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What’s New

010107 – The Massachusetts minimum wage was raised to $7.50 per hour as of January 1, 2007.

072407 – New sections added on Smoking in the Workplace and Crime Victim Leave.

010108 – The Massachusetts minimum wage was raised to $8.00 per hour as of January 1, 2008.

122012 - Changes were made to the following sections: Family Leave, Smoking, Military Leave, Jury Duty, Payment of Wages, Minimum Wage, Work Hours and Breaks, Child Labor and Discrimination. The following sections were added: Breastfeeding, New Hire Reporting, and Access to Personnel Files.

041013 - Changes were made to the following section: State Continuation of Benefits.

010114 – Changes were made to the following section: Discrimination.
Introduction

Employment laws vary from state to state with some being more employee-friendly than others. Federal regulations set minimum standards of worker protections that all employers of a given size must meet. Individual states, however, are free to grant workers additional or expanded rights or protections above this federal minimum.

Virtually all employers in the U.S. are subject to federal employment regulations. Only the smallest, strictly local employers are not subject to federal regulations. If an employer does any of the following, they are participating in interstate commerce and are subject to federal employment regulations:

- Production of goods for commerce, such as transportation or communication
- Use of mail over state lines
- Interstate communications using the telephone
- Use of the Internet over state lines
- Interstate communications using electronic mail
- Make purchases from out-of-state vendors
- Sell to customers in other states

This summary of employment regulations does not include information for those few employers not subject to the federal minimum employment regulations.

Many states have regulations for public employers that are different than those for employers in the private sector. This document also does not include information on regulations (federal and state) that apply only to public sector employers.

In this document we summarize the workplace regulations and worker protections available in Massachusetts. Although not an exhaustive list, it covers the major topics small to mid-sized employers must deal with on a regular basis. Covered areas include:

- Wage, hour and overtime rules (including child labor and break rules);
- Leaves of absence (family leaves, voting time and jury duty);
- Discrimination and harassment regulations; and
- State rules on continuation of benefits.

The federally mandated, but state run new-hire reporting requirements are covered under a separate document, available for download from Libretto or from the Agent 77 store.

The following Quick View table summarizes these regulations. This is followed by a more detailed description of these regulations. Please be sure to read both carefully to understand your responsibilities under Massachusetts and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Massachusetts Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Wage</td>
<td>- $8.00 / hour</td>
</tr>
<tr>
<td></td>
<td>- Tipped employees may be paid a minimum of $2.63</td>
</tr>
<tr>
<td></td>
<td>- Some localities have a higher minimum</td>
</tr>
<tr>
<td>Overtime</td>
<td>- Non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week</td>
</tr>
<tr>
<td></td>
<td>- Retail employers with 8 or more employees must pay overtime on Sunday and holidays</td>
</tr>
<tr>
<td>Payment of Wages</td>
<td>- Employees must be paid at least every two weeks, no more than 6 days after the close of the period</td>
</tr>
<tr>
<td></td>
<td>- Final paychecks must be delivered no later than the following payday for voluntary terminations and on the last day of employment for dismissals</td>
</tr>
<tr>
<td></td>
<td>- Final pay must include accrued vacation pay.</td>
</tr>
<tr>
<td>Work Hours and Breaks</td>
<td>Employees working at least 6 contiguous hours must be given a 30-minute or more meal break</td>
</tr>
<tr>
<td>Child Labor</td>
<td>- Employers employing minors under 18 must keep an employment certificate on file (issued by Superintendent of Schools)</td>
</tr>
<tr>
<td></td>
<td>- Federal and Massachusetts law prohibit minors in certain occupations. See the U.S. Department of Labor and the Massachusetts Attorney General for information on these prohibitions (contact information is in the reference section).</td>
</tr>
<tr>
<td></td>
<td>- See the details section below for restrictions on hours minors may work</td>
</tr>
<tr>
<td>Military Leave</td>
<td>Massachusetts has a separate Military Leave law aside from the Federal Law outlined below:</td>
</tr>
<tr>
<td></td>
<td>- Employers must grant up to 5 years of military leave</td>
</tr>
<tr>
<td></td>
<td>- Employee must be reinstated to same or equivalent position after completion of military leave</td>
</tr>
<tr>
<td></td>
<td>- Employers may not terminate or threaten to terminate any employee called to military service</td>
</tr>
<tr>
<td></td>
<td>- Special benefit rules apply for military leave</td>
</tr>
<tr>
<td></td>
<td>- Massachusetts law provides leave benefits for members of the U.S. forces ready reserve.</td>
</tr>
<tr>
<td></td>
<td>- Volunteer firefighters and emergency medical technicians are protected from repercussions when late to work because of an emergency response.</td>
</tr>
</tbody>
</table>
## Jury Duty, Witness and Crime Victim Leave
- Leave is required for employees to serve as jurors or as a witness.
- Full wages must be paid for the first 3 days of leave of jury duty.
- Employee must be reinstated to same position after completion of jury duty or serving as a witness.
- Employees who are victims of crimes must be given leave to attend criminal court proceedings and may not have any adverse action taken against them.

## Voting Time
- Employees working in manufacturing, mechanical or mercantile establishments must be given the first two 2 hours after the polls open off to vote.
- Time must be given but does not have to be paid time.
- Request must be made prior to Election Day.

## Family Leave
- Employers with 6 or more employees:
  - Must grant up to 8 weeks of unpaid leave for the birth of adoption of a child.
  - Benefits must be maintained during leave.
  - Employee must be reinstated to same or equivalent position after completion of leave.
- Employers with 50 or more employees:
  - Must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours.
  - Leave must be granted for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for military leave.
  - Employee must be reinstated to same or equivalent position after completion of leave.
  - Benefits must be maintained during leave.
  - Companies of 20 or more employees must provide up to 8 hours of unpaid leave in a given school year for employees to attend school conferences (must be provided only if employee has exhausted all vacation or other personal leave).
  - Also, 24 hours of leave must be granted in a 12-month period for parents to attend school functions or for employees to take children or elderly relatives to doctor or dentist appointments.
  - Posting requirement apply.

## Breastfeeding
A woman may breastfeed her child in any public place or establishment where she and her child are lawfully present.

## New Hire Reporting
New hires or rehires must be reported to the state within 14 days of hire.

## Access To Personnel Files
Employees have the right to access their personnel files within 5 days of written request.
<table>
<thead>
<tr>
<th>Smoking in the Workplace</th>
<th>Massachusetts prohibits smoking in any place of employment. For exceptions, see below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination and Harassment</td>
<td>Massachusetts prohibits employers from discriminating based on ancestry or national origin, race or color, religion (accommodation of religious practices is required), age (over 40), marital status, arrest records, military service or veteran status, genetic testing results, sexual orientation/gender identity, physical or mental disability, transgender or sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions), same gender marriage, AIDS and individuals who have tested HIV-positive.</td>
</tr>
<tr>
<td>Continuation of Benefits</td>
<td>• Details and contact information is listed below.</td>
</tr>
</tbody>
</table>
Wage, Hour and Overtime Rules

Employers are subject to the federal minimum wage, hour and overtime rules through the Fair Labor Standards Act. This act specifies that businesses that do at least $500,000 in gross revenue, as well as all health care facilities and schools are subject to the federal rules. Also, employers involved in interstate commerce are subject to the federal rules.

Minimum Wage

Massachusetts’ minimum wage is $8.00 per hour. Employers may pay tipped employees a minimum of $2.63 per hour, provided that the total wages plus tips come to at least the minimum of $8.00 per hour and that employees are informed of this provision before taking the tip credit.

Be aware that certain local governments in Massachusetts have a higher minimum wage for employees in their jurisdictions. Be sure to contact your city or county government to see if there are any local minimum wage rules for your business.

Finally, both federal and Massachusetts regulations allow employers to apply for licenses to pay sub-minimum wages to certain disabled persons. Please contact the U.S. Department of Labor or the Massachusetts Department of Labor for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

Overtime

Massachusetts also has the same overtime rules as the federal government. That is, for any hours worked over 40 in a given week, non-exempt employees must be paid at least one and one-half times their regular pay.

All retail employees must be paid at one-half times their regular pay on New Years Day, Veteran’s Day and Columbus Day. In addition, retail employers with 8 or more employees at one location must also pay employees at one-half times their regular pay for work on Sundays, and on Memorial Day, Independence Day and Labor Day. All work at retail establishments on Sunday must be voluntary.

Like the federal rules Massachusetts exempts certain employees from minimum wage and overtime rules. Excluded employee classes include: executive, administrative, professional, outside salespeople and computer professionals. (Use Libretto’s FLSA Resource Package for help in determining whether a given employee is exempt). Massachusetts also permits exemptions for certain small employers not involved in interstate commerce. See the Massachusetts Department of Labor web site for a list of these exemptions.

Payment of Wages

Massachusetts law requires that employees be paid at least every other week, and payment must be made no more than 6 days after the close of that period.

Final paychecks must be delivered no later than the following payday (or the Saturday following the employee’s last day if there is no regular payday) when the employee leaves voluntarily. When an employee is terminated involuntarily, final the final paycheck must be delivered the last day of employment. Deductions from the final paycheck may not be made without the employee’s written consent.

Wages include all vacation time earned under the employer's written or oral policy. The State Attorney General has interpreted the preceding sentence to require that accrued vacation pay be included with final pay.
Work Hours and Breaks
Massachusetts requires employees, including minors, working 6 contiguous hours to have at least a 30-minute meal break. This time can be unpaid, provided the employee has the opportunity to leave the premises. Some professions are excluded. Manufacturing, mechanical and mercantile employers must provide employees with 24 consecutive hours of rest in each consecutive 7 days.

Child Labor
Massachusetts child labor law requires all employers employing minors under the age of 18 to have employment permits or educational certificates on file (issued by a city or county superintendent of schools).

Employers who employ minors under 16 years of age are subject to strict limits for hours worked per day and per week for their minor employees:

Employers may not work a minor under 16 in any occupation for which a permit for employment is required, for more than 6 days in a week, or more than 48 hours in a week, or more than 8 hours in a day or before 6:30 AM or after 7:00 PM except from July 1 through Labor Day when evening hours can be extended to 9:00 PM. If the work performed by any such minor in a day is not continuous, but is divided into two (2) or more periods, the employer must arrange the minor's work so that all such periods of work fall within a period of nine (9) consecutive hours.

Generally, no person may employ a minor under 18 before 6:00 AM or after 10:00 PM, with some exceptions outlined by the Office of Attorney General. Also minors under 18 may not work more than 6 days in a week or more than 48 hours in a week or more than 9 hours in any day, and if the work performed by the minor in a day is not continuous, but is divided into two (2) or more periods, the employer must arrange the employee's work so that all such periods fall within a period of 12 consecutive hours.

Both federal and Massachusetts law prohibits minors from working in hazardous or certain other occupations. Please contact the U.S. Department of Labor or the Massachusetts Department of Labor for more information on restricted occupations for minor employees.

Leaves of Absence

Military Leave
Federal law provides that employees must be granted up to 5 years of military leave and must be restored to their position (or an equivalent position) within the company as if they had been on furlough. Also, employers may not terminate or threaten to terminate any employee called to military service, Please see Libretto’s White Paper on USERRA for more details on military leave.

Massachusetts law provides that any member of an organized unit of the ready reserve of the Armed Forces, who, in order to receive military training, leaves a position other than a temporary one for no more than 17 days in any one calendar year is eligible for military leave privileges; such leave may be with or without pay. Such absences do not affect an employee’s rights to receive normal vacation, sick leave, bonuses, advancement and other advantages of employment. If military training does not exceed 17 days in one calendar year, the employee must be restored to his/her position provided the employee: 1) gave notice to the employer of the date of departure and return; 2) submitted evidence of satisfactory completion of training; and 3) is qualified to perform the duties.
Emergency Services Leave

Volunteer firefighters and emergency medical technicians are protected from discharge or discipline when late to work because of an emergency response.

Voting Time

Employees in manufacturing, mechanical or mercantile employment must be granted two hours off for any election in which they are eligible to vote, provided a request is made prior to Election Day.

Jury Duty, Witness and Crime Victim Leave

Employers must provide leave for jury duty or for employees who are subpoenaed as a witness. Regular wages must be paid to employees for the first three days of jury service. Also, employers may not terminate or threaten to terminate any employee called to jury duty or who are subpoenaed as a witness in a criminal trial, and employees must be restored to their position within the company as if they had been on furlough. Employers may not require employees to work each morning before reporting to jury duty and they may not impose compulsory work assignments on employees or otherwise interfere with employees' availability, effectiveness or attentiveness while on jury duty.

Also, employees who are victims of a crime must be given leave to attend court and may not be terminated or threaten with termination for taking such leave.

Employees covered by FLSA exemptions must be paid their full salary (minus jury duty stipend) or risk losing their exemption status.

Family Leave

Employers with 6 or more employees must grant up to 8 weeks of unpaid leave for the birth or adoption of a child to employees who have completed the standard probationary period or at least three months of employment. After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave if such benefits are covered for all employees on leave of absence.

Employers must post the Form 1 Maternity Leave Notice in a conspicuous place in each establishment where females are employed.

Employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for military leave. After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave.

In addition, employers with 50 or more employees must grant up to 24 hours of leave in any 12 month period for employees to attend school functions for their child, accompany a child routine appointments to the doctor or dentist, or accompany an elderly relative to routine appointments to the doctor or dentist or other professional services related to the elderly relative’s care. Employees must provide at least seven (7) days’ notice before the date the leave is to begin, if such notice is foreseeable.
Other Employment Regulations

Smoking in the Workplace
Massachusetts prohibits smoking in any place of employment. Exceptions include private homes, designated smoking rooms at hotels & motels, private function halls, tobacco shops and smoking bars, theatrical production sites (provided that smoking is integral to the production) where permission has been obtained from the appropriate local authority, locations doing medical or scientific research on tobacco products, religious ceremonies where smoking is part of the ritual, and farmers & manufacturers of tobacco products where smoking is required for quality control.

Every area where smoking is prohibited must have "no smoking" signs conspicuously posted.

Breastfeeding
A woman may breastfeed her child in any public place or establishment or place that is open to and accepts or solicits the patronage of the general public and where the mother and her child may otherwise be lawfully present.

New Hire Reporting
Employers are required to report employee's name, address, SSN, date of hire and employer's name, address, FEIN within 14 days of hire or reinstatement after 30 or more calendar days on form W-4 or through the state's website.

Access to Personnel Files
Access to personnel records must be provided within five (5) days upon written request. A personnel record may not include information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

Employers are required to notify an employee within ten (10) days of placing in the employee's personnel file any information that is used, has been used, or may be used to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action.

Discrimination and Harassment
Massachusetts prohibits discrimination or harassment based on:

- Ancestry or national origin
- Race or color
- Religion (accommodating of religious practices is required)
- Age (over 40)
- Mental or physical disability
- Marital status
- Military Service or Veteran status
- Arrest records
- Genetic testing results
• Sexual orientation/gender identity
• AIDS and individuals who have tested HIV-positive
• Sex and trans-gender (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions)

Additionally, employers with 15 or more employees are covered by GINA, which prohibits discrimination based on genetic testing.

Employers are prohibited from requiring AIDS tests as a condition of employment. Informed consent must be obtained before an individual is tested for AIDS.

Employers with six (6) or more employees must promote a work environment free from sexual harassment and must provide all employees with an annual written policy.

Whistle blowing is protected.

Same gender marriages are protected.

**State Continuation of Benefits**

Benefits change frequently. Currently continuation requirements apply to employers with two (2) to nineteen (19) employees. Eligible employees have the right to continue coverage for up to 36 months.

The following link will provide further information about state law:

http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter176j/Section9/

**Resources/Posters**

**Massachusetts Attorney General (wage & hour and child labor)**

http://www.ago.state.ma.us/

**Massachusetts Departments of Labor and Workforce development**

http://www.mass.gov/dlwd/

**United States Department of Labor**

http://www.dol.gov/

**Massachusetts New Hire Reporting**

www.mass.gov/dor/child-support

**Massachusetts Commission Against Discrimination**

www.mass.gov/mcad/

**Related Libretto Products**

FLSA Resource Package (for help in determining overtime exempt / non-exempt status of employees)

Overtime Guidelines

Break Period Guidelines
Family Medical Leave of Absence Policy
Military Leave of Absence Policy
Jury Duty-Witness Leave Policy
Voting Time Policy
Guidelines on Smoking In the Workplace
Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement
COBRA Continuation Coverage Policy
General Notice of COBRA Continuation Coverage Rights
COBRA Continuation Coverage Election Information. Notice And Form
New Hire Reporting for Massachusetts