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 deductions 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.
• Employee must be paid all wages within seven (7) days from the close of each pay period (with some exceptions, see [1102]).
• 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 workday 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 employee’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, is discharged, suspended or laid off, the wages cannot be paid on the next regularly scheduled payday(s) other than the usual pay channels or by mail (if requested by the employee).
• Workers’ compensation insurance may not be used to offset wages due to employees.

UNLAWFUL DEDUCTIONS:

Employees are not permitted to deduct or withhold wages for:

• Cash or inventory shortages;
• Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount owed and the repayment schedule);
• Damaged property;
• Failure to return employer’s property.

EMPLOYER’S FRINGE BENEFITS POLICIES

1. Notify employees in writing of:
   a. Employer’s fringe benefits policies;
   b. Any changes in the day, hour or place of payment or benefits.

WORKERS’ COMPENSATION

Employees are not permitted to deduct or withhold wages for inconsistent with the Agreement which provides otherwise.

UNLAWFUL DEDUCTIONS:

Employees are not permitted to deduct or withhold wages for:

• Cash or inventory shortages;
• Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount owed and the repayment schedule);
• Damaged property;
• Failure to return employer’s property.

IMPORTANT THINGS TO DO IN CASE OF INJURY

THE EMPLOYER SHOULD:

1. Provide all necessary medical, surgical, and hospital treatment from the date of accident.
2. Every employer shall keep a record of all injuries received by employees and make a report within ten (10) days thereof in writing to the Office of Workers’ Compensation.
3. Accept all workers’ compensation claims and provide compensation in accordance with the provisions of this law, for disability beyond the third day after the accident. All agreements as to compensation must be submitted to the Office of Workers’ Compensation for approval.

THE EMPLOYER SHOULD:

1. Immediately notify the employer in writing of accidental injury or occupational disease and request medical services. Failure to give notice or to accept medical services may deprive the employee of the right to compensation.
2. Give prompt to the employer, directly or through a supervisor, notice of any claim for compensation for the period of disability beyond the third day after the accident. In case of fatal injury, notice must be given by one or more dependents of the deceased or by a person on their behalf.
3. In case of failure to reach an agreement with the employer in regard to compensation under the law, file an application with the Industrial Accident Board for a hearing on the matters at issue within two (2) years of the date of accidental injury or one (1) year of knowledge of the diagnosis of an occupational disease or an existing radiation injury. All forms can be obtained from the Office of Workers’ Compensation.

MINIMUM WAGE

MINIMUM WAGE RATE:

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

The employer must be able to prove that the employee received the balance of the full minimum wage in tips.

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

Tips 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.
• Bona 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.

EMPLOYERS WHO RECEIVE TIPS

Employees are required to:

• 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).

RECORD KEEPING REQUIREMENTS:

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

DISCRIMINATION

Employers are prohibited by state law from discriminating against employees because of their RACE, COLOR, RELIGION, AGE (40+), SEX (INCLUDING PREGNANCY), SEXUAL ORIENTATION, MARRITAL STATUS, NATIONAL ORIGIN, GENDER IDENTITY, AND GENETIC INFORMATION. Employees of four (4) or more employees, labor organizations, employment agencies and joint labor-management committees for apprenticeship or training are subject to these provisions.

ANY PERSON who believes he or she has been discriminated against should contact the Delaware Department of Labor, Office of Discrimination at (302) 761-8200 or (302) 422-1134. ANY PERSON: who believes he or she has been discriminated against should contact the Delaware Department of Labor, Office of Discrimination at (302) 761-8200 or (302) 422-1134.

A Charge of Discrimination must be filed within 120 days of the alleged unlawful employment practice.

BREAKS

All employees must receive a meal break of at least 30 consecutive minutes if the employee is scheduled to work 7½ or more hours per day.

Meal breaks must be given sometime after the first two (2) hours of work and before the last two (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 employer-employee written agreement which provides otherwise.

Rules have been found granting exceptions 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 or at one location (the exception would only apply to that shift).
• The continuous nature of an employer’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 exceptions are allowed, employers must be able to eat meals at their work stations or other authorized locations and use restroom facilities as reasonably necessary.

CHILD LABOR

General Provisions:

• The minimum age for employment is 14.
• Work Permits are required for all employed minors under the age of 18.
• Employers are required to keep Work Permits on file for each employed minor.
• A new Work Permit is required when a minor changes employers.

Specific 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 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, 24 NW Front Street, Milford, DE 19963 (302) 422-1134.

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.