Minimum Wage Act [**50-4-20** NMSA 1978] shall keep a summary of it, furnished by the labor commissioner [director of the labor and industrial division] without charge, posted in a conspicuous place on or about the premises wherein any person subject to the Minimum Wage Act is employed, and the summary shall clearly and conspicuously set forth the current minimum wage. **50-4-25.**

ENFORCEMENT; PENALTIES; EMPLOYEES' REMEDIES

- A. An employer who violates any of the provisions of the Minimum Wage Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section **31-19-1** NMSA 1978.
- B. The director of the labor relations division of the workforce solutions department shall enforce and prosecute violations of the Minimum Wage Act.
- C. In addition to penalties provided pursuant to this section, an employer who violates any provision of Section **50-4-22** NMSA 1978 shall be liable to the employees affected in the amount of their unpaid or underpaid minimum wages plus interest, and in an additional amount equal to twice the unpaid or underpaid wages. **50-4-26.**

RETALIATION PROHIBITED

It is a violation of the Minimum Wage Act [**50-4-20** NMSA 1978] for an employer or any other person to discharge, demote, deny promotion to or in any other way discriminate against a person in the terms or conditions of employment in retaliation for the person asserting a claim or right pursuant to the Minimum Wage Act or assisting another person to do so or for informing another person about employment rights or other rights provided by law. **50-4-26.1**