

# DELAWARE

## TITLE 19 • Labor • General Provisions • CHAPTER 17.

### WHISTLEBLOWERS' PROTECTION

**§ 1701. Short title.**  
 This chapter may be cited as the "Delaware Whistleblowers' Protection Act." (21 Del. Laws, c. 381, § 1.)

**§ 1702. Definitions.**  
 (1) "Employer" means a person employed full or part-time by any employee, and shall include, but not be limited to, self-employed, contract employees, independent contractors, and volunteer firefighters as defined in § 645 of Title 19.  
 (2) "Employee" means any person, partnership, association, sole proprietorship, corporation or other business entity, including any department, agency, commission, committee, board, council, bureau, or authority, or any subdivision of them in this state, county or municipal government, that is an employer or is deemed to be an employer under this chapter or under any contract of law, written or oral, express or implied.  
 (3) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.  
 (4) "Public body" means all of the following:  
 a. A state-wide elected official, agency, department, division, bureau, board, commission or authority, or other body in the executive branch of the state government of Delaware.  
 b. A legislator or employee of the legislative branch of state government.  
 c. An elected official of a county, city, or school district or employee of them.  
 d. A law-enforcement agency or employee of that law-enforcement agency, acting as a Federal agency or employee of that Federal agency.  
 (5) "Governance" means any individual or an employer has the authority to direct and control the work performance of the elected employee or any individual who has the authority to take corrective action regarding the conduct of a law, color regulation about which the employee complains.  
 (6) "Violator" means an act or omission by an employer or an agent thereof that:  
 a. Materially interferes with, and a serious detriment from, standards implemented pursuant to a law, policy or regulation promulgated under the laws of the state of Delaware or the laws of the United States, a public employee or other person from health, safety, or environmental hazards which are the employer's premises or activities;  
 b. Materially interferes with, and a serious detriment from, health management or occupational standards implemented pursuant to a rule or regulation promulgated by the employer or a law or regulation promulgated under the laws of the United States, a public employee or other person from health, safety, or environmental hazards which are the employer's premises or activities;  
 c. Materially interferes with, and a serious detriment from, health management or occupational standards implemented pursuant to a rule or regulation promulgated by the employer or a law or regulation promulgated under the laws of the United States, a public employee or other person from health, safety, or environmental hazards which are the employer's premises or activities. (21 Del. Laws, c. 381, § 2.)

**§ 1703. Protection.**  
 An employer shall not discharge, threaten, or otherwise discriminate against an employee reporting a violation of the employer's premises or activities, or a serious detriment from, health management or occupational standards implemented pursuant to a rule or regulation promulgated by the employer or a law or regulation promulgated under the laws of the United States, a public employee or other person from health, safety, or environmental hazards which are the employer's premises or activities, or a serious detriment from, health management or occupational standards implemented pursuant to a rule or regulation promulgated by the employer or a law or regulation promulgated under the laws of the United States, a public employee or other person from health, safety, or environmental hazards which are the employer's premises or activities. (21 Del. Laws, c. 381, § 3.)

**§ 1704. Retaliation and damages.**  
 (a) An employer who alleges a violation of this chapter may recover, in addition to any other statutory, contractual, or actual damages, or both within 3 years after the occurrence of the alleged violation of this chapter.  
 (b) An action commenced pursuant to subsection (a) of this section may be brought in Superior Court in the county where the alleged violation occurred, the county where the complaint was filed, or the county where the person against whom the suit is commenced resides or has their principal place of business.  
 (c) An award of actual damages of the victim, "damages" means damages for injury or loss caused by each violation of this chapter.  
 (d) An act of wrongdoing in violation of this chapter which results in the victim's loss of earnings, loss of benefits, or loss of other benefits shall entitle the victim to recover, in addition to any other statutory, contractual, or actual damages, or both within 3 years after the occurrence of the alleged violation of this chapter.  
 (e) An action commenced pursuant to subsection (a) of this section may be brought in Superior Court in the county where the alleged violation occurred, the county where the complaint was filed, or the county where the person against whom the suit is commenced resides or has their principal place of business.  
 (f) An award of actual damages of the victim, "damages" means damages for injury or loss caused by each violation of this chapter.  
 (g) An act of wrongdoing in violation of this chapter which results in the victim's loss of earnings, loss of benefits, or loss of other benefits shall entitle the victim to recover, in addition to any other statutory, contractual, or actual damages, or both within 3 years after the occurrence of the alleged violation of this chapter.  
 (21 Del. Laws, c. 381, § 7; 20 Del. Laws, c. 344, § 1; 43 Del. Laws, c. 485, § 1.)

### CHILD LABOR

**General Provisions**  
 • The minimum age for employment is 14.  
 • Work Permits are required for all employed minors under the age of 18.  
 • Employees are required to keep Work Permits on file for each employer.  
 • A new Work Permit is required when the employer of a minor changes.

**Specific Provisions for Individuals 16 and 17 Years of Age:**  
 • Not more than twelve (12) hours in a combination of school and work hours per day.  
 • Must have at least eight (8) consecutive hours of non-work, non-school times in each twenty-four (24) hour period.  
 • May not work more than five (5) hours continuously without a non-work period of at least thirty (30) consecutive minutes.  
 For a list of Prohibited Occupations, contact:  
 The Delaware Department of Labor,  
 Division of Industrial Affairs, Office of Labor Law Enforcement at any of the addresses below.  
 This poster provides only general information regarding the provisions of Delaware's Child Labor Laws. The requirements of state law do not affect an employer's obligation to comply with any provisions of federal law.

**Provisions for Individuals 14 and 15 Years of Age:**  
**MINORS 14-15 YEARS AGED SHALL NOT WORK:**  
 • More than 7:00 a.m. or after 7:00 p.m., except from June 1st through Labor Day when the evening hour shall be extended to 9:00 p.m.  
 • More than four (4) hours per day on school days.  
 • More than eight (8) hours per day on non-school days.  
 • More than eighteen (18) hours in any week when school is in session for three (3) days.  
 • More than six (6) days in any week.  
 • More than forty (40) hours per week; and  
 • More than three (3) hours continuously without a non-work period of at least thirty (30) consecutive minutes.

### MINIMUM WAGE

**Regular Rate:**  
 effective: 06-01-15 - \$8.25/hour  
 effective: 01-01-16 - \$8.75/hour  
 effective: 10-01-19 - \$9.25/hour

**Effective:**  
 effective: 01-01-22 - \$10.50/hour  
 effective: 01-01-23 - \$11.75/hour  
 effective: 01-01-24 - \$13.25/hour  
 effective: 01-01-25 - \$15.00/hour

**EMPLOYEES WHO RECEIVE TIPS**  
 The minimum cash wage payable to employees who receive tips is \$2.23 per hour, effective 10/1/19. The employer must be able to prove that the employee received the balance of the full minimum rate in tips.  
**NOTE:** Delaware's minimum cash wage for tipped employees is greater than the cash wage required by federal law. Employers must pay Delaware's higher rate.  
 Tips may not be taken or retained by an employer except as required by law. Tip-pooling is permitted under certain conditions in an amount not to exceed 10% of the actual tips received by the employee.

**MINIMUM WAGE EXEMPTIONS:**  
 • Employees in agriculture;  
 • Employees in domestic service in or about private homes;  
 • Employees of the United States Government;  
 • Outside construction and carpenters;  
 • Baseball catchers, administrators, and professionals;  
 • Employees engaged in fishing and shell processing; or  
 • Volunteer workers in educational, religious or non-profit organizations;  
 • Junior camp counselors employed by non-profit summer camp programs.

**RECORD KEEPING REQUIREMENTS:**  
 • Employers must keep records including rate of pay, hours worked, and amount paid for each employee for three (3) years.  
 Revised 11/27/23

### Take Effect January 1, 2019

Employers must distribute this information sheet to new employees at the commencement of employment and to existing employees by July 1, 2019.  
[www.delaware.gov](http://www.delaware.gov)

4425 Market Street, 3rd Floor | Blue Heron Corporate Center  
 Wilmington, DE 19802 | 655 S. Bay Road, Suite 2H  
 (302) 701-4200 | Dover, DE 19901  
 202-653-1326

8 Georgetown Plaza, Suite 2  
 Georgetown, DE 19847  
 (302) 492-1134

### Notice to Employers / Employees

This notice has your own minimum wage law which requires posting a notice regarding the aspects of that law. Employers are still required to post the Federal Minimum Wage notice from the U.S. Dept. of Labor (Fair Labor Standards Act) in addition to this state posting. According to the Dept. of Labor, under Federal and state law Any difference minimum wage states, the higher standard applies.  
 This Posting is for Informational Purposes Only

### DELAWARE SEXUAL HARASSMENT NOTICE

The Delaware Discrimination in Employment Act  
 The Delaware Discrimination in Employment Act protects all individuals against discrimination in the workplace based on gender. Sexual harassment is a form of gender discrimination. A new law against sexual harassment passed in 2018 extends protections to all individuals, in all workplaces, including employees, applicants, apprentices, staffing agency workers, independent contractors, elected officials and their staff, agricultural workers, domestic workers, and unpaid interns.

### BREAKS

All employees must be offered a meal break of at least 30 consecutive minutes if the employee is scheduled to work 7.5 or more hours per day.  
 This must be the first 2 hours of work and before the last 2 hours of work.

• The employer is a professional employee certified by the State Board of Education and employed by a local school board to work directly with children.  
 • There is a collective bargaining agreement with the employer-employee-written agreement which provides otherwise.

**Rules have been issued granting exemptions when:**  
 • Compromising another employee affect public safety;  
 • Only one (1) employee may perform the duties of a position;  
 • An employer has fewer than five (5) employees or a shift at one location (the exemption would only apply to that shift);  
 • The continuous nature of an employer's operations, such as chemical production or research experiments, requires employees to respond to urgent or unusual conditions at all times and the employee an employee must be available for that shift.

When exemptions are allowed, employees must be allowed to eat meals at their work stations or other authorized locations and use restroom facilities as reasonably necessary.

**Some Examples of Sexual Harassment**  
 • Unwelcome or inappropriate touching  
 • threatening or engaging in adverse action after someone refuses a sexual advance  
 • making lewd or sexual comments about an individual's appearance, body, or style of dress  
 • displaying promotional or other opportunities on sexual basis  
 • displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.  
 • making sexual remarks or derogatory comments based on gender

### PAYMENT OF WAGES

**EMPLOYERS OF FOUR (4) OR MORE EMPLOYEES ARE REQUIRED TO:**  
 • Notify employees in writing at the time of hire:  
 1. Rate of Pay  
 2. Day, hour and place of payment  
 3. Employer's fringe benefits policy  
 • Notify employees in writing of any reductions in the rate of pay, and any changes in the day, hour or place of payment or benefits.  
 • Furnish each employee with a pay statement showing:  
 1. Amount of wages due;  
 2. Pay period covered by the payment;  
 3. Amounts of deductions (especially specified) which have been made from the wages;  
 4. Total number of hours worked in pay period (for employees who are paid at an hourly rate).

**PAYMENT OF WAGES**  
 • Wages must be paid at least once each month.  
 • Employees must be paid all wages within seven (7) days from the close of each pay period (with some exceptions, see § 1102(b)).  
 • If the payday falls on a non-work day, payment shall be made on the preceding work day.  
 • If an employee is not present on the regular payday, payment shall be made on the next regular payday unless the employee is present or by mail (if so requested by the employee).  
 • Wages may be paid to a bank account (designated by an employee upon the employee's written request).  
 • Wages may be paid in cash or by check (provided that suitable arrangements are made by the employer for cashing at a bank or other business establishment convenient to the worker(s)).  
 • Whichever an employee owes, resigns, is discharged, suspended or laid off, the wages earned shall be paid on the next regular scheduled payday (or earlier through the usual pay channels or by mail (if requested by the employee) as if employment had not been suspended or terminated).

**UNLAWFUL DEDUCTIONS**  
 Employers are **not** permitted to deduct or withhold wages for:  
 1. Cash or inventory shortages;  
 2. Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount owed and the repayment schedule);  
 3. Damaged Property  
 4. Failure to return employer's property

### WAGE THEFT

**An employer may not do any of the following:**  
 • Employ an individual without reporting the individual's employment to all appropriate government agencies and paying all applicable taxes and fees for the individual.  
 • Fail to properly withhold state and federal taxes from an employee. Fail to forward money withheld from an employee's wages to the appropriate state or federal agency within 7 days of the applicable pay period.  
 • Pay an employee wages that are less than the minimum wage established under state and federal law for the work performed.  
 • Misclassify a worker as an independent contractor for purposes of avoiding wage, tax, or workers' compensation obligations under this title.  
 • Knowingly conspire to assist, advise, or facilitate a violation of this section.

**PENALTIES**  
 • Following an investigation in which the Department makes an initial determination that an employer has violated one or more provisions of subsection (a) of this section, the Department may decide to impose a civil penalty.  
 • An employer who violates this section is subject to a civil penalty of not less than \$2,000 and not more than \$20,000 for each violation.  
 • Each instance of a violation of subsection (a) of this section per employee is a separate violation.  
 • The Department may also refer cases to the Department of Justice for criminal prosecution consistent with § 841D of Title 11

**RETALIATION**  
 An employer is subject to a civil penalty of not less than \$20,000 and not more than \$50,000 for each violation if the employer discharges or in any manner retaliates or discriminates against an individual because that individual does any of the following under this section:  
 a. Made a complaint or provided information to the Department.  
 b. Caused, or is going to cause, an investigation to be instituted.  
 c. Testified, or is going to testify, in a hearing.

**Retaliation is Prohibited Under the Law**  
 It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The Delaware Discrimination Act prohibits employers from retaliating or discriminating against any person because that person opposed an unlawful discriminatory practice. Retaliation can occur through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The Delaware Discrimination in Employment Act prohibits individuals against retaliators who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

**Report Sexual Harassment**  
 If you have witnessed or experienced sexual harassment inform a manager, the equal employment officer at your workplace, or human resources as soon as possible.  
 Report sexual harassment to the Delaware Department of Labor Office of Anti-Discrimination. Call 302-761-8200 or 302-424-1134 or visit [www.delawareworkplaces.com/discrimination/](http://www.delawareworkplaces.com/discrimination/) to learn how to file a complaint or report discrimination. The Department can investigate or mediate your complaint and may be able to help you collect lost wages and other damages.   
 Rev. 1/17/19

Fee Valley Offices  
 4425 North Market Street - 3rd Floor  
 Wilmington, DE 19802  
 (302) 776-6000  
 Georgetown America Job Center  
 8 Georgetown Plaza, Suite 2  
 Georgetown, DE 19847  
 (302) 656-5230

Blue Heron Corporate Center  
 655 S. Bay Road, Ste. 2H  
 Dover, DE 19901  
 (302) 422-1134  
 University Office Plaza  
 282 Chesapeake Road, 2nd Floor  
 Newark, DE 19702  
 (302) 761-8200

**WORKERS COMPENSATION**

**IMPORTANT THINGS TO DO IN CASE OF INJURY**  
**THE EMPLOYER SHALL:**  
 Carry Workers' Compensation Insurance Coverage per Title 19, Chapter 23, 2303. Every employer shall keep record of all injuries received by employees, and within 10 days, file a First Report of Injury with the Office of Workers' Compensation as per Title 19, Chapter 23, 2313. In addition, the employer should notify their Workers' Compensation Insurance carrier of said injury. First Report of Injury forms are available on our website listed above.

**THE EMPLOYEE SHALL:**  
 If someone on the employer's behalf, notify the employer as soon as possible of an accidental injury or occupational disease and request medical services if needed. Failure to give notice or to accept medical services may deprive the employee of the right to compensation. Give priority to the employer's disability or through a supervisor, notice of any claim for compensation for the period of disability beyond the third day after the accident. In case of fatal injuries, notice must be given by one or more dependents of the deceased or by a person in their behalf. An act of failure to reach an agreement with the employer in regard to compensation under the law file a petition with the Industrial Accident Board for a hearing on the matters at issue within two (2) years of the date of accidental injury. All forms can be obtained from the Office of Workers' Compensation. (Email: del\_dla\_workcomp@delaware.gov)

It is unlawful to retaliate against an employee because s/he has made a complaint or given information to the Dept of Labor about possible labor law violations.  
 Violations of Delaware Worker's Compensation Laws could result in fines.  
 Revised 1/27/2023

**Delaware Department of Labor**  
 Division of Industrial Affairs

Email: [wageenforcement@delaware.gov](mailto:wageenforcement@delaware.gov) | Email: [workcomp@delaware.gov](mailto:workcomp@delaware.gov) | Website: [DelawareWorkplaces.com](http://DelawareWorkplaces.com)

Fee Valley Offices  
 4425 Market Street, 3rd Floor  
 Wilmington, DE 19802  
 (302) 776-6000

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 8 Georgetown Plaza, Suite 2  
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University Office Plaza  
 282 Chesapeake Road, 2nd Floor  
 Newark, DE 19702  
 (302) 761-8200

If it is unlawful to retaliate against an employee because s/he has made a complaint or given information to the Dept of Labor about possible labor law violations.

EMPLOYERS ARE PROHIBITED BY LAW TO DISPLACE THIS OFFICIAL POSTER IN ANY MANNER. ANY VIOLATIONS OF DELAWARE LABOR LAWS COULD RESULT IN FINES OF UP TO \$20,000 PER VIOLATION.

THEY'REGULARLY PAYS  
 Revised 1/27/2023

### UNEMPLOYMENT INSURANCE

**Notice to Employers/Employees**  
 Employers: You must be a registered employer in this state in order to receive the official Unemployment Insurance Posting. If you have any questions concerning this mandatory posting, please contact your local unemployment office.  
 Employees: Contact your local unemployment office for your rights concerning unemployment benefits as an employee.

This Posting is for Informational Purposes Only

# DELAWARE

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