

DELAWARE

TITLE 19 • Labor • General Provisions • CHAPTER 17.

WHISTLEBLOWERS' PROTECTION

§ 1701. Short title.
This chapter may be cited as the "Delaware Whistleblowers' Protection Act" (24 Del. Laws, c. 381, § 1.)

§ 1702. Definitions.
(1) "Employee" means a person employed full or part-time by any employer, and shall include, but not be limited to, self-employed, contract employees, independent contractors, and volunteer (including as defined in § 6854(d) of Title 19).
(2) "Employer" means any person, partnership, association, sole proprietorship, corporation or other business entity, including any partnership, agency, commission, committee, board, council, bureau, or authority, or any subdivision of them in this state, county or municipality, that is an employer as defined in § 6854(b)(1) of this title, or any other person or entity under any contract of hire, 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, council, committee 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 that entity.
d. A law-enforcement agency or employee of that law-enforcement agency, such as a federal agency or employee of that federal agency.
(5) "Supervisor" means any individual to whom an employer has given the authority to direct and control the work performance of the affected employee or any individual who has the authority to take corrective action regarding the individual or file a civil action against the individual or the employer's committee.
(6) "Violator" means an act or omission by an employer or agent thereof that:
a. Materially inconsistent with, and a serious deviation from, standards implemented pursuant to a law, rule or regulation promulgated under the laws of this state, or a public subdivision of this State, or the United States, or public employees or other persons from health, safety, or environmental hazards which are the employer's premises or activities; or
b. Materially inconsistent with, and a serious deviation from, federal, state or local laws or regulations promulgated pursuant to a rule or regulation promulgated by the employer or agent thereof, or a public subdivision of this State, or the United States, or public employees or other persons from health, safety, or environmental hazards which are the employer's premises or activities (24 Del. Laws, c. 381, § 1.)

§ 1703. Prohibition.
An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compliance, laws, conditions, location, or privileges of employment, including reporting or threatening to report an employer's suspected or actual violation or omission in violation of the law, rule or regulation promulgated under the laws of this State, or the United States, or public employees or other persons from health, safety, or environmental hazards which are the employer's premises or activities (24 Del. Laws, c. 381, § 1.)

§ 1704. Protection.
(1) Because the employee, or a person acting in behalf of the employee, or a person acting to report to a public body, whether in writing, a violation which the employee knows or has reason to believe that the report is true, or the employee knows or has reason to believe that the report is false;
(2) Because the employee participated in or responded to a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action, in connection with a violation as defined in this chapter; or

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.

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

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 notice.
- 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 time 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

Provisions for Individuals 14 and 15 Years of Age:

- Before 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 five (5) days
- More than six (6) days in any week
- More than forty (40) hours per week; and
- 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 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.

MINIMUM WAGE

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

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

EMPLOYERS WHO RECEIVE TIPS
The minimum cash wage payable to employees who receive tips is \$2.25 per hour, effective 10/1/16. 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. Tax may be taken or retained by an employer except as required by law. Tip-pooling is prohibited unless certain conditions in an amount not to exceed 10% of the actual tip 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 carpentry.
- News delivery executives, administrators, and professionals.
- Employees engaged in education and religious instruction.
- Volunteer workers (for 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: 11/27/2023

Notice to Employers / Employees

This notice has an open 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, where Federal and state law have different minimum wage rates, the higher standard applies.

This Posting is for Informational Purposes Only

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.

Must be after the first 2 hours of work and before the last 2 hours of work.

This rule also does not apply when:

- The employee 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 or other employee-employer written agreement which provides otherwise.

Rules have been issued granting exemptions when:

- Companies would adversely affect public safety.
- Only one (1) employee may perform the duties of a position.
- An employer has fewer than five (5) employees on 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 an employee that must be available.

Where 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.

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 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 regularly scheduled payday(s) either 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



4425 N MARKET STREET, 3RD FLOOR WILMINGTON, DE 19802
322 CANTONMENT DRIVE CHRISTINA BUILDING, SUITE 210 NEWARK, DE 19702

STATE OF DELAWARE DEPARTMENT OF LABOR DIVISION OF INDUSTRIAL AFFAIRS OFFICE OF LABOR ENFORCEMENT (202) 761-8200 DEL.LABOR@DELMUNDO.COM

BLUE HEN CORPORATE CENTER 605 BAR ROAD, SUITE 210 NEWARK, DE 19801
8 GEORGETOWN PLAZA, SUITE 2 GEORGETOWN, DE 19847

DELAWARE SEXUAL HARASSMENT NOTICE

THE DELAWARE DISCRIMINATION IN EMPLOYMENT ACT

The Delaware Discrimination in Employment Act prohibits 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 2016 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.

SEXUAL HARASSMENT AND THE LAW

Sexual harassment of an employee is unlawful when the employee is subjected to conduct that includes unwelcome sexual advances, requests for sexual favors, and/or verbal or physical contact of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment; (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an employee; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or otherwise working environment.

EXAMPLES OF SEXUAL HARASSMENT

- unwelcome or inappropriate touching
- threatening or engaging in adverse action after someone refuses an sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender.

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 in Employment 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 actions, such as an increased work load or being transferred to a less desirable location. The Delaware Discrimination in Employment Act protects individuals against retaliation 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 opportunity office of your workplace, or human resources as soon as possible.

Report sexual harassment to the Delaware Department of Labor Office of Anti-Discrimination, Call 202-761-8200 or visit <http://delawareworks.com/discrimination/> to learn how to file a complaint or report discrimination. The Office of Anti-Discrimination is a Neutral Third Party and will facilitate a voluntary mediation and/or conciliation, which may be able to help you collect back wages and other damages.

Need 42324

<p>Fee Valley Offices 4425 North Market Street - 3rd Floor Wilmington, DE 19802 (202) 761-8200</p> <p>Georgetown America, All Center 3 Georgetown Plaza, Suite 2 Georgetown, DE 19847 (202) 686-5230</p>	<p>Blue Hen Corporate Center 605 Bar Road, Ste. 2H Newark, DE 19801 (202) 422-1134</p> <p>University Office Plaza 322 Cantonment Road, 2nd Floor Newark, DE 19702 (202) 761-8200</p>
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DEPARTMENT OF LABOR DIVISION OF INDUSTRIAL AFFAIRS

Email: del_la_workcomp@delaware.gov
Email: del_la_workcomp@delaware.gov
Website: delawareworks.com

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 or record 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:

Or 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 employee, 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_la_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 Law Rules could result in fines. Revised: 1/27/2023

Delaware Department of Labor Division of Industrial Affairs

Email: workcomp@delaware.gov • Email: workers@delaware.gov • Website: delawareworks.com

<p>Fee Valley Offices 4425 North Market Street - 3rd Floor Wilmington, DE 19802 (202) 761-8200</p>	<p>Georgetown America, All Center 3 Georgetown Plaza, Suite 2 Georgetown, DE 19847 (202) 686-5230</p>	<p>Blue Hen Corporate Center 605 Bar Road, Ste. 2H Newark, DE 19801 (202) 422-1134</p>	<p>University Office Plaza 322 Cantonment Road, 2nd Floor Newark, DE 19702 (202) 761-8200</p>
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EMPLOYERS ARE REQUIRED BY LAW TO DISPLAY THIS OFFICIAL NOTICE IN A PLACE ACCESSIBLE TO ALL EMPLOYEES. VIOLATIONS OF DELAWARE LABOR LAWS COULD RESULT IN FINES OF UP TO \$20,000 PER VIOLATION.

THEY'REGULARLY PRESS

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