

DELAWARE



WHISTLEBLOWERS' PROTECTION

§ 1701. Short title.
This chapter may be cited as the "Delaware Whistleblowers' Protection Act." (7 Del. Laws, c. 361, § 1.)

§ 1702. Definitions.
As used in this chapter:
(1) "Employee" means a person employed full or part-time by any employer, and shall include, but not be limited to, all employees, contract employees, independent contractors, and volunteer firefighters as defined in § 6502(a) of Title 16.
(2) "Employer" 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 state, county or municipal government. One shall employ another if services are performed for wages or 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, authority, or other body in the executive branch of state government or employees of them;
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, and a Federal agency or employee of that Federal agency;
e. "Supervisor" means any individual to whom an employee 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 violation of a law, rule or regulation about which the employee complains.
(5) "Violator" means an act or omission by an employer, or agent thereof, that is:
a. 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, a political subdivision of this State, or the United States, to protect any employee or other persons from health, safety, or environmental hazards while on the employer's premises or elsewhere; or
b. A materially inconsistent with, and a serious deviation from, financial management or accounting standards implemented pursuant to a rule or regulation promulgated by the employer or a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect any person from fraud, deceit, or misappropriation of public or private funds or assets under the control of the employer.
(7 Del. Laws, c. 361, § 1.)

§ 1703. Prohibition.
An employer shall not discharge, threaten, or otherwise discriminate against an employee reporting the employee's compensation, terms, conditions, benefits, or privileges of employment, including reporting a threatened or imminent action of the employer or actual citizenship or immigration status of a family member of the employee, a federal, state, or local official.
(2) Because the employer, or a person acting on behalf of the employer, reports or is about to report to a public body, verbally or in writing, a violation which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to believe that the report is false. Provided, however that if the report is verbally made, the employee must establish by clear and convincing evidence that such report was made or reported.
(3) Because an employer reports or is about to report to a public body, to the employer or the employer's supervisor, verbally or in writing any noncompliance or an infraction which the employee knows or reasonably believes has occurred or is about to occur, of Chapter 60 of Title 15 unless the employee knows or has reason to believe the report is false or participation in the report is prohibited in an investigation, hearing, trial or inquiry, of a person or entity other than the employer, regarding noncompliance or an infraction of Chapter 60 of Title 15; or refuses to participate or assist in the noncompliance or an infraction of Chapter 60 of Title 15.
(7 Del. Laws, c. 361, § 1; 79 Del. Laws, c. 344, § 1; 83 Del. Laws, c. 488, § 1.)

§ 1704. Relief and damages.
(a) A person who alleges a violation of this chapter may bring a civil action to the appropriate state or federal court, 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 complainant resides, or the county where the person against whom the civil complaint is filed resides or has a principal place of business.
(c) As used in subsection (a) of this section, "damages" means damages for injury or loss caused by each violation of this chapter.
(d) A court, in rendering a judgment in an action brought under this chapter, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, reimbursement of costs relating to the disciplinary action or discharge, actual damages, or any combination of these remedies. A court may also award, as part of a judgment in an action brought under this chapter, all or a portion of the costs of litigation, including attorney's fees. If the court determines that such an award is appropriate.
(7 Del. Laws, c. 361, § 1.)

§ 1705. Collective bargaining.
This chapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement. (7 Del. Laws, c. 361, § 1.)

§ 1706. Exemption.
This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or report filed by a public body if, according to law § 1703 of this title.
(7 Del. Laws, c. 361, § 1.)

§ 1707. Notice requirement.
This chapter shall not be construed to require an employer to keep the employer's employees informed of their protection and obligations under this chapter.
(7 Del. Laws, c. 361, § 1; 70 Del. Laws, c. 166, § 1.)

§ 1708. Burden of proof.
The burden of proof in any action brought under this chapter shall be upon the employer to show that the primary basis for the discharge, threat, or discrimination alleged to be a violation of this chapter was that the employee disclosed an act or practice pursuant to § 1703 of this title.
(7 Del. Laws, c. 361, § 1.)

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

RETAILIANT

An employer is subject to a civil penalty of not less than \$20,000 and not more than \$50,000 for each violation of the employee 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.
- Employers are required to keep Work Permits on file for each employed minor.
- A New Work Permit is required when the employer of a minor changes.

Provisions for Individuals 14 and 15 Years of Age:

MINORS 14-15 YEARS OF AGE 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 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 Law Enforcement at any of the addresses listed.
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.

DELAWARE DEPARTMENT OF LABOR DIVISION OF INDUSTRIAL AFFAIRS OFFICE OF ANTI-DISCRIMINATION

Email: DOA_Antidiscrimination@delaware.gov
Website: industrialaffairs.delaware.gov/anti-discrimination

Fox Valley Offices 4425 North Market Street, 3rd Floor Wilmington, DE 19802 (302) 781-8200	Blue Hen Corporate Center 655 S Bay Road, Ste 2H Dover, DE 19901 (302) 492-1134	Georgetown American Job Center 1 Georgetown Plaza, Suite 2 Georgetown, DE 19847 (302) 696-5230	University Office Plaza 252 Chapman Road, 2nd Floor Newark, DE 19702 (302) 781-6200
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DELAWARE SEXUAL HARASSMENT NOTICE

THE DELAWARE DISCRIMINATION IN EMPLOYMENT ACT

The Delaware Discrimination in Employment Act protects employees, applicants, apprentices, student agency workers, independent contractors, and interns from discrimination and harassment in the workplace.

Sexual harassment is a form of sex discrimination and is unlawful under Delaware law.

RETRALIATION IS PROHIBITED UNDER THE LAW

It is illegal for an employer to retaliate against someone for:
• Reporting sexual harassment or discrimination
• Opposing unlawful employment practices
• Participating in an investigation or complaint process

Retaliation can include termination, demotion, increased workload, transfer to a less desirable job, or other adverse actions.

REPORT SEXUAL HARASSMENT

If you have witnessed or experienced sexual harassment, notify your employer as soon as possible.

You may also report harassment to the Delaware Department of Labor - Office of Anti-Discrimination.


Options to file a complaint:
• Call 302-761-8200
• Email: DOA_Antidiscrimination@delaware.gov
• Online: Scan the QR code below to visit the How to File a Complaint page.

The Office of Anti-Discrimination is a neutral third party that may facilitate mediation, conciliation, or mediation. A charge must be filed within 300 days of the alleged unlawful employment practice.

EXAMPLES OF SEXUAL HARASSMENT

- Unwelcome or inappropriate touching
- Threatening or taking adverse action after someone refuses sexual advances
- Sexual comments about a person's body, appearance, or clothing
- Conditioning promotions or opportunities on sexual favors
- Displaying sexually explicit images, cartoons, or messages in the workplace
- Sexual remarks or derogatory comments based on gender

Scan QR code for more information.



It is unlawful to retaliate against an employee because (s)he made a complaint or gave information to the Dept of Labor about possible labor law violations. Employees are encouraged by law to display this official poster in a place accessible to employees and where they regularly pass. Violators of Delaware labor laws could result in fines of up to \$20,000 per violation. 01/15/2025

DELAWARE DEPARTMENT OF LABOR DIVISION OF INDUSTRIAL AFFAIRS

Email: do_labor_comp@delaware.gov
Website: Labor.Delaware.gov

Fox Valley Offices 4425 North Market Street, 3rd Floor Wilmington, DE 19802 (302) 781-8200	Blue Hen Corporate Center 655 S Bay Road, Ste 2H Dover, DE 19901 (302) 492-1134	Georgetown American Job Center 1 Georgetown Plaza, Suite 2 Georgetown, DE 19847 (302) 696-5230	University Office Plaza 252 Chapman Road, 2nd Floor Newark, DE 19702 (302) 781-6200
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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 of 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, 2315. 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 employee'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 promptly to the employer, directly 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 a person on their behalf. In case 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: do_labor_comp@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 Labor Laws could result in fines. Revised 1/27/2023

MINIMUM WAGE

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

effective: 01-01-22 - \$10.50/hour
effective: 01-01-23 - \$11.75/hour
effective: 01-01-24 - \$12.25/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 10/1/26. The employer must be able to prove that the employee received the balance of the full minimum rate in tips. NOTE: Employer's minimum cash wage for tipped employees is greater than the cash wage required by federal law. Employers must pay Delaware's higher rate.
Tps 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 15% of the actual tips received by the employee.

MINIMUM WAGE EXEMPTIONS:

- Employees in agriculture
- Employees in domestic service or about private homes.
- Employees of the United States Government.
- Outside commercial paid salespeople.
- Bona fide executives, administrators, and professionals.
- Employees engaged in education, religious or non-profit organizations.
- Volunteer workers (for industrial, 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 3 (3) years.

Revised 1/17/2023

Notice to Employers / Employees

Your state has its 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, 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 7 1/2 hours of work and before the last 2 hours of work.

This rule 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 with an employer-employee written agreement which provides otherwise.

Rules have been issued granting exemptions when:

- Compliance 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 exception would only apply to that shift).
- The continuous nature of an employer's operations, such as chemical production or research operations, requires employees to respond to urgent or unusual conditions at all times and the employees are compensated for their meal breaks.

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 (separately 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 working day that the employee is present or by mail (only 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)).
- Whenever an employee quits, resigns, is discharged, suspended or laid off, the wages earned shall be paid on the next regular 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

DELAWARE DEPARTMENT OF LABOR - DIVISION OF INDUSTRIAL AFFAIRS OFFICE OF WAGE AND HOUR ENFORCEMENT

Email: wage@delaware.gov • Email: whare@delaware.gov • Website: WageandHourEnforcement.Delaware.gov

Fox Valley Offices 4425 North Market Street 3rd Floor Wilmington, DE 19802 (302) 781-8200	Blue Hen Corporate Center 655 S Bay Road, Ste 2H Dover, DE 19901 (302) 492-1134	Georgetown American Job Center 1 Georgetown Plaza, Suite 2 Georgetown, DE 19847 (302) 781-6200	University Office Plaza 252 Chapman Road, 2nd Floor Newark, DE 19702 (302) 781-6200
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It is unlawful to retaliate against an employee because (s)he made a complaint or gave information to the Dept of Labor about possible labor law violations. EMPLOYERS ARE REQUIRED BY LAW TO DISPLAY THIS OFFICIAL POSTER IN A PLACE ACCESSIBLE TO EMPLOYEES AND WHERE THEY REGULARLY PASS. Violators of Delaware Labor Laws could result in fines of up to \$20,000 per violation.

These files may not be printed out and posted to meet legal compliance posting requirements. Required posters to meet legal compliance posting requirements are physically posted at all CarMax locations.