

Working In Massachusetts?



Make it Right, Know your Rights



Special Note:

Unless otherwise noted in this guide, all information is specific to workers in Massachusetts. In some places, we have included information for workers in Connecticut as well.

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1. Minimum Wage

- Minimum Wage in Massachusetts is \$9.00 per hour and in Connecticut it is \$9.15 per hour. There are limited exceptions, described more in this booklet.
- You have the right to earn the minimum wage:
 - Even if you are an undocumented immigrant
 - Even if your boss has lent you money and you owe him back
 - Even if you are paid by the piece and not by the hour
 - Even if you don't have any written proof that you worked for the employer
 - Even if you were fired from your job
 - Even if you stopped working there 2 years ago



Is it true that the minimum wage goes up each year?

Yes, sometimes. The minimum wage for most workers will increase in 2016 and again in 2017.

- Massachusetts Minimum Wage:
 - January 1, 2016 will increase to \$10 per hour
 - January 1, 2017 will increase to \$11 per hour
 - Farmworkers in Massachusetts, see page 15
 - Tipped & restaurant workers, see page 18
- Connecticut Minimum Wage:
 - January 1, 2016 will increase to \$9.60 per hour
 - January 1, 2017 will increase to \$10.10 per hour

? What if my boss promised to pay me more than the minimum wage? Do I have a right to the higher pay?

If you and your boss agreed to a higher wage, but your boss continues to pay you a smaller amount, you may have the right to claim the extra amount. This is true even if the agreement was never written down, it is a real contract and the boss should pay what he promised.

? I was always paid in cash and I was never given paystubs to prove that I ever worked for the employer. Can I still seek the money I am owed?

Yes. Even if you have no written evidence, you can still seek the money you are owed. It's the boss's obligation to keep good records of who worked and when they worked. It helps if you can write down as much as you can remember about which days you worked and how many hours. If you are still working there, begin to write down each day what time you started work, what time you left work, and if you took any lunch breaks. If you write it down each day after work, you will have good evidence for later.

? I clean houses, and my employer sends me from one job to another during the day, and I spend a lot of time waiting before starting the next job. Should I get paid for the time I spend traveling between jobs and time spent waiting?

Yes. Once you start your workday, you normally must be paid for all the time until the end of your workday, including travel time and waiting time.

? I work on a farm and am paid by the bucket. Am I still entitled to earn the minimum wage?

Yes. Being paid by the bucket, box, or pound is called piece rate. Your boss must ensure that your average earnings each week add up to at least the hourly minimum wage. If your buckets are not enough to earn minimum wage, your employer must make up the difference.

2. Timely Payment of Wages

? My boss says that I have to wait for my paycheck until his customer pays the bill. Is this legal?

No. An employer has the obligation to pay you on time even if your boss is in debt or has limited resources. You have the right to receive your pay at least every two weeks. Don't let more than two weeks go by without getting paid!

? I was fired last week but haven't gotten my final paycheck yet. Is this legal?

No. In Massachusetts, your employer must pay your full wages on the same day you are fired. In Connecticut, your employer must pay your full wages by the next business day after you are fired.

? I told my boss that he owes me for a couple hours I never got paid for, and he told me he would fire me or call immigration authorities on me. What can I do?

Firing a worker and threatening immigration against a worker are both examples of retaliation. Retaliation is illegal. Contact us to learn what you can do.

? I stopped working for my ex-boss last year and I never got paid for the last two weeks. Is it too late to get my money back?

No. You will still be able to seek your unpaid wages for work you did two years ago. In some cases, you may even be able to seek unpaid wages from six years ago. Also, it's likely that your ex-boss could owe you additional penalties for unpaid wages.

3. Overtime Pay



What is overtime pay?

With some exceptions, workers must receive time-and-a-half (1½ times their regular hourly pay) for all hours worked over 40 hours each week. Additionally, if you work in a store in Massachusetts, you may be entitled to earn time-and-a-half for any time you work on Sundays (even if you work less than 40 hours). There are some exceptions to this rule for overtime. If you work on a farm, for example, see page 15. Also, if you work at an amusement park or carnival, only some workers may be entitled to overtime.



I work in a factory assembling parts, and I am paid a flat weekly salary. I frequently work more than 50 hours per week, but I am paid a straight salary regardless of the number of hours I work. Is this legal?

It depends. At all times, you should be earning at least the minimum wage for each hour you work and overtime if you work more than 40 hours per week. If you are being paid a flat weekly rate, pay close attention to the number of hours you work. For example, if you work 50 hours per week and earn \$450, you may be getting cheated. At \$450 per week, you are earning an average of \$9.00 per hour, which is the minimum wage. But because you work more than 40 hours, you should be getting overtime (\$13.50 per hour for those hours over 40).



I work about 50 hours per week. My boss pays me a part of my money in a regular check and then he pays me the other part in cash. Why does he do that?

It is possible that your employer is paying you in two methods in order to avoid paying you overtime. If your boss is doing this in order to cheat you out of the extra pay that you would normally earn for overtime, then it is illegal.

4. Deductions from Pay

- Your employer is allowed to make only certain types of deductions from your pay, such as for taxes. For example, your employer is generally not allowed to deduct the following costs:
 - Uniforms
 - Tools
 - Transportation
 - Money shortages in the cash register
 - Cost of an employee drug test
- The employer must give you a paystub or a list of all the things being deducted from your pay. If your boss is deducting things without showing you exactly how much is being deducted, there is a chance that you are being cheated.

? I accidentally broke a piece of work equipment. My boss says that he will deduct \$75 from each paycheck until the damage is paid. I earn \$9 per hour. Is this legal?

No. Even if you break the employer's equipment, the employer doesn't have the right to deduct it from your pay if you earn the minimum wage or near the minimum wage. The boss can try to charge you separately for the cost of repair, but he or she may not deduct it from your paycheck.

? Before I was hired, the employer told me that I was required to purchase a special uniform. I am earning minimum wage. Does my employer have to reimburse me for that expense?

Yes. If a uniform or a tool is required to do the job, the employer cannot expect you to buy the item without reimbursement. He must reimburse in the first paycheck.

? My boss pays me cash and tells me that taxes are being deducted, but I never filled out any form when I was hired and have never seen a paystub. Is that legal?

No. Your employer has the right to deduct social security, and federal and state taxes. But if your boss never asked for your social security number and never asked you to fill out a Form W-4, he cannot possibly pay the taxes to the government.

5. Meal Breaks

If you work more than six hours at a time, your employer must offer you a 30-minute meal break. Your employer is not required to pay you for the 30 minutes. If you and your boss agree for you not to take the break, however, your boss must pay you for the time.



Is there a limit on how many hours I can be required to work?

Generally, no. But you must be paid for every hour you work, and most workers have the right to overtime when they work more than 40 hours in a week. As mentioned above, you have the right to a break after working for 6 hours straight. You also have the right to sit down during brief moments when you are not busy, if it doesn't interfere with your work.

6. Worker Housing and Workplace Meals

- If your boss provides you housing, he or she may not deduct more than \$35 per week to cover rent and utilities. Your boss should itemize all deductions.
- Any employer-provided housing must include drinkable water, at least one toilet for every 8

residents, hot water, kitchen sink, oven, working electricity, and light bulbs.

- If you came to the United States with a temporary H-2A or H-2B visa, your boss may be required to give you free housing.
- If your boss provides meals to you, he or she cannot deduct more than \$2.25 per meal from your pay, and you must agree to the deduction in writing.



I work at a restaurant and my employer allows workers to eat a company sandwich for lunch and automatically deducts it from our pay. Most days, I don't have time to eat lunch. Do I still have to pay for it?

No. It is generally illegal for a boss to automatically deduct the cost of a daily meal if you don't actually eat the meal.



I care for an elderly woman at her home, and her family told me that if I wanted to work for them it was necessary for me to live in their spare bedroom. The family deducts \$35 per week for utilities. Is this legal?

No. If your employer requires you to reside at a specific location, such as at the family home, the employer may not deduct any costs of lodging.

7. Right to Paid Sick Time

In both Connecticut and Massachusetts, some employees have the right to paid sick days. In both states, smaller companies are not required to offer their workers paid sick time, but larger companies are required to do so. The longer you have worked for a specific employer, the more paid sick time you will have “earned”. Even if your boss is not required to give you paid sick time, you may have the right to unpaid leave. See Section 8, below.

? I have been working for one year in Massachusetts for a company with dozens of employees. I called in sick one day last week. When I received my paycheck the following week, I noticed that I wasn't paid for the missed day. Should I have gotten paid for that day?

Most likely yes. In Massachusetts, most employers that have 11 or more employees are required to offer paid sick days. If you have worked at the job for more than 3 months and this is one of the first times you have ever called in sick, it's likely that you have earned at least one paid sick day and that you have the right to receive pay for that day.

8. Right to Unpaid Personal Leave



In addition to the right to earned sick time, you may also have the right to take unpaid leave to take care of certain personal matters, without risking losing your job or being retaliated against. If you work for a larger employer that has several dozen employees, you may have the right to take unpaid leave for the following reasons:

- To care for your child, spouse, or parent who has a serious health condition
- To take your child to the doctor
- If you are a victim of domestic violence, to take time for personal matters.
- Both men and women may be entitled to 8 weeks of unpaid leave when their child is born, even if they work for a smaller employer. You must have worked for the employer for at least three months. It's recommended to give written notice to your employer several weeks before the birth.
- You have the right to take up to 40 hours of unpaid sick leave each year, without the risk of getting fired or demoted.

9. Workplace Safety and Health



You have the right to complain about workplace hazards without fear of being fired, demoted, or discriminated against. If your boss asks you to do a task at

work that you think is dangerous, you should refuse the task rather than get yourself injured. If you are fired for refusing to do a dangerous job, you should contact an attorney. But if you refuse to do a job simply because you find it difficult or just don't feel like it, your boss may be able to fire you lawfully.

10. Workplace Injuries

- If you were injured on the job, tell your supervisor as soon as possible. In most cases, the employer is required to have Workers' Compensation insurance to pay for your doctor and also pay for your recovery and rest time.
- It is illegal to fire, demote, reduce someone's work hours, or transfer a worker to a less desirable position because they spoke up about their workplace injury, asked for medical treatment, or asked for workers' compensation coverage.

11. Discrimination & Sexual Harassment

- If you feel that you are receiving unfair or unequal treatment compared with your co-workers who have the same job or same work experience as you, you may be experiencing discrimination.
- It's not illegal for a boss to treat you rudely, but if you think that the supervisor is singling you out

because of your sex, your race, your religion, or because you are a foreigner, your boss' behavior may be illegal.



How do I know if I am the victim of sexual harassment at work?

Sexual harassment comes in many forms. Sexual harassment happens when a manager or boss offers you a raise, promotion, or better hours in exchange for a sexual favor or if you agree to go on a date. Similarly, sexual harassment happens when a boss threatens to fire or demote you unless you go on a date. Sexual harassment can also happen when a co-worker or a customer gives unwanted or inappropriate sexual behavior and the boss refuses to intervene.



Immigrant workers have the same rights against sexual harassment. You shouldn't wait to file a complaint. In some cases, you may have to make a complaint within a six months of the incident or you may lose your opportunity.

12. Farmworkers

? **Is it true that farmworkers have a lower minimum wage than other workers?**

Yes, in Massachusetts it's true. If you work on a farm or nursery in Massachusetts, the minimum wage is \$8 per hour, while the regular minimum wage is \$9 per hour. In Connecticut, farm workers have a \$9.15 minimum wage.

? **Is it true that farms don't have to pay their workers overtime pay?**

It depends. Farmers typically do not have to pay their workers overtime. However, some farmworkers do have the right to earn overtime, so be careful! You may have the right to overtime in the following situations:

- You work inside a farm's packing shed, warehouse, or sorting facility
- You spend time doing things such as working in the farmer's home, office, or mechanic shop
- You work in forestry, such as planting trees or working on a Christmas tree farm

? I am an American worker, but some of my co-workers on the farm came to the United States using a temporary visa. What are my rights?

Some farms hire workers from other countries using a visa, called an H-2A or H-2B visa. In Massachusetts, most visa workers come from Jamaica and Mexico. If you are not a visa worker, and you believe that some of your co-workers came from Mexico or Jamaica using a temporary visa, you may be entitled to earn at least \$11.26 per hour. You also may have additional rights, such as a right to free housing at the farm.

? I came to New England from Puerto Rico to work on a local farm. The farmer never told me the details about the work, how much I would be earning, or how I would get paid. Now, the work is so little and the pay too low. What can I do?

As a farmworker, you may be entitled to \$500 in penalties against the farmer if your employer did not give you, in writing, certain details about the work, such as how much you will be paid and how long the season will last.

13. Domestic and Home Workers

Domestic workers are protected under Massachusetts laws. If you work in house cleaning, as a nanny for children, caring for elderly or disabled persons in their home, or if you provide other services in someone's private home, you may be classified as a domestic worker.



I care for an elderly woman at her house seven days per week. My employer does not allow me any days off to tend to my personal matters. Is this legal?

No. Although most workers have no limitations on the amount that they can be asked to work, domestic workers have the right to at least one full day off each week. Additionally, each month, domestic workers must be offered two days off in a row, such as a Saturday/Sunday.



I am a domestic worker living with the family that I cared for and I was fired without warning and for no reason. When they fired me, they gave me just two days to pack my things and leave the house. Is that legal?

No. If you are fired without reason, you have the right to stay for 30 days or to be provided with alternative housing for the 30 days. If your boss does not want to give you the 30 days, he will need to give you two weeks of severance pay.

14. Restaurant & Other Tipped Workers

? I'm a server at a restaurant. Is it true that my minimum wage is only \$3.00 per hour?

No. While it is true that there is a special “service rate” for tipped employees such as waiters and bartenders, it does not mean that you have no right to earn the regular \$9.00 per hour minimum wage. If you earn tips, your total pay during the week should average at least \$9.00 per hour. For example, if the restaurant pays you \$3.00 per hour, then you should also earn, on average, at least \$6.00 per hour in tips. If you're earning less than an average of \$6.00 per hour in tips, then your employer must pay you the difference at the end of the week.

? Is it true that restaurant workers are not entitled to overtime pay?

Sometimes, but not always. Small restaurants may not be required to pay overtime to their employees who work more than 40 hours per week. But some larger restaurants are required to pay overtime. For example, if your restaurant is part of a larger restaurant chain, it's likely that they do have to pay overtime.

? I work at a restaurant. During each shift, I bus tables about half the time and I wash dishes about half the time. When I am bussing tables, I receive a part of the waiters tips. But when I am washing dishes I make only the hourly wage of \$3.00 per hour and I don't earn any tips from the waiters. Is this legal?

No. Your boss may pay you the lower \$3.00 per hour only when you are bussing tables, because you are earning tips in addition to the \$3.00. But if you are spending more than 20% of your time doing other tasks, such as washing dishes, your boss should pay you directly at least \$9.00 per hour for those hours when you don't receive a portion of the waiters tips.



If you work at a restaurant where tips are shared – or “pooled” – among wait staff, bartenders, and service employees, pay careful attention. An employer can only require that tips be pooled among tipped employees. An employer is never allowed to pay the tip money to managers, for example.

15. Taxes



Most workers in the United States must pay income taxes and Social Security taxes, and their employers

should deduct these taxes straight from weekly wages.

- Your boss should give you a Form W-4 to complete and sign when you are hired.
- Your boss should mail you a Form W-2 each year in January, which allows you to file your annual taxes with the government. If you were not given a Form W-4 or a Form W-2, call us or an accountant.
- If your boss gave you a tax Form 1099, it's possible that your boss has misclassified you as an independent contractor and that you are being cheated.
- If your boss tells you he is deducting taxes but never shows you a paystub with the amounts being deducted, it's possible you are being cheated.



? I don't have immigration papers in this country. Do I need to file taxes? How do I file taxes without a valid Social Security Number?

Yes, you should file your taxes each year on or before April 15th. If you are undocumented, you can file your taxes legally each year without a valid Social Security number. Rather than using a Social Security number, you may use a special identification number issued by the IRS, called an ITIN number. If you don't already have an ITIN number, contact an accountant listed on this website: <http://www.irs.gov/Individuals/Acceptance-Agent-Program>



I came to the United States to work using a J-1 or H-2A visa. Am I required to pay taxes in this country?

Yes, you are required to pay certain types of taxes but you are exempt from other categories of taxes. Most workers pay two categories of taxes in their paycheck: income taxes and Social Security taxes. As an H-2A or J-1 worker, you are usually expected to pay income taxes. But, you are generally not required to pay Social Security (ie, FICA) taxes. This is a savings of about 7.5% in each paycheck. If you are an H-2A or J-1 worker, your boss should only deduct income taxes from your paycheck.

16. Banking



Even if you lack immigration papers in this country or don't have a Social Security Number or drivers' license, you can still get a bank account. It's recommended to have a bank account so that you can deposit your own paycheck for free and you don't have to carry large amounts of cash.

Santander Bank and Bank of America both offer bank accounts to those without immigration papers and social security numbers. You will need a valid passport from your home country and a second piece of photo identification, for example, a consular ID. Ask for a free checking account, and be careful that you fully understand any monthly bank charges before opening the account.

17. Take Action to Enforce Your Rights

If you think that your employer has violated your rights in this booklet, you should take action quickly. You will have a much better chance of success. Here are some suggestions:

- If possible, don't act alone. If you are experiencing problems at work, likely your co-workers are too. Getting together in a group will show strength for your issue and it will prevent the boss from singling out just one “troublemaker.” The law protects workers from being discriminated against or retaliated against when they work together to improve working conditions and pay. The Pioneer Valley Workers' Center can help you and your co-workers.
- Contact an attorney. A lawyer can negotiate with your employer or file a complaint or lawsuit on your behalf. In a lawsuit, you can sometimes receive damages that are three times the amount of the original unpaid wages. Even if you don't have immigration papers or a Social Security number, you have the right to pursue your rights. Your lawyer will not share with anyone your immigration status.



For More Information about your rights, or to talk with someone about a workplace problem, contact us

Our Services are FREE!

Central West Justice Center is a non-profit law firm that provides free legal help to low-income workers living in Massachusetts.

- Call: 413-686-9012 or 855-252-5342, or email: bpeard@cwjustice.org. When you call, please leave a message with your name, phone number, and a time when we can call you back.

The Pioneer Valley Workers' Center (PVWC) is a workers' center in Western Massachusetts. PVWC empowers low wage and immigrant workers to engage in creative organizing strategies to combat workplace abuses and improve working conditions.

- Call: 413-570-3060 or like our Facebook page! ([Pioneer Valley Workers Center](#))

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