Provided By Employco USA, Inc.

Employment Law Summary

California

Minimum Wage and Overtime Laws

The federal Fair Labor Standards Act (FLSA) regulates minimum wage, overtime pay and work hour requirements for most employees. The current federal minimum wage rate is $7.25 per hour for nonexempt employees. California law imposes additional, more stringent requirements and where state and federal law conflict, the more protective standard applies.

The Division of Labor Standards Enforcement (DLSE), also known as the Labor Commissioner's Office, enforces compliance with the state's minimum wage and overtime laws.

Minimum Wage Rate

Under California law, **wages** include the entire amount of compensation employees receive for their labor or services. Wages may be fixed or based on time, task, piece, commission or other methods of calculation. As of Jan. 1, 2023, California's minimum wage no longer depends on employer size and is adjusted annually to account for inflation. The table below outlines recent minimum wage rates and their respective effective dates. The governor may temporarily suspend a scheduled increase if the state's economic condition does not support it.

Effective date	Jan. 1, 2025	Jan. 1, 2026	Jan. 1, 2027
Minimum Wage Rate (per hour)	$16.50	$16.90	$17.40

Local Minimum Wage Rates

The tables below provide an overview of the minimum wage in several California localities. The linked locality pages provided posters and additional wage information, including coverage, exemptions, tips, deductions and immigration status.

January Updates

Locality	Jan. 1, 2025	Jan. 1, 2026	Jan. 1, 2027
Belmont	$18.30	$18.95	TBD
Cupertino	$18.20	$18.70	TBD
East Palo Alto	$17.45	$17.90	TBD
El Cerrito	$18.34	$18.82	TBD
Los Altos	$18.20	$18.70	TBD

Locality	Jan. 1, 2025	Jan. 1, 2026	Jan. 1, 2027
Mountain View	$19.20	$19.70	TBD
Oakland	$16.89	$17.34	TBD
Palo Alto	$18.20	$18.70	TBD
Petaluma	$17.97	$18.31	$18.93
Redwood City	$18.20	$18.65	TBD
Richmond	$17.77	$19.18	TBD
San Carlos	$17.32	$17.75	TBD
San Diego	$17.25	$17.75	TBD
San Jose	$17.95	$18.45	TBD
San Mateo (city)	$17.95	$18.60	TBD
Santa Clara	$18.20	$18.70	TBD
Sunnyvale	$19	$19.50	TBD

July Updates

Locality	July 1, 2024	July 1, 2025	July 1, 2026
Alameda (city)	$17	$17.46	$17.76
Berkeley	$18.67	$19.18	$19.61
Emeryville	$19.36	$19.90	$20.34
Los Angeles (city)	$17.28	$17.87	$18.42
Los Angeles (county)	$17.27	$17.81	$18.47
Malibu	$17.27	$17.27	$17.91
Milpitas	$17.70	$18.20	$18.50
Pasadena	$17.50	$18.04	$18.57
San Francisco	$18.67	$19.18	$19.61
Santa Monica	$17.27	$17.81	$18.47

Healthcare Employees

California law establishes a higher minimum wage rate for certain healthcare employees. The rate varies by healthcare facility type, employee count, and associations, and is scheduled to increase, as noted below:

	Phase 1	Phase 2	Phase 3	Phase 4
Hospital or integrated health system with 10,000 or more full-time employees (including skilled nursing facilities operated by these employers) and dialysis clinics	$23.00 per hour (Oct. 16, 2024 – June 30, 2025)	$24.00 per hour (July 1, 2025 – June 30, 2026)	$25.00 per hour (July 1, 2026 – Dec. 31, 2027)	Beginning Jan. 1, 2028, the minimum wage rate will be adjusted for inflation annually.
Safety Net Hospitals (hospitals with a high governmental payor mix, an independent hospital with an elevated governmental payor mix or a rural independent covered healthcare facility)	$18.00 per hour (Oct. 16, 2024 – June 30, 2025)	3.5% yearly wage increase (July 1, 2025 – June 30, 2033)	$25.00 per hour (July 1, 2033 – Dec. 31, 2034)	Beginning Jan. 1, 2035, the minimum wage rate will be adjusted for inflation annually.
Intermittent clinics, community clinics, rural health clinics or urgent care clinics associated with community or rural health clinics	$21.00 per hour (Oct. 16, 2024 – June 30, 2026)	$22.00 per hour (July 1, 2026 – June 30, 2027)	$25.00 per hour (July 1, 2027 – Dec. 31, 2028)	Beginning Jan. 1, 2029, the minimum wage rate will be adjusted for inflation annually.
All other covered healthcare facilities not listed in the other categories and not run by counties	$21 per hour (Oct. 16, 2024 – June 30, 2026)	$23.00 per hour (July 1, 2026 – June 30, 2028)	$25.00 per hour (July 1, 2028 – Dec. 31, 2029)	Beginning Jan. 1, 2030, the minimum wage rate will be adjusted for inflation annually.

Fast Food Employees

Fast food employees must be paid at least $20.00 per hour. A restaurant qualifies as a fast food if it meets all the following:

- The restaurant must be a limited-service restaurant in California. A **limited-service restaurant** is one that offers limited or no table service, where the customers order food or beverage items, and pay for those items before the items are consumed;

- The restaurant is part of a restaurant chain of at least 60 establishments nationwide. An **establishment** is a single restaurant location offering food or beverages to customers. Business locations performing only administrative, warehouse or food preparation work are not counted as establishments toward the 60 establishment minimum; and
- The restaurant primarily sells food and beverages for immediate consumption.

Tipped Employees

California law prohibits employers from taking a tip credit, paying tipped employees below minimum wage, or keeping, sharing in or deducting from an employee's gratuities. A **tip** is money a customer leaves for an employee over the amount due for goods sold or services rendered. **Gratuity** includes any tip, gratuity, money or part thereof that a patron gives an employee over and above the actual amount of the goods, food, drink, items or articles sold, or services rendered. Credit card gratuities must be paid to the employee no later than the next regular payday after the patron authorized the credit card payment.

Employees With Disabilities

Effective Jan. 1, 2025, employers must pay workers with disabilities the state's minimum wage rate or applicable local minimum wage rate, whichever is higher.

Students and Learners

California law allows employers operating an organized camp to pay student employees, camp counselors and program counselors at least 85% of the state's minimum wage rate. Employers may also pay learners of any age no less than 85% of the minimum wage rate for their first 160 hours in an occupation where they have no prior similar or related experience.

Meal and Lodging Credits

Employers cannot deduct from or credit the costs of meals or lodging against the state's minimum wage without entering into a voluntary written agreement with employees. California law establishes the maximum amounts employers may credit for meals and lodging. However, organized camps may deduct the value of meals and lodging from the salaries of student employees, camp counselors or program counselors, pursuant to appropriate California Industrial Welfare Commission (IWC) wage orders.

Employers can refer to the IWC [wage orders] for more information on industry-specific meal and lodging credit requirements.

Overtime Pay

In California, nonexempt employees must receive overtime wages as follows:

- **1.5 times** the employee's regular wage rate for:
    - Any work performed in excess of eight hours during a workday (more than nine for domestic work employees);

    - Any work performed in excess of 40 hours during a workweek (45 for domestic work employees); and
    - The first eight hours worked on the seventh consecutive workday in any one workweek.
- **Twice** the employee's regular wage rate for:
    - Any work performed in excess of 12 hours during a workday; and
    - Any work in excess of eight hours on the seventh consecutive workday in any one workweek.

Employers cannot average an employee's hours for one day or workweek with those hours for any other day or workweek. The state's overtime provisions apply to out-of-state nonexempt employees who temporarily work in California.

Calculating the Regular Rate of Pay

California generally follows the FLSA when calculating the regular rate of pay, with few exceptions. An employee's regular wage rate is the actual rate of pay they receive for a standard, non-overtime workweek. Employers must calculate their employees' regular rate before determining applicable overtime wages. An employee's regular rate can vary from week to week and may be different from the employee's contractual rate of pay.

An employee's regular rate for a specific work period is calculated by dividing the employee's **total wages** for a workweek by the **number of hours worked** during that period. Total wages are all compensation paid to the employee (e.g., hourly earnings, salary, piece work earnings, commissions, certain bonuses) and do not include:

- Reimbursements for expenses incurred on the employer's behalf;
- Premium payments of at least 1.5 times the normal rate for overtime work or work on Saturdays, Sundays, holidays and scheduled days off; for hours worked in excess of the employee's regular working hours; for workday and workweek overtime, call-back pay, reporting time pay and failure to provide a meal or rest period; and for split shifts;
- Gifts and rewards for service that are not tied to hours worked, production or efficiency;
- Discretionary bonuses;
- Employer payments under a bona fide profit-sharing or savings plan (if amounts are determined regardless of the employee's production or efficiency);
- Talent fees;
- Employer contributions to a retirement or other benefit plan;
- Certain stock option payments; or
- Payment for periods when the employee does not perform work, including vacations, holidays or sick days.

A **workday** is any consecutive, fixed 24-hour period that begins at the same time each calendar day. A **workweek** is a fixed, recurring period of seven consecutive 24-hour periods (168 hours). It can begin on any day of the week and at any hour of the day, without coinciding with a calendar week. A nonexempt employee is entitled to overtime for hours worked beyond eight in a workday or 40 in a workweek, whichever yields more overtime, or beyond the threshold set by an approved alternative workweek schedule. California uses the weighted-average method to calculate the regular rate of pay when an employee is paid different rates during a workweek.

Nonexempt Full-time Salaried Employees

The regular hourly rate of pay for nonexempt full-time salaried employees must be 1/40th of the employee's weekly salary for purposes of calculating the employee's overtime rate. The payment of a fixed salary to a nonexempt employee is deemed to provide compensation only for the employee's regular, nonovertime hours.

Alternative Workweek Schedules

An **alternative workweek schedule** allows nonexempt employees to work more than eight hours in a 24-hour period without triggering daily overtime pay. Employers must meet specific requirements before implementing an alternative workweek schedule.

Minimum Wage and Overtime Exemptions

Minimum Wage Exemptions

California's minimum wage rate requirements do not apply to employees in certain occupations and industries, including:

- Individuals who are the parent, spouse or child of the employer;
- Outside salespersons; and
- Apprentices regularly indentured under the State Division of Apprenticeship Standards.

Overtime Exemptions

Executive, Administrative and Professional Employee Exemptions

Executive, administrative and professional (EAP) employees are exempt from the state's overtime pay requirements if:

- The employee is primarily engaged in duties that meet the exemption test;
- The employee customarily and regularly exercises discretion and independent judgment in performing those duties; and
- The employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.

Primarily engaged means that more than half of an employee's work time must be spent engaged in exempt work.

The table below shows the salary threshold that EAP employees must satisfy to qualify for the exemption.

Effective date	Jan. 1, 2026	Jan. 1, 2027
Minimum wage	$16.90 per hour	$17.40 per hour
Overtime threshold	• $33.80 per hour • $1,352 per week • $70,304 per year	• $34.80 per hour • $1,392 per week • $72,384 per year

Executive Employee Duties Test

A person employed in an executive capacity means any employee who meets all the following requirements:

- Whose duties and responsibilities involve the management of the enterprise in which they are employed or of a customarily recognized department or subdivision thereof;
- Who customarily and regularly directs the work of two or more other employees; and
- Who has the authority to hire or fire other employees, or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight.

Administrative Employee Duties Test

A person employed in an administrative capacity means any employee who meets all the following requirements:

- Whose duties and responsibilities involve either:
    - The performance of office or nonmanual work directly related to management policies or general business operations of their employer or their employer's customers; or
    - The performance of functions in the administration of a school system, educational establishment or institution (or of a department or subdivision thereof) in work directly related to the academic instruction or training;
- Who regularly and directly assists a proprietor or an employee employed in a bona fide executive or administrative capacity;
- Who performs, under only general supervision, work along specialized or technical lines requiring special training, experience or knowledge; and
- Who executes, under only general supervision, special assignments and tasks.

Professional Employee Duties Test

A person employed in a professional capacity means any employee who meets all the following requirements:

- Who is licensed or certified by California and is primarily engaged in the practice of law, medicine, dentistry, optometry, architecture, engineering, teaching or accounting; or

- Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. **Learned or artistic profession** means an employee who is primarily engaged in the performance of:
  - Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study (as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual or physical processes, or work that is an essential part of or necessarily incident to any of the above work); or
  - Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training) and the result of which depends primarily on the invention, imagination or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and
  - Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period.

Computer Software Employee Exemption

An employee in the computer software field who is paid on an hourly basis is exempt from overtime requirements if all the following apply:

- The employee is primarily engaged in work that is intellectual or creative and requires the exercise of discretion and independent judgment;
- The employee is primarily engaged in duties that consist of one or more of the following:
  - The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
  - The 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
  - The documentation, testing, creation or modification of computer programs related to the design of software or hardware for computer operating systems; and
- The employee is highly skilled and proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming and software engineering.

The table below shows the hourly rate that computer software employees must satisfy to qualify for the exemption.

Effective date	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Hourly Rate	$55.58	$56.97	$58.85
Monthly Salary	$9,646.96	$9,888.13	$10,214.44
Annual Salary	$115,763.35	$118,657.43	$122,573.13

However, the computer software exemption does not apply to an employee if any of the following apply:

- The employee is a trainee or in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming and software engineering;
- The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision;
- The employee is engaged in the operation of computers or in the manufacture, repair or maintenance of computer hardware and related equipment;
- The employee is an engineer, drafter, machinist or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation;
- The employee is a writer of material such as box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or content intended for customers, subscribers or visitors to computer-related media; or
- The employee is engaged in work for the purpose of creating imagery for effect used in the motion picture, television or theatrical industry.

Overtime Exempt Employees

California's overtime wage payment laws do not apply to the following workers:

- State and political subdivision employees, including city, county or special district employees;
- Outside salespersons;
- Individuals who are the parent, spouse, child or legally adopted child of the employer;
- Individuals participating in a national service program, such as AmeriCorps;
- Teachers at private K-12 schools who meet certain criteria (excluding tutors, teaching assistants, instructional aides, student teachers, day care providers, vocational instructors or other similar employees);
- Licensed physicians and surgeons primarily engaged in duties requiring California licensure, paid at equal to the DLSE's hourly threshold ($107.17 per hour as of Jan. 1, 2026);
- Part-time or adjunct faculty at California private, non-profit colleges and universities who satisfy the professional exemptions duties test and earn either a monthly salary equal to at least two times the state's minimum wage for full-time employment or a salary for a course or laboratory that is calculated based on classroom hours or are employed under a collective bargaining agreement;
- Drivers whose hours are regulated by the U.S. Department of Transportation or California law;
- Employees excluded from overtime provisions by a collective bargaining agreement (the agreement must expressly provide for wages, work hours and working conditions for employees, including specific overtime compensation and a regular hourly rate of pay of not less than 30% more than the state minimum wage);

- Employees whose earnings are more than half derived from commission (excludes minors, and earnings must be higher than 1.5 times the state's minimum wage rate);
- Student nurses attending an accredited school;
- Employees who have entered into a collective bargaining agreement under the Railway Labor Act;
- Taxicab drivers;
- Airline employees working 40 to 60 hours per week due to a temporary work schedule modification requested by the employee and not required by the employer;
- Full-time carnival ride operators employed by a traveling carnival;
- Crew members employed on a commercial fishing boat;
- Professional actors;
- Motion picture projection employees;
- Announcers, news editors or chief engineers employed by a radio or television station in a city or town with a population of 25,000 or less;
- Any employee engaged in work that:
  - Is primarily intellectual, managerial or creative;
  - Requires the exercise of discretion and independent judgment; and
  - For which compensation is at least twice the state's monthly minimum wage for full-time employment.
- Personal attendants; and
- Minors who are employed as babysitters working at their employer's home.

Posting

Employers must post the state's minimum wage notice where employees work. Employers with workers who speak Spanish must post the notice in Spanish. Employers may distribute this information to employees by email, but email distribution does not alter the employer's obligation to physically display the required posting. Employers subject to IWC wage orders must post and maintain a copy of the order in a conspicuous location frequented by employees during workday hours.

Enforcement and Penalties

Civil Penalties

Employers that violate the state's minimum wage laws may be subject to the following civil penalties:

- For a first offense, $100 per underpaid employee per pay period in which the employee is underpaid; and
- For a second or subsequent offense, $250 per underpaid employee per pay period in which the employee is underpaid.

These amounts are in addition to unpaid wages, liquidated damages and any applicable penalties for failing to make wage payments within the time required by law. In addition, the DLSE may issue citations and award liquidated damages equal to the unpaid wages, plus interest, for minimum wage violations.

Employers that violate the state's overtime compensation laws may be subject to the following civil penalties:

- For a first offense, $50 for each underpaid employee per pay period for which the employee was underpaid; and
- For a second offense, $100 for each underpaid employee per pay period for which the employee was underpaid.

In addition to these penalties, employers must pay an amount sufficient to recover the underpaid wages.

Criminal Penalties

Employers that violate the state's gratuities requirements are guilty of a misdemeanor, punishable by a fine of up to $1,000, imprisonment for up to 60 days or both.

Employers that violate California's minimum wage laws may be guilty of a misdemeanor, punishable by a fine of not less than $100, imprisonment for not less than 30 days or both.

Civil Action

The statute of limitations for minimum wage and overtime claims is **three years** from the date of the violation. However, the statute of limitations may be extended to four years for claims brought under California's Unfair Competition law. Claims related to oral and written contracts have different statutes of limitations.

Aggrieved employees may recover the following damages in a civil action for minimum wage violations:

- Unpaid wages, plus interest;
- Liquidated damages in an amount equal to unpaid wages, plus interest;
- Waiting time penalties (if the employee has quit or has been terminated, discharged or laid off);
- Court costs; and
- Reasonable attorneys' fees.

In a civil action for overtime compensation violations, aggrieved employees may recover the following damages:

- Unpaid wages, plus interest;
- Court costs; and
- Reasonable attorneys' fees.

The court may also grant injunctive relief for willful violations of the state's minimum wage and overtime laws. The DLSE may commence and prosecute civil actions to recover unpaid minimum wages and interest with or without the consent of the affected employee.

More Information

Contact Employco USA, Inc. for more information on wage payment and work hour laws in California.