

DID YOU KNOW?

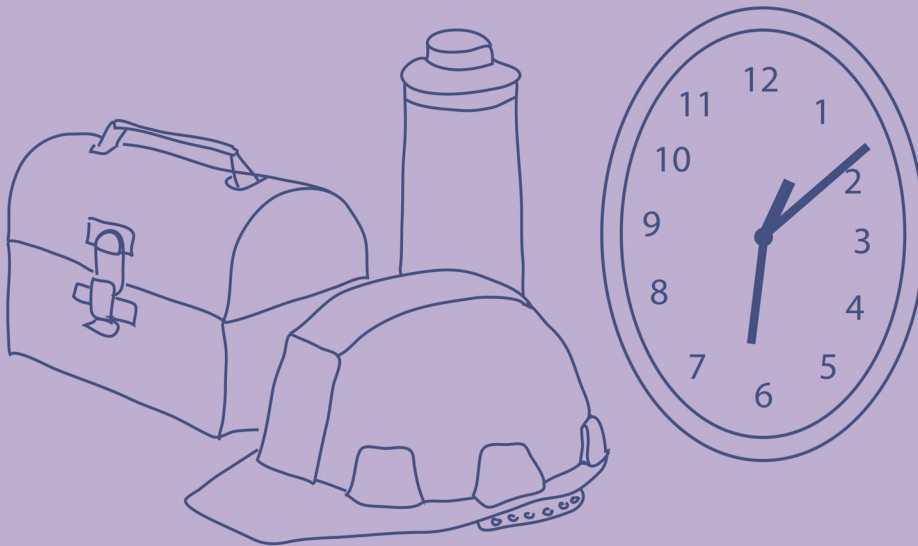
A Guide to Labor Laws Enforced by
the Wage and Hour Division



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



The U.S. Department of Labor's Wage and Hour Division (WHD) is responsible for administering and enforcing some of the nation's most comprehensive federal labor laws. Collectively, these laws cover most private, state, and local government employment throughout the United States and its territories. These labor laws range from some of the first labor protections passed by Congress to some of the most recent. WHD has more than 200 district, field, and area offices across the country with trained personnel available to assist workers. WHD administers and enforces the law regardless of a worker's immigration status. Some states have labor laws that afford workers additional rights and protections; employers must comply with both federal and state laws.



Fair Labor Standards Act (FLSA)

The FLSA establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting most full-time and part-time workers in the private sector and in federal, state, and local governments.

- » **Minimum Wage:** Generally, employers must pay most employees the federal minimum wage for all hours worked.
- » **Overtime:** Overtime pay must be at a rate of one and one-half times the regular rate of pay for all hours worked over 40 in a workweek.
- » **Hours Worked:** Hours worked generally include all the time during which an employee is required to be on duty, or on the employer's premises, or at any prescribed place of work.
- » **Recordkeeping:** Employers must keep employee time and payroll records.
- » **Poster:** Employers must also display an official poster outlining the requirements of the FLSA.

Child Labor

Federal child labor laws were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being or educational opportunities. (These provisions also provide limited exemptions.)

Employment of Minors in Non-Agricultural Jobs:

- » Persons 18 and older can perform any job for unlimited hours
- » Youths 16 and 17 years old may perform any non-hazardous job for unlimited hours
- » Youths 14 and 15 years old may work outside school hours in any non-hazardous jobs for:
 - No more than three hours on school days, for up to 18 hours in a school week
 - Eight hours on non-school days, up to 40 hours in a non-school week
 - Work may not begin before 7 AM or end after 7 PM, except from June 1 through Labor Day, when evening hours are extended to 9 PM

Fourteen is the minimum age for most non-farm work. However, at any age, minors may deliver newspapers; perform in radio, television, movie, or theatrical productions; work for parents in their solely owned non-farm business (except in manufacturing or on hazardous jobs); or gather evergreens and make evergreen wreaths. Regulations governing child labor in farm jobs differ somewhat from those pertaining to non-agricultural jobs.

Family and Medical Leave Act (FMLA)

Covered employers must grant eligible employees up to a total of 12 workweeks of unpaid job-protected leave during any 12-month period for the following reasons:

- » The birth and care of the newborn child of the employee
- » The placement with the employee of a son or daughter for adoption or foster care
- » To care for an immediate family member (spouse, child, or parent) with a serious health condition
- » To take medical leave when the employee is unable to work because of a serious health condition

In addition, eligible employees of covered employers are allowed to take up to 12 weeks of job-protected leave in the applicable 12-month period to address certain qualifying exigencies arising out of the fact that the eligible employee's spouse, son, daughter, or parent is a covered military member on active duty, or has been notified of an impending call or order to active duty, in the National Guard or Reserves, in support of a contingency operation. The amendments also allow eligible employees to take up to 26 weeks of job-protected leave during a single 12-month period to care for a covered service member with a serious injury or illness incurred in the line of duty on active duty.



The Davis-Bacon and Related Acts (DBRA)

apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. The contractors or subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

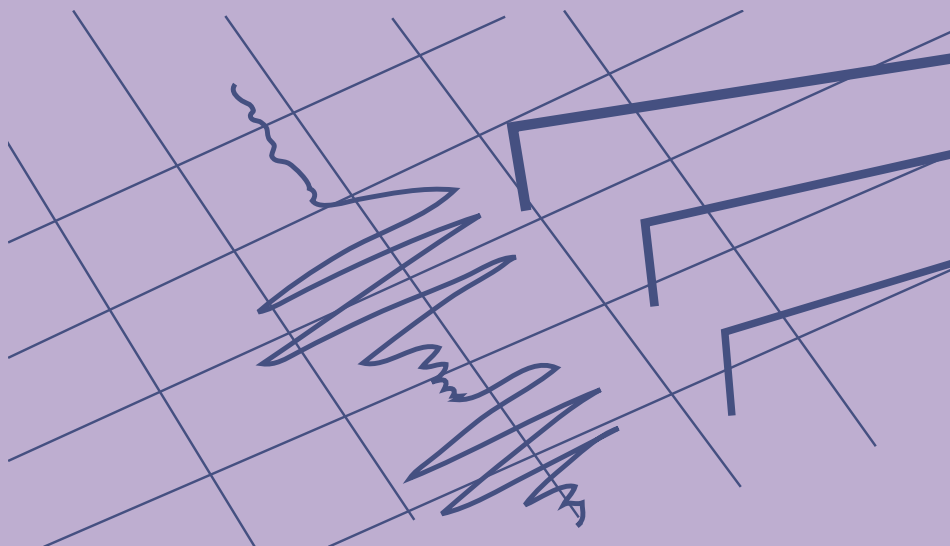
The McNamara-O'Hara Service Contract Act (SCA)

requires contractors and subcontractors performing services under prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. This act applies only to contracts for services awarded by the federal or District of Columbia governments.

Employee Polygraph Protection Act (EPPA)

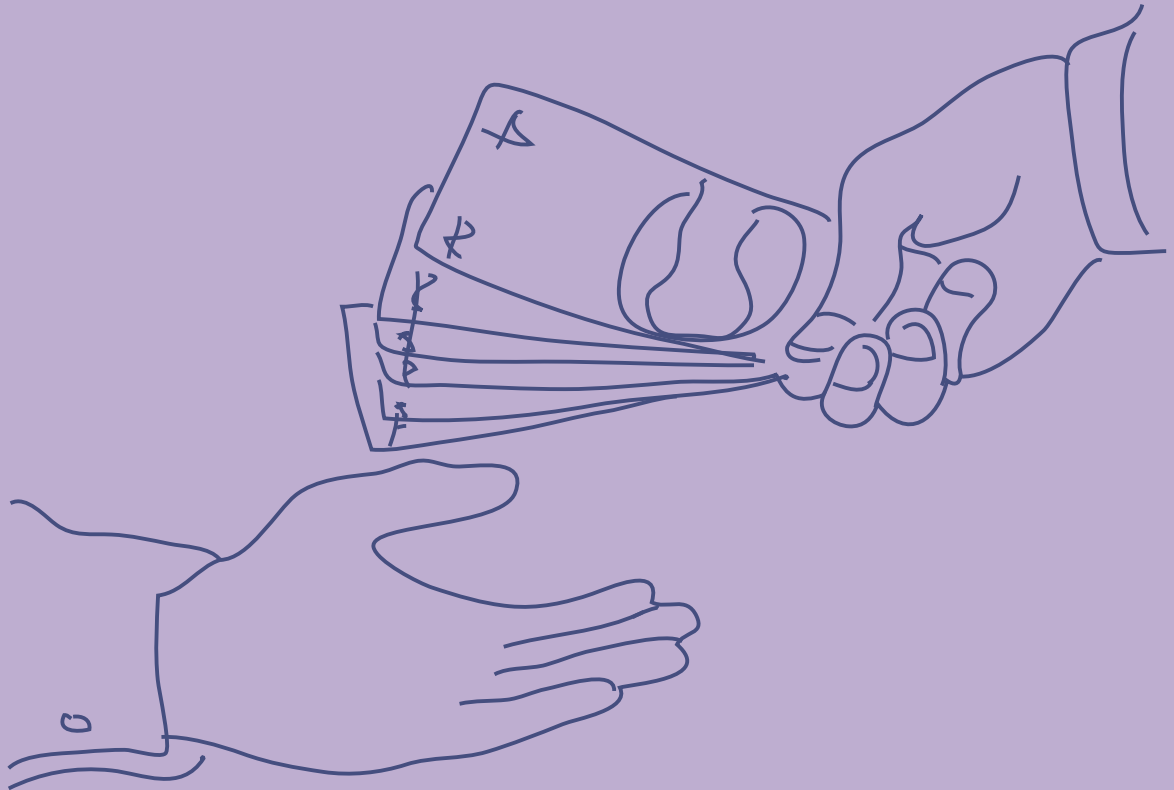
Prohibits most private employers from using lie detector tests, either for pre-employment screening or during the course of employment. Employers generally may not require or request any employee or job applicant to take a lie detector test, or discharge, discipline, or discriminate against an employee or job applicant for refusing to take a test or for exercising other rights under the Act. Subject to restrictions, the EPPA permits polygraph (a type of lie detector) tests to be administered to certain job applicants of security service firms (armored car, alarm, and guard) and of pharmaceutical manufacturers, distributors and dispensers. Subject to restrictions, the EPPA also permits polygraph testing of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in specific economic loss or injury to the employer.

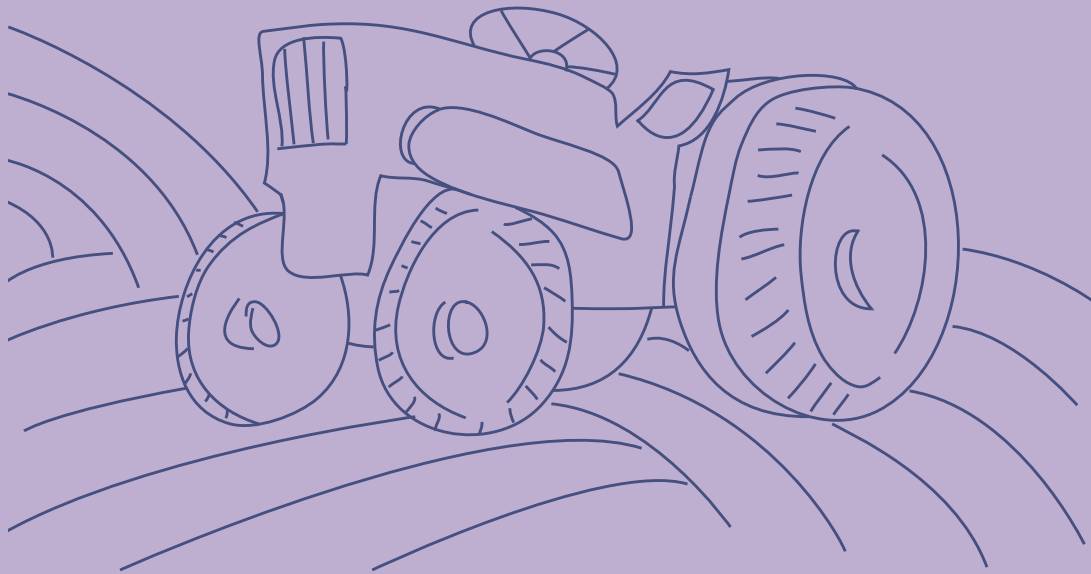
LIE DETECTOR
TESTS



Consumer Credit Protection Act (CCPA)

The wage garnishment provisions of the CCPA protect employees from discharge by their employers because their wages have been garnished for any one debt, and limits the amount of an employee's earnings that may be garnished in any one week. The CCPA also applies to all employers and individuals who receive earnings for personal services (including wages, salaries, commissions, bonuses and income from a pension or retirement program, but ordinarily not including tips).





Agricultural Employment

There are many acts that the Wage and Hour Division administers and enforces to help protect different types of agricultural workers.

The Migrant and Seasonal Agricultural Protection Act (MSPA) protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures, and recordkeeping. MSPA also requires farm labor contractors to register with the U.S. Department of Labor (DOL) and obtain a certificate of registration. A farm labor contractor must be specifically authorized to provide housing or transportation to migrant or seasonal workers prior to providing the housing and transportation. Persons employed by farm labor contractors to perform farm labor contracting activities also must register with DOL.

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The Field Sanitation Provisions of the Occupational Safety and Health Act (OSH Act) were enacted to assure safe and healthful working conditions for working men and women. The Occupational Safety and Health Administration issued regulations establishing minimum standards for field sanitation in covered agricultural settings. These standards required covered employers to provide toilets, potable water, hand-washing facilities, and information regarding good hygiene practices.

The H-2A Visa Program establishes standards related to hiring employees, wages, housing, transportation, and recordkeeping for employers of temporary, non-immigrant agricultural workers. The employer must file an application with the U.S. Department of Labor's Employment and Training Administration, stating, among other things, that there are not sufficient workers who are able, willing, qualified, and available, and that the employment of aliens will not adversely affect the wages and working conditions of similarly employed U.S. workers. Any employer using H-2A workers must have initially attempted to find U.S. workers to fill these jobs. H-2A workers and U.S. workers in corresponding employment must be paid special rates of pay that vary by locality, provided housing and transportation from that housing to the job site if their employment requires them to be away from their residence overnight, and guaranteed employment for at least $\frac{3}{4}$ of the work period specified in the contract.



Immigration

WHD is responsible for administering and enforcing various worker protection provisions of the Immigration and Nationality Act that extend protections to different types of nonimmigrant workers. This includes the H-1B program, which allows an employer to temporarily employ a foreign worker in the U.S. on a nonimmigrant basis in a specialty occupation or as a fashion model of distinguish merit and ability. A specialty occupation requires the theoretical and practical application of a body of specialized knowledge and a bachelor's degree or the equivalent in the specific specialty (e.g., sciences, medicine and health care, education, and business specialties, etc). Employers must file a Labor Condition

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Application (LCA) with the U.S. Department of Labor's Employment and Training Administration and attest that they will pay the nonimmigrant the greater of the actual wage paid to similarly employed employees or the prevailing wage for that occupation; will provide working conditions that do not adversely affect similarly employed employees; and that there is no strike or lockout in the job occupation. The employer must also provide a copy of the LCA to the representative of the bargaining unit or if there is no bargaining unit post the LCA in two conspicuous locations at the worksite.

Mission

“To promote and achieve compliance with labor standards to protect and enhance the welfare of the nation’s workforce.”



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