



HOLIDAY SEASON EMPLOYMENT INFORMATION



For many retailers, the holiday shopping season is a "make or break" period which can define their bottom lines for the entire year. Temporary and part-time employment spikes as retailers and other businesses increase staffing to accommodate their seasonal increase in business. Workers not familiar with this sort of employment, and employers unaccustomed to hiring part-time and/or seasonal employees, may not be fully aware of the regulations surrounding such employment. We offer the following information to help guide both employers and employees through this busy season in an informed manner.



The mission of the DOL's Wage & Hour Division (WHD) is to promote and to achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce. To that end, WHD is responsible for enforcing some of the nation's most comprehensive federal labor laws on topics including the minimum wage, overtime pay, recordkeeping, and child labor.

Collectively, the laws enforced by Wage and Hour cover most private, state and local government employment throughout the United States and its territories, and protect over 143 million workers in more than 9.8 million establishments nationwide.

One of the laws enforced by Wage and Hour is the Fair Labor Standards Act (FLSA), which requires employers to pay covered non-exempt employees at least the federal minimum wage for all hours worked, and overtime pay for all hours worked over 40 in a work week. For general information about the FLSA, including its application to tipped employees, please see WHD's web page at:

<http://www.dol.gov/whd/flsa/index.htm>, and

Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA) at

<https://www.dol.gov/agencies/whd/fact-sheets/15-tipped-employees-flsa>

FREQUENTLY ASKED QUESTIONS REGARDING PART-TIME OR SEASONAL EMPLOYMENT:

How many hours is full-time employment?

How many hours is part-time employment?

The FLSA does not define full-time employment or part-time employment. This is a matter generally to be determined by the employer. Whether an employee is considered full-time or part-time does not change the application of the FLSA.

How many hours per day or per week can an employee work?

The FLSA does not limit the number of hours per day or per week that employees aged 16 years and older can be required to work. However, as noted above, overtime compensation requirements can apply for hours worked over 40 in a work week.

When can an employee's hours of work be changed?

The FLSA imposes no restrictions on the scheduling of employees, with the exception of the Child Labor provisions. Therefore, the FLSA does not limit an employer's ability to change an employee's work hours without giving prior notice or obtaining the employee's consent (of course, such changes may be limited by prior agreements between the employer and employee and the employee's representative).

Click on the link below for answers to these other FAQs:

- ▶ Is extra pay required for weekend or night work?
- ▶ When is overtime due?
- ▶ When are pay raises required?
- ▶ How are vacation pay, sick pay, holiday pay computed and when are they due?
- ▶ When must breaks and meal periods be given?
- ▶ When is double time due?

<http://www.dol.gov/whd/flsa/faq.htm>

Additional information regarding the Retail Industry in general may be found in WHD's Fact Sheet #6, The Retail Industry Under the Fair Labor Standards Act (FLSA), at the following link:

<http://www.dol.gov/whd/regs/compliance/whdfs6.htm>

CHILD LABOR:

Many students experience an increase both in their free time and their need for extra cash around the holidays. As many retailers have an increased need for seasonal / part-time help at that same time, many employers will fill their seasonal and/or part-time positions with young workers. It is often a good fit for both parties.



WHD is committed to helping young workers find those positive and early employment experiences that can be so important to their development, but the work must be safe. The youth employment provisions of the FLSA were enacted to ensure that when young people work, they work does not jeopardize their health, well-being, or educational opportunities.

SOME BASICS:

Children 14 and 15 years of age may be employed outside of school hours in a variety of non-manufacturing and non-hazardous jobs for limited periods of time and under specified conditions. It is important to keep in mind that any work that is not specifically permitted for these 14 and 15 year-old youth, as listed in the Department's child labor regulations, is strictly prohibited.

Sixteen and 17-year-olds may be employed for unlimited hours in any occupation other than those declared hazardous by the Secretary of Labor. Once a youth reaches 18 years of age, he or she is no longer subject to the Federal youth employment provisions.

HAZARDOUS OCCUPATIONS:

The Secretary of Labor has defined 17 Hazardous Occupations which are particularly hazardous for 16 & 17 year old minors, or detrimental to their health or well-being. For a complete list of these restricted occupations, please see WHD Fact Sheet # 43, Youth Employment Provisions of the Fair Labor Standards Act (FLSA) for Nonagricultural Occupations, at the following link:

<http://www.dol.gov/whd/regs/compliance/whdfs43.htm>

Some of the most common violations found regarding youth employment include employing 14 & 15 year-olds outside of allowable hours; allowing youth employees to load, operate or unload a trash or cardboard compactor, allowing employees under the age of 18 to operate or to clean a meat slicer or dough mixer, or allowing employees under the age of 18 to drive on public roadways as part of their employment outside of prescribed limits.

For information regarding driving on the job by employees under the age of 18, please see Wage and Hour Fact Sheet #34, at:

<http://www.dol.gov/whd/regs/compliance/whdfs34.htm>

Violators of the youth employment provisions may be subject to civil money penalties. These penalties may be increased for each violation that results in the death or serious injury of an employee who is a minor, and may be doubled if the violation was determined to be willful or repeated. For current penalty amounts, see <https://www.dol.gov/whd/flsa/index.htm#cmp>.

When state youth employment laws differ from the federal provisions, an employer must comply with the higher standard. Links to your state labor department can be found at:

http://www.dol.gov/whd/contacts/state_of.htm

For additional information on the Fair Labor Standards Act, visit the Wage and Hour Division Web site:

<http://www.dol.gov/agencies/whd>

and/or call our toll-free information and helpline, available Monday – Friday, 8 a.m. – 5 p.m. in your time zone: 1-866-4USWAGE (1-866-487-9243)

