



TITLE 19 • Labor • General Provisions • CHAPTER 17.

WHISTLEBLOWERS' PROTECTION

§ 1701. Short title.
This chapter may be cited as the "Delaware Whistleblowers' Protection Act." (74 Del. Laws, c. 361, § 1.)

§ 1702. Definitions.
As used in this chapter:
(1) "Employee" means a person employed full or part-time by any employer, and shall include, but not be limited to, all will employees, contract employees, independent contractors, and volunteer firefighters as defined in § 6805(c) of Title 16.

(2) "Employer" means any person, partnership, association, sole proprietorship, corporation or other business entity, including any department, agency, commission, committee, board, council, bureau, or authority or any subdivision of them in state, county or municipal government. One shall employ another if services are performed for wages or under any contract of hire, written or oral, express or implied.

(3) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.
(4) "Public body" means all of the following:
A. A state-wide elected official, agency, department, division, bureau, board, commission, committee, authority or other body in the executive branch of state government or employer of them.

B. A legislator or employee of the legislative branch of state government.
(5) A. An elected official of a county, city, or school district or employee of them;
B. A law-enforcement agency or employee of that law-enforcement agency; and C. A federal agency or employee of that federal agency.

(6) "Supervisor" means any individual within an employer who has the authority to direct and control the work performance of the affected employee or any individual who has the authority to take corrective action regarding the violation of a law, title or regulation about which the employee complains.

(7) "Whistleblower" means an act or omission by an employer, or an agent thereof, that is:
A. Materially inconsistent with, and a serious deviation from, standards implemented pursuant to a law, title, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect employees or other persons from health, safety, or environmental hazards while in the employer's premises or elsewhere; or
B. Materially inconsistent with, and a serious deviation from, financial management or accounting standards implemented pursuant to a law or regulation promulgated by the employer or a law, title, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect any person from fraud, deceit, or misrepresentation of public or private funds or assets under the control of the employer.

§ 1706. Exemption.
This chapter shall not be construed to require an employee to compromise an employee for participation in an investigation, hearing or hearing held by a public body in accordance with § 1703 of this title.
(74 Del. Laws, c. 361, § 1.)

§ 1707. Notices requirement.
An employer shall post notices and any other appropriate means to keep the employer's employees informed of their protections and obligations under this chapter.
(74 Del. Laws, c. 361, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1708. Burden of proof.
The burden of proof in any action brought under this chapter shall be upon the employee to show that the primary basis for the discharge, threat, or discrimination alleged to be in violation of this chapter was that the employee undertook an act protected pursuant to § 1703 of this title.
(74 Del. Laws, c. 361, § 1.)

WAGE THEFT

An employer may not do any of the following:
• Employ an individual without reporting the individual's employment to all appropriate government agencies and paying all applicable taxes and fees for the individual.
• Fail to properly withhold state and federal taxes from an employee. Fail to forward money withheld from an employee's wages to the appropriate state or federal agency within 7 days of the applicable pay period.
• Pay an employee wages that are less than the minimum wage established under state and federal law for the work performed.
• Misclassify a worker as an independent contractor for purposes of avoiding wage, tax, or workers' compensation obligations under this title.
• Knowingly conspire to assist, advise, or facilitate a violation of this section.

PENALTIES
• Following an investigation in which the Department makes an initial determination that an employer has violated one or more provisions of subsection (a) of this section, the Department may decide to impose a civil penalty.
• An employer who violates this section is subject to a civil penalty of not less than \$2,000 and not more than \$20,000 for each violation.
• Each instance of a violation of subsection (a) of this section per employee is a separate violation.
• The Department may also refer cases to the Department of Justice for criminal prosecution consistent with § 841D of Title 11

RETALIATION
An employer is subject to a civil penalty of not less than \$20,000 and not more than \$50,000 for each violation if the employer discharges or in any manner retaliates or discriminates against an individual because that individual does any of the following under this section:
A. Made a complaint or provided information to the Department.
B. Caused, or is going to cause, an investigation to be instituted.
C. Testified, or is going to testify, in a hearing.

UNEMPLOYMENT INSURANCE Notice to Employers/Employees

Employers: You must be a registered employer in this state in order to receive the official Unemployment Insurance posting. If you have any questions concerning this mandatory posting, please contact your local unemployment office.
Employees: Contact your local unemployment office for your rights concerning unemployment benefits as an employee.

This Posting is for Informational Purposes Only

CHILD LABOR

General Provisions

- The minimum age for employment is 14.
- Work Permits are required for all employed minors under the age of 18.
- Employees are required to keep Work Permits on file for each employed minor.
- A New Work Permit is required when the employer of a minor changes.

Provisions for Individuals 14 and 15 Years of Age: MINORS 14-15 YEARS OF AGE SHALL NOT WORK:

- Before 7:00 a.m. or after 7:00 p.m. - except from June 1st through Labor Day when the evening hour shall be extended to 9:00 p.m.
- More than four (4) hours per day on school days
- More than eight (8) hours per day on non-school days
- More than eighteen (18) hours in any week when school is in session for five (5) days
- More than six (6) days in any week
- More than forty (40) hours per week; and
- More than five (5) hours continuously without a non-work period of at least thirty (30) consecutive minutes.

Specific Provisions for Individuals 16 and 17 Years of Age:

- Not more than twelve (12) hours in a combination of school and work hours per day
- Must have at least eight (8) consecutive hours of non-work, non-school time in each twenty-four (24) hour period
- May not work more than five (5) hours continuously without a non-work period of at least thirty (30) consecutive minutes.

For a List of Prohibited Occupations, Contact:

The Delaware Department of Labor, Division of Industrial Affairs, Office of Labor Law Enforcement at all of the addresses listed.

This poster provides only general information regarding the provisions of Delaware's Child Labor Laws. The requirements of state law do not affect an employer's obligation to comply with any provisions of federal law.

Takes effect January 1, 2019
Employees must distribute this information sheet to new employees at the commencement of employment and to existing employees by July 1, 2019
www.delaware.gov

442S Market Street, 3rd Floor
Wilmington, DE 19802
302.761-6236

Blue Hen Corporate Center
665 S. Bay Road, Suite 2H
Dover, DE 19901
302.452-1134

STATE OF DELAWARE
DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS

8 Georgetown Plaza, Suite 2
Georgetown, DE 19847
302.422-1154

DELAWARE SEXUAL HARASSMENT NOTICE

The Delaware Discrimination in Employment Act

The Delaware Discrimination in Employment Act protects all individuals against discrimination in the workplace based on gender. Sexual harassment is a form of gender discrimination. A new law against sexual harassment passed in 2018 extends protections to all individuals, in all workplaces, including employees, applicants, apprentices, staffing agency workers, independent contractors, elected officials and their staff, agricultural workers, domestic workers, and unpaid interns.

Sexual Harassment and the Law

Sexual harassment of an employee is unlawful when the employee is subjected to conduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment; (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an employee; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Some Examples of Sexual Harassment

- unwelcome or inappropriate touching
- threatening or inquiring in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

Retaliation is Prohibited under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The Delaware Discrimination in Employment Act prohibits employers from retaliating or discriminating against any person because that person opposed an unlawful discriminatory practice. Retaliation can occur through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The Delaware Discrimination in Employment Act protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

Report sexual harassment to the Delaware Department of Labor Office of Anti-Discrimination, Call 302-761-6200 or 302-442-1134 or visit <https://da.delawareworks.com/discrimination/>

to learn how to file a complaint or report discrimination. The Department can investigate or mediate your complaint and may be able to help you collect lost wages and other damages.

Rev. 11/14/18

MINIMUM WAGE

Regular Rate:

effective: 06-01-15 - \$8.25/hour
effective: 01-01-19 - \$8.75/hour
effective: 10-01-19 - \$8.25/hour

effective: 01-01-22 - \$10.50/hour

effective: 01-01-23 - \$11.75/hour
effective: 01-01-24 - \$12.25/hour
effective: 01-01-25 - \$13.00/hour

EMPLOYERS WHO RECEIVE TIPS

The minimum cash wage payable to employees who receive tips is \$2.23 per hour, effective 10/1/96.

NOTE: Delaware's minimum cash wage for tipped employees is greater than the cash wage required by federal law. Employers must pay Delaware's higher rate.

This may not be taken or retained by an employer except as required by law. Tip-pooling is permitted (under certain conditions) in an amount not to exceed 15% of the actual tips received by the employee.

MINIMUM WAGE EXEMPTIONS:

- Employees in agriculture.
- Employees in domestic service in or about private homes.
- Employees of the United States Government.
- Outside commission paid salespeople.
- Bone fide executives, administrators, and professionals.
- Employees engaged in fishing and fish processing at sea.
- Volunteer workers for educational, religious or non-profit organizations.
- Junior camp counselors employed by non-profit summer camp programs.

RECORD KEEPING REQUIREMENTS:

- Employers must keep records (including rate of pay, hours worked, and amount paid for each employee for three (3) years.

Revised 11/7/2023

Notice to Employers / Employees

Your state has its own minimum wage law which requires posting a notice regarding the aspects of that law. Employers are still required to post the Federal Minimum Wage notice from the U.S. Dept. of Labor and Labor Standards Bureau in addition to this state posting. According to the Dept. of Labor, where Federal and state law have different minimum wage rates, the higher standard applies.

This Posting is for Informational Purposes Only

BREAKS

All employees must be offered a meal break of at least 30 consecutive minutes if the employee is scheduled to work 7.5 or more hours per day.

Must be after the first 2 hours of work and before the last 2 hours of work.

This rule does not apply when:

- The employee is a professional employee certified by the State Board of Education and employed by a local school board to work directly with children.
- There is a collective bargaining agreement or other employee-employer written agreement which provides otherwise.

Rules have been issued granting exemptions when:

- Compliance would adversely affect public safety.
- Only one (1) employee may perform the duties of a position.
- An employer has fewer than five (5) employees on a shift at one location (the exception would only apply to that shift).
- The continuous nature of an employee's operations, such as chemical production or research experiments, requires employees to respond to urgent or unusual conditions at all times and the employees are compensated for their meal breaks.

Where exemptions are allowed, employees must be allowed to eat meals at their work stations or other authorized locations and use restroom facilities as reasonably necessary.

PAYMENT OF WAGES

EMPLOYERS OF FOUR (4) OR MORE EMPLOYEES ARE REQUIRED TO:

- Notify employees in writing at the time of hire:
 1. Rate of Pay
 2. Day, hour and place of payment
 3. Employer's fringe benefits policies
- Notify employees in writing of any reductions in the rate of pay, and any changes in the day, hour or place of payment or benefits.
- Furnish each employee with a pay statement showing:
 1. Amount of wages due;
 2. Pay period covered by the payment;
 3. Amounts of deductions (separately specified) which have been made from the wages;
 4. Total number of hours worked in pay period (for employees who are paid at an hourly rate).

PAYMENT OF WAGES

- Wages must be paid at least once each month.
- Employees must be paid all wages within seven (7) days from the close of each pay period (with some exceptions, see § 1102(b)).
- If the payday falls on a non-work day, payment shall be made on the preceding work day.
- If an employee is not present on the regular payday, payment shall be made on the next regular payday that the employee is present or by mail (only if requested by the employee).
- Wages may be paid to a bank account designated by an employee (upon the employer's written request).
- Wages may be paid in cash or by check (provided that suitable arrangements are made by the employer for cashing at a bank or other business establishment convenient to the workplace).
- Whenever an employee quits, resigns, is discharged, suspended or laid off, the wages earned shall be paid on the next regularly scheduled payday(s) either through the usual pay channels or by mail (if requested by the employee) as if employment had not been suspended or terminated.

UNLAWFUL DEDUCTIONS

Employers are not permitted to deduct or withhold wages for:

- 1. Cash or inventory shortages;
- 2. Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount owed and the repayment schedule);
- 3. Damaged Property
- 4. Failure to return employer's property



**Delaware Department of Labor
Division of Industrial Affairs**

Email: wages@delaware.gov • Email: workpermits@delaware.gov • Website: labordelaware.gov

For Valley Offices 442S Market Street - 3rd Floor Wilmington, DE 19802 302.761-6200	Georgetown Area Job Center 8 Georgetown Plaza, Suite 2 Georgetown, DE 19847 302.422-1154	Blue Hen Corporate Center 665 S. Bay Road, Ste. 2H Dover, DE 19901 302.452-1134	University Office Plaza 252 Chancery Road, 2nd Floor Newark, DE 19702 302.761-6200
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It is unlawful to retaliate against an employee because s/he has made a complaint or given information to the Dept. of Labor about possible labor law violations.

EMPLOYERS ARE REQUIRED BY LAW TO DISPLAY THIS OFFICIAL Labor Law notice in plain view in a conspicuous place accessible to all employees AND WHERE THE REGULAR PAY POSTER IS DISPLAYED.

Violations of Delaware Labor Laws could result in fines of up to \$20,000 per violation.

Revised 11/7/2023

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