

STATE EMPLOYMENT REGULATIONS FOR MICHIGAN

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What's New

- 100106 – Michigan minimum wage is now \$6.95 effective October 1, 2006 (it will rise again to \$7.15 per hour on July 1, 2007, then to \$7.40 on July 1, 2008). Tipped employees may be paid a minimum of \$2.65 per hour, provided that the total wages plus tips come to at least the minimum of \$6.95 per hour.
- 100106 – Employers may use a special minimum wage for employees under 18 years of age that is 85% of the adult minimum wage (currently this would be \$5.91 per hour).
- 070108 – As of July 1, 2008 Michigan minimum wage is \$7.40 per hour.
- 072409 – As of July 24, 2009, the special minimum wage for minor employees (16 or 17 years of age) will match the federal minimum of \$7.25 per hour.
- 121212 - Changes were made to the following sections: Family Leave, Military Leave, Discrimination, Jury Duty, Minimum Wage, Child Labor, Payment of Wages and Smoking. The following sections were added: New Hire Reporting, Access to Personnel Files, Job Reference Liability and Breastfeeding.
- 041014 – Changes were made to the following section: Child Labor.

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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 Michigan. 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 Michigan and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.

QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR MICHIGAN

Topic	Michigan Regulation
Minimum Wage	<ul style="list-style-type: none"> • \$7.40/hour • Tipped employees may be paid a minimum of \$2.65 per hour • Some localities have a higher minimum • A training wage of \$4.25 may be paid for the first 90 days for employees aged 16 - 19.
Overtime	Non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week
Payment of Wages	<ul style="list-style-type: none"> • Employees must be paid at least semi-monthly, on the 1st and 15th of the next month • Employers may pay employees monthly, provided that all wages earned in a month are paid on the 1st of the next month • Final paychecks must be delivered as soon as possible for voluntary terminations and on the last day of employment for dismissals
Work Hours and Breaks	Michigan has no break time rules, except for minors.
Child Labor	<ul style="list-style-type: none"> • Employers employing minors under 18 (who have not graduated from high school) must keep an employment certificate on file (issued by Superintendent of Schools) • Required 30-minute break for every 5 hours worked • Federal and Michigan law prohibit minors in certain occupations. See the U.S. Department of Labor and the Michigan Department of Labor & Economic Growth for information on these prohibitions (contact information is in the reference section). • See the details section below for restrictions on hours minors may work
Military Leave	<p>Michigan has a separate Military Leave law aside from the Federal Law outlined below (it is detailed in the text)</p> <ul style="list-style-type: none"> • Employers must grant up to 5 years of military leave • Employee must be reinstated to same or equivalent position after completion of military leave • Employers may not terminate or threaten to terminate any employee called to military service • Special benefit rules apply for military leave
Jury Duty	<ul style="list-style-type: none"> • Leave is required, but is unpaid • Employee must be reinstated to same position after completion of jury duty • Employers are prohibited from terminating or threatening to terminate a victim of violence who attends court due to a subpoena or request by a prosecutor (this includes employees attending for or with their dependants who are victims)

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Family Leave	<p>Michigan has a separate Family Leave aside from the Federal Law outlined below: (relating to crime victim leave)</p> <ul style="list-style-type: none"> • 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 leave. • Employee must be reinstated to same or equivalent position after completion of leave • Benefits must be maintained during leave
Voting Time	Michigan has no voting time rules
Discrimination and Harassment	Michigan prohibits employers from discriminating based on national origin or ancestry, race or color, religion, genetic testing, age, marital status, arrest records, height or weight, physical or mental disability or sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions), military service, sexual orientation, AIDS or AIDS-related virus.
Continuation of Benefits	Michigan has no provisions for continuation of benefits for employees of companies with fewer than 20 employees
Personnel Records	Employees have the right to examine their personnel records.
New Hire Reporting	Employers must report information on new hires/rehires within 20 days of hire.
Breastfeeding Rights	No general provisions except as breastfeeding in regards to nudity.
Smoking in the Workplace	<ul style="list-style-type: none"> • Michigan prohibits smoking in indoor public spaces, including places of employment. • Posting requirements apply.
Job Reference Liability	<ul style="list-style-type: none"> • Employers who give out information in writing about current or former employees are protected from civil suit, unless the information can be shown to be false

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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

Michigan minimum wage is \$7.40 per hour. Employers may pay tipped employees a minimum of \$2.65 per hour, provided that the total wages plus tips come to at least the minimum of \$7.40 per hour. Employers may use a special minimum wage for employees under 18 years of age of \$7.25 per hour. Also, a special training minimum wage of \$4.25 per hour may be used in the first 90 days of employment for employees under 16 - 19 years old.

Be aware that certain local governments in Michigan 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 Michigan 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 Michigan Department of Labor & Economic Growth for more information on applying for these licenses. (Contact information for both are listed in Resources below.)

Overtime

Michigan 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.

Like the federal rules Michigan exempts certain employees from 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). Michigan also permits exemptions for certain small employers not involved in interstate commerce. See the Michigan Department of Labor web site for a list of these exemptions.

Payment of Wages

Employers are allowed to pay employees monthly (rather than semi-monthly), provided that all wages earned in a month are paid on the 1st of the following month. These regular pay periods must be established and published for all employees.

When the employee leaves voluntarily, final paychecks must be delivered as soon as possible after the final amount can be determined. When an employee is terminated involuntarily, final paychecks must be delivered immediately upon termination. Deductions from the final paycheck may not be made without the employee's written consent, unless required by law.

Final wages include vacation pay, when vacation pay is provided under an employment agreement or company policy.

Work Hours and Breaks

Michigan has no break time rules, except for minors (see below).

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Child Labor

The Michigan child labor laws requires all employers employing minors under the age of 18 who have not graduated from high school to have employment certificates on file (issued by a city or county superintendent of schools).

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

A minor under the age of 16 years of age may not work:

- More than 6 days per week;
- For a period longer than a weekly average of 8 hours per day;
- More than 48 hours in a week; nor
- Between the hours of 9:00 PM and 7:00 AM
- A Minor who is a student may not be employed more than a combined school and work week of 48 hours during the period when school is in session,
- A minor 16 years of age or older may not be employed for more than:
 1. 6 days in a week
 2. An average of 8 hours per day in one (1) week
 3. 10 hours in one day or
 4. 24 hours in 1 week except that if the minor is in school and the school is in session, then the minor may not be employed between 10:30 PM and 6:00 AM.
- A minor who is 16 years or older and a student in school may be employed until 11:30 PM on Friday and Saturdays, during school vacation periods and during periods when the minor is not regularly enrolled in school. Some exceptions apply.

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

Employers must keep posted conspicuously notices regarding hours of work as furnished by the Department of Labor and must keep adequate time records.

Michigan law also requires that any minor working 5 or more continuous hours in a day be given a 30-minute break.

Leaves of Absence

Military Leave

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.

Michigan law provides that members of state or U.S. uniformed services called into active state or federal duty may take unpaid leave; employee may also take unpaid leave to take a physical, enlist, be inducted or attend training. Returning employees must generally be reinstated to former position. Employees must apply for reinstatement within 45 days of release from service or 90 days if service was longer than 180 days.

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Jury Duty

Employers must provide leave for jury duty, but need not pay for the leave. Employers may not terminate or threaten to terminate any employee called to jury duty, and employees must be restored to their position within the company as if they had been on furlough. Employers may not require employees on jury duty to work hours, which, if added to hours spent on jury duty, exceed the number of hours normally worked during a day.

Also, employers may not terminate or threaten to terminate any employee who is a victim of violence who attends court due to a subpoena or request by a prosecutor. This also applies when an employee attends court for or with a dependent who is a victim or who are witnesses to a crime.

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 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 family 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.

Employees who are crime victims or crime victim representatives are eligible for leave to attend court and/or give testimony. A victim representative is defined as: 1) a guardian or custodian of a child or a deceased victim if this child is less than 18 years of age; 2) a parent, guardian or custodian of an assault victim, if the victim is less than 18 years of age; or 3) a person who has been designated to act in place of an assault victim during the duration of the victim's physical or emotional disability.

Voting Time

Michigan has no voting time leave provisions. Employers are prohibited from influencing an employee's vote at an election.

Other Employment Regulations

New Hire Reporting

Employers are required to report, within 20 days of hire/rehire, to the state, the name, address, SSN and date of hire of employee and the employer's name, address and FEIN on federal form E-4 or equivalent.

Access to Personnel Files

Upon written request, employers must allow employees to view their personnel records. "Personnel record" means a record kept by the employers that identifies the employee and information regarding that employee's qualifications for employment, promotion, transfer, compensation or disciplinary action. After reviewing the personnel record, a current or former employee may obtain a copy of all or parts of its contents.

Certain information, such as employment references, are not included in the personnel record definition.

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If an employee disagrees with information in his/her personnel record, removal or correction of that information may be agreed upon by the employer and the employee. If agreement is not reached, the employee may submit a written statement explaining his/her position. If an employee submits a written statement due to a disagreement about personnel record contents, the statement must be included when the information is divulged to a third party as long as the information is part of the file.

Breastfeeding

A city or township may regulate or prohibit nudity within its boundaries, however a mother's breastfeeding of her baby does not constitute nudity.

Job Reference Liability

Employers may disclose to an employee or an employee's prospective employer documented information about the employee's job performance and are generally immune from civil liability if the information was truthful and provided in good faith.

Smoking in the Workplace

Smoking is prohibited in public places, which includes enclosed indoor places of employment, with limited exceptions. Employers must clearly and conspicuously post "no smoking" signs/symbols at entrances to and within every building or other area where smoking is prohibited.

Discrimination and Harassment

Michigan prohibits discrimination or harassment based on:

- National origin or ancestry
- Race or color
- Religion
- Genetic testing
- Age
- Military Service
- AIDS or AIDS-related virus
- Mental or physical disability
- Height or weight
- Sexual orientation
- Marital or familial status
- Misdemeanor arrest records or
- Sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions)
- Note: Detroit has a separate statute prohibiting AIDS discrimination

Additionally, employers with more than 15 employees are covered by the federal law GINA, which prohibits discrimination based on genetic testing.

Informed consent must be obtained before an individual is tested for AIDS.

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Although Michigan has no general provision that prohibits sexual harassment, employers with 15 or more employees are covered by Title VII of the Civil Rights Act, as amended, which prohibits sexual harassment.

Whistle blowing is protected.

State Continuation of Benefits

Michigan has no provisions for continuation of benefits for employees of companies with fewer than 20 employees (companies with 20 or more employees are subject to the federal COBRA regulations).

Resources/Posters

Michigan Department of Labor & Economic Growth

<http://www.michigan.gov/cis>

United States Department of Labor

<http://www.dol.gov/>

Michigan New Hires Operation Center

www.mi-newhire.com

Michigan Civil Rights Department

www.michigan.gov/mdcr

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

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 Michigan