

# Your Rights Under the Oklahoma Minimum Wage Act

40 O.S. § 197.1 et seq.

## WHO IS AN EMPLOYEE?

**40 O.S. § 197.4 (e)** - "Employee" includes any individual employed by an employer but shall not include:

- (1) An individual employed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;
- (2) Any individual employed in domestic service in or about a private home;
- (3) Any individual employed by the United States government;
- (4) Any individual working as a volunteer in a charitable, religious or other nonprofit organization;
- (5) Any newspaper vendor or carrier;
- (6) Any employee of any carrier subject to regulation by Part I of the Interstate Commerce Act;
- (7) Any employee of any employer who is subject to the provisions of any Federal Fair Labor Standards Act or to any Federal Wage and Hour Law now in effect or enacted hereafter; and who is paying the minimum wage under the provisions of this act;
- (8) Any employee employed in a bona fide executive, administrative or professional capacity, or in the capacity of outside salesman;
- (9) Any person employed as part-time employee not on permanent status. A part-time employee is defined as an employee who is employed less than twenty-five (25) hours a week;
- (10) Any person who is less than eighteen (18) years of age and is not a high school graduate or a graduate of a vocational training program, and any person who is less than twenty-two (22) years of age and who is a student regularly enrolled in a high school, college, university or vocational training program;
- (11) Any individual employed in a feedstore operated primarily for the benefit and use of farmers and ranchers; or
- (12) Any individual working as a reserve deputy sheriff.

## WHO IS AN EMPLOYER?

**40 O.S. § 197.4(d)** - "Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons, hiring more than ten full-time employees or equivalent at any one location or place of business; provided, however, if an employer has less than ten full-time employees or equivalent at any one location or place of business but does a gross business of more than One Hundred Thousand Dollars (\$100,000.00) annually, said employer shall not be exempt under the provisions of this act. This act shall not apply to employers subject to the Fair Labor Standards Act of 1938, as amended, and who are paying the minimum wage under the provisions of said act, nor to employers whose employees are exempt.

Oklahoma Department of Labor



*Leslie Osborn*

**Leslie Osborn**  
*Commissioner of Labor*

**State Minimum Wage  
\$7.25 per hour  
Effective July 24, 2009**

## HOW DO UNIFORMS AFFECT MINIMUM WAGE?

**40 O.S. § 197.17** - Business establishments that furnish uniforms to their employees may take credit against the minimum wage in an amount equal to the reasonable cost of furnishing the uniforms.

## WHAT IS THE CIVIL PENALTY FOR VIOLATIONS?

**40 O.S. § 197.8** - The Commissioner, after investigation, shall promptly make his finding in writing as to whether or not additional wages are due the employee. If the Commissioner finds that additional wages are due, ten percent (10%) of such amount due shall be added as penalty for such wage deficiency. The Commissioner shall mail said findings to the employer and to the employee by certified mail. Payment by the employer and acceptance by the employee of the amount so determined by the Commissioner shall absolve the employer of any further liability to the employee with respect to wages claimed by the employee for the period he was employed by the employer.

**40 O.S. § 197.9** - Any employer who is found by a court of competent jurisdiction to have paid an employee wages less than those to which such employee is entitled, under or by virtue of this act, shall be liable to such employee for double the full amount of such wages, less any amount actually paid to such employee by the employer, and for court costs, and such reasonable attorney fees as may be allowed by the court, which in no case shall be less than One Hundred Dollars (\$100.00). Any agreement between such employee and the employer to work for less than such wage rate shall be no defense to such action.

## WHAT IS THE CRIMINAL PENALTY FOR VIOLATIONS?

**40 O.S. § 197.13** - Any employer, or the officer or agent of any corporation, who pays or agrees to pay to any employee less than the rate of compensation required by this act, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

## NOTICE:

State law requires employers to display this poster in such a manner so as to be accessible to all employees in each establishment under the control of the employer. It shall be unlawful to employ workers in any industry or occupation within the State of Oklahoma under conditions of labor detrimental to their health or morals and it shall be unlawful to employ workers in any industry within the State of Oklahoma at wages which are not adequate for their maintenance. Except as otherwise provided in the Oklahoma Minimum Wage Act, no employer within the State of Oklahoma shall pay any employee a wage of less than the current federal minimum wage for all hours worked.