

## Georgia Minimum Wage and Overtime

Georgia's minimum wage law is located at O.C.G.A. §§ 34-4-1 – 34-4-6. According to Georgia's minimum wage law, Georgia's minimum wage rate is \$5.15 per hour. However, the law does not apply to employers who are covered by the federal Fair Labor Standards Act (FLSA). Employers covered by the FLSA must pay their employees the higher federal minimum wage of \$7.25 per hour.

Georgia has not enacted an overtime wage law that applies to private employers. Where Georgia law does not address a specific topic, employers should look to the FLSA.

## Minimum Wage

### Covered Employers and Employees

Georgia's minimum wage law applies to all employees and all employers (any person or entity) that employ one or more persons. As stated above, **the law does not apply to employers covered by the FLSA.**

### Exemptions

According to Ga. Code Ann. § 34-4-3, Georgia law **excludes** the following from the minimum wage law:

- Employers with yearly sales of \$40,000 or less.
- Employers with five or less employees.
- Employers of domestic employees.
- Employers who are farm owners, sharecroppers, or land renters.
- Employees whose compensation consists wholly or partially of gratuities.
- Employees who are high school or college students.
- Individuals employed as newspaper carriers.
- Employees of a nonprofit residential child-caring institution or long-term care facility serving children or mentally disabled adults. However, the employees must reside in the facilities, receive (without cost) board and lodging, and be paid in cash at least \$10,000 per year.
- Any employer subject to a federal wage law that requires a higher minimum wage than the Georgia statute.

### ***Additional Exemptions***

According to Ga. Code Ann. § 34-4-4 and in certain limited cases, individuals who are not exempt may be paid at wages lower than Georgia's minimum wage. The state Commissioner of Labor may grant exemptions to businesses and organizations that hire those with disabilities or those who otherwise cannot compete effectively in the labor market.

### Local Government Restrictions

According to Ga. Code Ann. § 34-4-3.1, local government entities (county, municipal corporation, consolidated government, authority, board of education, or other local public board, body, or commission) are prohibited from doing any of the following:

- Adopting, maintaining, or enforcing by charter, ordinance, purchase agreement, contract, regulation, rule, or resolution — either directly or indirectly — a wage or employment benefit

mandate. A **wage or employment benefit mandate** is any requirement adopted by a local government entity requiring an employer to pay any or all employees a wage rate or provide employment benefits not otherwise required under the Georgia Code or federal law.

- Seeking to control or affecting the wages or employment benefits provided by the entity's vendors, contractors, service providers, or other parties doing business with the local government entity through purchasing or contracting procedures.
- Award preferences on the basis of wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the local government entity.

Under this law governing local government restrictions, **employment benefits** are anything of value that an employee may receive from an employer in addition to wages and salary. This term includes, but is not limited to, all the following:

- Any health benefits.
- Disability benefits.
- Death benefits.
- Group accidental death and dismemberment benefits.
- Paid days off for holidays, sick leave, vacation, and personal necessity.
- Additional pay based on schedule changes.
- Retirement benefits.
- Profit-sharing benefits.

## Posting and Recordkeeping

Each employer subject to the Georgia minimum wage law must post copies of any regulation or order issued in a conspicuous place in an area frequented by employees.

Every employer subject to the Georgia minimum wage law or applicable regulations must maintain records showing the hours worked by each employee and the wages paid to him or her and, upon demand, must furnish to the commissioner a sworn statement of the hours worked and wages paid to each employee covered by the law. The records covering these hours and payments must be open to inspection by the commissioner, his or her deputy, or any authorized agent of the department at any reasonable time.

## Retaliation Prohibited

Georgia law prohibits employers from paying lower wages, refusing to hire or fire, or discriminating against an employee with respect to terms, conditions, or privileges of employment because of an employee's race, color, religion, national origin, sex, disability, or age.

## Enforcement

If any employer pays any employee a lesser amount than the Georgia minimum wage, the employee, at any time within three years, may bring a civil action in superior court for the recovery of the difference between the amount paid and the minimum wage required, plus both of the following:

- An additional amount equal to the original claim, as liquidated damages.
- Costs and reasonable attorney's fees as may be allowed by the court.

An employer and employee may not contract or agree to being paid less than the applicable minimum wage, nor can such an agreement bar an action to recover the difference where an employee was paid less than the minimum wage.

## Cotton or Woolen Manufacturers

Pursuant to O.C.G.A. §§ 34-3-1 – 34-3-4, the hours of labor required of all persons employed in all cotton or woolen manufacturing establishments in Georgia, except engineers, firefighters, watchmen, mechanics, teamsters, yard employees, clerical force, and all help that may be needed to clean up and make necessary repairs or changes in or of machinery, may not exceed 10 hours per day; or the same may be regulated by employers, so that the number of hours do not in the aggregate exceed 60 hours per week. However, the law does not prevent any of the aforesaid employees from working such time as may be necessary to make up lost time, not to exceed 10 days, caused by accidents or other unavoidable circumstances.

Work contracts that require employees in cotton or woolen manufacturing to work over 40 hours a week are null and void. Cotton or woolen manufacturers who violate maximum hour provisions will be subject to a fine from \$20 to \$500 for each violation.