

# Colorado Employment Law

## Minimum Wage Laws



Federal minimum wage law is governed by the Fair Labor Standards Act (FLSA). In Colorado, minimum wage is governed by both the Colorado Wage Act (CWA) and rules issued by the [Colorado Department of Labor and Employment](#) (CDLE). If an employee is covered by multiple federal, state, or local overtime wage rules, the requirement providing the higher wage or standard applies.

**Beginning Jan. 1, 2021**, the CDLE’s Colorado Overtime and Minimum Pay Standards (COMPS) [Order # 37](#) applies throughout the state. This document provides information about Colorado’s minimum wage requirements under the CWA and COMPS 37.

### STATE RESOURCES

**Colorado Department of Labor and Employment (CDLE) [website](#)**

**Colorado Wage Act**  
Text of the Colorado Wage Act is available [here](#).

**Wage Protection Rules**  
Text of the CDLE’s Wage Protection Rules is available [here](#).

**FAQs and Fact Sheet**  
The CDLE provides answers to frequently asked questions ([FAQs](#)) and this [fact sheet](#) about the Colorado Wage Act.

### GENERAL MINIMUM WAGE RATE

**Beginning on Jan. 1, 2021**, the minimum wage rate for most employees in Colorado is **\$12.32 per hour**.

Wages are defined as the entire amount of compensation an employee receives for his or her labor or services. This includes bonuses, commissions, paid sick leave (if paid under the Colorado Health Families and Workplaces Act) and vacation pay, but does not include severance pay. Wages may be fixed or based on time, task, piece, commission or other method.

With limited exceptions and exemptions (as discussed below), state minimum wage rate generally applies to employees. State law defines “employee” as any person who performs labor or services for the benefit of an employer, including any migratory laborer.

To determine whether any individual is an “employee” COMPS 37 clarifies that employers must consider the degree of control the employer exercises over the person and the degree to which the individual performs work that is the primary work of the employer.

Under state law, an individual is **not** an employee if he or she is:

- Primarily free from control and direction in the performance of the services he or she provides; and
- Customarily engaged in an independent trade, occupation, profession or business related to the service.

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When calculating an employee's wages, the CWA allows employers to take credits for lodging (reasonable cost or fair market value, up to \$25 per week for a room; \$100 per week for a private residence) and meals accepted voluntarily (reasonable cost or fair market value, without profit to the employer).

### TIPPED EMPLOYEES

**Effective Jan. 1, 2021**, the minimum wage rate for **tipped employees** is **\$9.30 per hour**. A tipped employee is an individual engaged in an occupation in which he or she customarily and regularly receives at least **\$30 per month in tips**. A tipped employee's wages consist of a tip credit plus all the tips the employee receives in the performance of his or her services. Tips include any amount designated as a tip by credit card customers on their charge slips.

State law allows employers to pay this lower wage because it assumes that the employee's tips will make up the difference between this rate and the minimum wage rate, allowing the employee to receive wages at or above the minimum wage rate. Employers must subsidize a tipped employee's wages beyond the \$8.98 rate if, for any reason, the employee's wages plus tips fall below the state's minimum wage rate.

Colorado prohibits employers from denying their tipped employees the presents, tips or gratuities that they earn through their service.

Employers can implement a tip pooling system among their employees only if they notify their patrons of that a tip pooling or sharing arrangement exists in the establishment. The notification must be in writing. Acceptable written notification forms include menu notices, table tents and receipt notices. Employers that do not provide this notice violate Colorado's minimum wage law and cannot claim to have the right to own or control any gratuities patrons give to tipped employees. In addition, employers that require their employees to participate in a tip-sharing program that involves non-tipped employees (for example, managers and food preparers) cannot count employee tips toward their employee's minimum wage.

### MINORS

Minors who are authorized to work under child labor laws may receive a subminimum wage rate as low as **85 percent** of the applicable minimum wage rate, unless they are emancipated minors.

An emancipated minor's wages must be at least **equal** to the current minimum wage. An emancipated minor is an individual under 18 years of age who:

- Supports himself or herself financially;
- Is married and living away from his or her parents or guardian; and
- Is able to show that his or her well-being is substantially dependent on his or her job.

### DISABLED WORKERS

Disabled workers may receive subminimum wages at a rate that adequately reflects their earning capacity, but generally no less than **85 percent** of the applicable wage rate. The CDLE may issue a certificate allowing an employer to pay a subminimum wage to a disabled individual only if the employer can prove that the individual is less efficient because of his or her physical disability.

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### MINIMUM WAGE RATE EXEMPTIONS

The CWA and COMPS 37 exempt certain workers from minimum wage rate requirements. The table below provides a list of the exemptions and a general overview of the requirements that must be met for each of them to apply.

Exemption	To be exempt from minimum wage requirements, employee must:
<b>Administrative employees</b>	<ul style="list-style-type: none"> <li>• Receive a minimum salary amount (as determined under Rule 2.5 of COMPS 37);</li> <li>• Directly serve the executive;</li> <li>• Regularly perform duties important to the decision-making process of the executive; and</li> <li>• Regularly exercise independent judgment and discretion in matters of significance, with a primary duty that is non-manual in nature and directly related to management policies or general business operations.</li> </ul>
<b>Executives or supervisors</b>	<ul style="list-style-type: none"> <li>• Receive a minimum salary amount (as determined under Rule 2.5 of COMPS 37);</li> <li>• Supervise the work of at least two full-time employees;</li> <li>• Have the authority to hire and fire, or to effectively recommend such action; and</li> <li>• Spend a minimum of 50% of the workweek in duties directly related to supervision.</li> </ul>
<b>Professional employees</b>	<ul style="list-style-type: none"> <li>• Receive a minimum salary amount (as determined under Rule 2.5 of COMPS 37);</li> <li>• Have a primary duty that requires the consistent exercise of discretion and judgment, as distinguished from routine work that is mental, manual, mechanical or physical, and either:               <ul style="list-style-type: none"> <li>○ Has knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study; or</li> <li>○ Invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (as opposed to routine mental, manual, mechanical or physical work, or work that primarily depends on intelligence, diligence and accuracy); and</li> </ul> </li> <li>• Be employed in the field in which he or she was trained.</li> </ul>
<b>Employees in highly technical computer-related occupations</b>	<ul style="list-style-type: none"> <li>• Be a skilled worker employed as a computer systems analyst, computer programmer, software engineer, or other similarly highly technical computer employee;</li> <li>• Have knowledge of an advanced type, customarily acquired by a prolonged course of specialized formal or informal study; and</li> <li>• Spends a minimum of 50% of the workweek in any combination of the following duties:               <ol style="list-style-type: none"> <li>(1) Application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;</li> <li>(2) Design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; or</li> <li>(3) The design, documentation, testing, creation, or modification of computer programs related to machine operating systems.</li> </ol> </li> </ul>
<b>Outside salespersons</b>	<ul style="list-style-type: none"> <li>• Work primarily away from the employer's place of business or enterprise for the purpose of making sales or obtaining orders or contracts for any commodities, articles, goods, real estate, wares, merchandise or services; and</li> </ul>

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	<ul style="list-style-type: none"> <li>• Spend a minimum of 80% of the workweek in activities directly related to his or her own outside sales.</li> </ul>
<b>Owners and proprietors</b>	<ul style="list-style-type: none"> <li>• Be a full-time employee actively engaged in management of the employer; and</li> <li>• Own at least a bona fide 20% equity interest in the employer (or, for a non-profit employer, be the highest-ranked and highest-paid employee and receive a minimum salary amount as determined under Rule 2.5 of COMPS 37).</li> </ul>
<b>Taxi cab drivers</b>	Taxi cab drivers employed by a taxi service provider licensed by a state or local government.
<b>In-residence workers</b>	<p>Be employed as a:</p> <ul style="list-style-type: none"> <li>• Casual babysitter employed in a private residence directly by a household, or directly by family members of the individual(s) receiving care from the babysitter;</li> <li>• Property manager residing on-premises at the property he or she manages;</li> <li>• Student residence worker working in a sorority, fraternity, college club or dormitory where he or resides;</li> <li>• Laundry worker performing laundry services in a charitable institution where he or she resides as an inmate, patient or resident;</li> <li>• Field staff member of a seasonal camp or seasonal outdoor education program who primarily provides supervision or education of minors or adults, that are required to reside on the premises (or in the fields) and receive adequate lodging and all means free of charge and without deduction from wages (additional or special compensation requirements may apply).</li> </ul>
<b>Bona fide volunteers and work-study students</b>	<p>Be exempt from FLSA compensation as either:</p> <ul style="list-style-type: none"> <li>• An enrolled student receiving credit for an unpaid work-study program or internship; or</li> <li>• A bona fide volunteer for a non-profit organization.</li> </ul>
<b>Elected officials and their staff</b>	<ul style="list-style-type: none"> <li>• Be elected to public office; or</li> <li>• Be a member of an elected public official's staff.</li> </ul>
<b>Agricultural workers</b>	<ul style="list-style-type: none"> <li>• Work in an agricultural job; and</li> <li>• Not be covered under the minimum wage provisions of the FLSA.</li> </ul>
<b>Employees in highly technical computer-related occupations</b>	<ul style="list-style-type: none"> <li>• Be a skilled worker employed as a computer systems analyst, computer programmer, software engineer, or other similarly highly technical computer employee;</li> <li>• Have knowledge of an advanced type, customarily acquired by a prolonged course of specialized formal or informal study; and</li> <li>• Spends a minimum of 50% of the workweek in any combination of the following duties:             <ol style="list-style-type: none"> <li>(1) Application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;</li> <li>(2) Design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; or</li> <li>(3) The design, documentation, testing, creation, or modification of computer programs related to machine operating systems.</li> </ol> </li> </ul>

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### **NOTICE AND POSTING REQUIREMENTS**

Employers subject to the CWA must display a [COMPS poster](#) (available [here](#)) in an area frequented by employees where it may be easily read during the work day. If a work site or other conditions make a physical posting impractical (including private residences employing only one worker, and certain entirely outdoor worksites lacking an indoor area), employers must provide a copy of the COMPS or poster to each employee within his or her first month of employment and also make it available to employees upon request.

An employer that does not comply with the posting requirements may be rendered ineligible for any employee-specific credits, deductions or exemptions in COMPS 37.

Employers must also display information regarding regular paydays and the place and time of payment.

### ***DISTRIBUTION AND TRANSLATION***

Employers that publish or distribute employee handbooks or written posted policies must include a copy of the COMPS Order (or a COMPS Order poster) with the handbook, manual or policy. Employers that require their employees to sign any handbook, manual or policy must also have their employees sign an acknowledgement indicating they have been provided the COMPS Order or the COMPS Order poster.

In addition, employers that have any employee with limited English language ability must use a translated version of the COMPS Order and poster. The CDLE will make a Spanish version of these documents available. Employers should contact the CDLE for documents in additional languages.

### **MORE INFORMATION**

Contact The TEAM Companies, LLC for more information on wage payment and work hour laws in Colorado.