SOUTH CAROLINA

HR Law Reference Guide



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DISCLAIMER

WAGE AND HOUR LAWS

MINIMUM WAGE

South Carolina has not established a state minimum wage rate. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the minimum wage set forth in that law would typically apply. Currently, the federal minimum wage is **$7.25**.

OVERTIME

South Carolina labor laws do not control the payment of overtime in the workplace. Federal overtime laws apply, meaning that non-exempt employees are guaranteed one and a half times their hourly pay for time worked in excess of 40 hours in one workweek. The U.S. Department of Labor enforces these policies and hears complaints against employers who are not in compliance. See FLSA: Overtime for more information regarding overtime requirements.

TIPPED MINIMUM WAGE

South Carolina does not have minimum wage or overtime laws and, thus, has not established a tipped minimum wage. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for tipped wages set forth in that law typically apply.

TIP POOLING AND SHARING

South Carolina does not have minimum wage or overtime laws and, thus, has not established a rules regarding tip or gratuity pooling. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for tip or gratuity pooling set forth in that law typically apply.

PREVAILING WAGES

South Carolina does not have a state labor law that regulates prevailing wage rates for citizens working on government projects or service contracts.

Under certain circumstances, employers in South Carolina may be required to pay residents rates established by federal prevailing wage rates and rules. The prevailing rates may be different from the federal and state's standard minimum wage.

Employees may be eligible if they work on government or government-funded construction projects or perform certain public services. See the Davis-Bacon and Related Acts, McNamara-O'Hara Service Contract Act (SCA), and Walsh-Healey Public Contracts Act (PCA) for more information.

SUBMINIMUM WAGES

Employees with Disabilities

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to employees with disabilities. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for wage rates for employees with disabilities set forth in that law typically apply.

Trainees

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to trainees. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for wage rates for trainees set forth in that law typically apply.

Apprentices

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to apprentices. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for minimum wage rates for apprentices set forth in that law typically apply.

Learners

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to learners. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for minimum wage rates for learners set forth in that law typically apply.

Student Learners

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to student learners. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for minimum wage rates for student learners set forth in that law typically apply.

Student Workers

South Carolina does not have minimum wage laws and, thus, does not address subminimum wage rates employers may pay to student workers. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for minimum wage rates for student workers set forth in that law typically apply.

HOURS WORKED

South Carolina does not have minimum wage or overtime laws and, thus, has not adopted a definition of hours worked for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for hours worked set forth in that law typically apply.

Workweek

South Carolina does not have minimum wage or overtime laws and, thus, has not established what constitutes a workweek for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for workweeks set forth in that law typically apply.

Meals and Breaks

South Carolina does not have any state labor laws requiring an employer to provide a meal period or breaks to employees. SC Dept. of Labor FAQs. The federal rule does not require an employer to provide either a meal period or breaks.

However, if an employer chooses to do so, breaks, usually of the type lasting less than 20 minutes, must be paid. Meal or lunch periods (usually 30 minutes or more) do not need to be paid, so long as the employee is free to do as they wish during the meal or lunch period. DOL: Breaks and Meal Periods.

Nursing Mother Breaks

South Carolina labor laws require certain employers to provide nursing mothers with reasonable accommodations, including more frequent or longer break periods to express breast milk. Employers are also required to provide employees with a private place, other than a bathroom stall, to express breast milk.

The employer is not required to construct a permanent, dedicated space to qualify as a private place. To be required to provide employees with nursing mother breaks, employers

must have fifteen (15) or more employees who work each day in each of twenty (20) or more calendar weeks in the current or preceding calendar year. SC 1-13-30(e); SC 1-13-30(t)

Waiting Time

South Carolina does not have minimum wage or overtime laws and, thus, has not established when waiting time must be counted for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for waiting time set forth in that law typically apply.

On-call Time

South Carolina does not have minimum wage or overtime laws and, thus, has not established when on-call time must be counted for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for on-call time set forth in that law typically apply.

Sleeping Time

South Carolina does not have minimum wage or overtime laws and, thus, has not established when sleeping time must be counted for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for sleeping time set forth in that law typically apply.

Travel Time

South Carolina does not have minimum wage or overtime laws and, thus, has not established when travel time must be counted for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for travel time set forth in that law typically apply.

Meeting, Lecture, and Training Time

South Carolina does not have minimum wage or overtime laws and, thus, has not established when time spent by employees at meetings, lectures, and training must be counted for purposes of compensation calculations. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the standards for meeting, lecture, and training time set forth in that law typically apply.

Show Up and Reporting Time

South Carolina law does not require employers to pay employees for reporting or showing up to work if no work is performed. An employer is also not required to pay an employee a minimum number of hours if the employer dismisses the employee from work prior to completing their scheduled shift. Employers are only required to pay employees for hours actually worked.

MINIMUM WAGE AND OVERTIME EXEMPTIONS

Executive Exemption

South Carolina does not have minimum wage or overtime laws and, thus, does not address any exemptions for executive employees. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards for executive employees set forth in that law typically apply.

Administrative Exemption

South Carolina does not have minimum wage or overtime laws and, thus, does not address any exemptions for administrative employees. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards for administrative employees set forth in that law typically apply.

Professional Exemption

South Carolina does not have minimum wage or overtime laws and, thus, does not address any exemptions for professional employees. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards for professional employees set forth in that law typically apply.

Outside Salesman Exemption

South Carolina does not have minimum wage or overtime laws and, thus, does not address any exemptions for outside salesmen. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards for outside sales employees set forth in that law typically apply.

Computer Employee Exemption

South Carolina does not have minimum wage or overtime laws and, thus, does not address any exemptions for computer systems analysts, computer programmers, software engineers, or other similarly skilled workers. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards for computer systems analyst, computer programmer, software engineer, or other similarly skilled workers set forth in that law typically apply.

Other Minimum Wage and Overtime Exemptions

South Carolina does not have minimum wage or overtime laws and, thus, does not address any other minimum wage or overtime exemptions. Because most employers and employees in South Carolina are subject to the federal Fair Labor Standards Act, the exemption standards set forth in that law typically apply.

LEAVE LAWS

BEREAVEMENT LEAVE

South Carolina law does not require employers to provide employee bereavement leave. Bereavement leave is leave that is taken by an employee due to the death of another individual, usually a close relative. Employer may choose to provide bereavement leave and may be required to comply with any bereavement policy or practice it maintains.

HOLIDAY LEAVE

The State of South Carolina has designated several days each calendar year as state holidays. The implications of these state holidays on public employers and private employers are discussed below.

State Legal Holidays

The following list contains the state holidays recognized by South Carolina.

- New Year's Day (January 1)
- Martin Luther King Jr.'s Birthday (3rd Monday in January)
- George Washington's Birthday/Presidents' Day (3rd Monday in February)
- Confederate Memorial Day (May 10)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Veterans Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- The Day after Thanksgiving Day
- The Day before Christmas
- Christmas Day (December 25)
- The Day after Christmas Day

SC Statute 53-5-10

If a holiday falls on a Sunday, it is observed on the following Monday. If a holiday falls on a Saturday, it is observed on the prior Friday. SC Statute 53-5-30

Click here for a list of federal holidays.

Private Employers

Private employers in South Carolina are not required to close on any of the listed holidays. Additionally, private employers are not required to allow employees to take either paid or unpaid time off on the holidays nor are they required to pay employees any premium wage rates to employees who work on the holidays.

Private employers may establish policies or practices granting employees time off on any of the listed holidays or agree to pay premium wage rates to employees who work on those days. Employers who establish such policies or practices may be required to comply with them.

Public Employers

State employees, other than those working for agencies following academic schedules, who are required to work on a legal holiday must be granted compensatory time at the convenience of their employing agency within 90 days of the holiday. State employees working for agencies following academic schedules who are required to work on a legal holiday must be granted compensatory time at the convenience of their employing agency within one year of the holiday.

If a non-exempt employee is not allowed to take the compensatory time earned within the relevant period, the employing agency must compensate them for all compensatory time at their straight hourly rate, unless the employing agency has received an extension to the compensatory time use period from the Budget and Control Board. State employees who do not work a Monday through Friday schedule must be awarded the same number of holiday as employees who works such a schedule. SC Statute 8-11-50

JURY DUTY LEAVE

An employer is not required to pay an employee for time spent responding to a jury summons or serving on a jury. An employer may not discharge or demote an employee who complies with a jury summons or serves on a jury. SC Statute 41-1-70

SICK LEAVE

South Carolina law does not require employers to provide employees with sick leave benefits, either paid or unpaid. If an employer chooses to provide sick leave benefits, it must comply with the terms of its established policy or employment contract. SC Dept. of Labor FAQs.

An employer in South Carolina may be required to provide an employee unpaid sick leave in accordance with the Family and Medical Leave Act or other federal laws.

VACATION LEAVE

In South Carolina, employers are not required to provide employees with vacation benefits, either paid or unpaid. SC Dept. of Labor FAQs. If an employer chooses to provide such benefits, it must comply with the terms of its established policy or employment contract. SC Dept. of Labor FAQs. An employer is required to notify its employees in writing of any benefit policies. SC Statute 41-10-30, SC Dept. of Labor FAQs.

An employer may lawfully establish a policy or enter into a contract denying employees payment for accrued vacation leave upon separation from employment. See *O'Neal v. Intermedical Hospital of SC*, 355 S.C. 499, 585 S.E.2d 526 (SC App. 2003).

An employer may also lawfully establish a policy or enter into a contract disqualifying employees from payment of accrued vacation upon separation from employment if they fail to comply with specific requirements, such as giving two weeks notice or being employed as of a specific date of the year. See *O'Neal v. Intermedical Hospital of SC*, 355 S.C. 499, 585 S.E.2d 526 (SC App. 2003).

An employer is required to pay accrued vacation to an employee upon separation from employment if its policy or contract requires it. SC Statute 41-10-10(2).

Neither South Carolina's Legislature nor its courts have stated whether an employer is required to pay accrued vacation leave upon separation from employment if the employer's established policy or employment contract is silent on the matter.

An employer may cap the amount of vacation leave an employee may accrue over time. See SC Statute 41-10-10(2); *O'Neal v. Intermedical Hospital of SC*, 355 S.C. 499, 585 S.E.2d 526 (SC App. 2003).

An employer may implement a "use-it-or-lose-it" policy requiring employees to use their leave by a set date or lose it. See SC Code 41-10-10(2); *O'Neal v. Intermedical Hospital of SC*, 355 S.C. 499, 585 S.E.2d 526 (SC App. 2003).

VOTING LEAVE

South Carolina does not have a law that requires an employer to grant its employees leave, either paid or unpaid, to vote.

WAGE PAYMENT LAWS

FREQUENCY OF WAGE PAYMENTS

South Carolina does not have any laws dictating when or how frequently an employer must pay employees their wages.

MANNER OF WAGE PAYMENTS

An employer may pay wages by:

- cash,
- check, or
- direct deposit.

SC Statute 41-10-40

DIRECT DEPOSIT

An employer may pay an employee by direct deposit, so long as the bank does business in South Carolina, the bank is insured by a federal agency, and the employee is entitled to at minimum one (1) withdrawal per month from the account without having to pay a fee. SC Statute 41-10-40

PAYROLL CARD

South Carolina labor laws do not specifically permit employers to pay employees by payroll card.

PAYMENT UPON SEPARATION FROM EMPLOYMENT

Employees who are fired, discharged, terminated, or laid off

An employer must pay an employee who is discharged from employment, no matter the reason, all wages due within 48 hours of the separation or the next regular payday which may not exceed thirty (30) days. SC Statute 41-10-50

Employees who quit or resign

South Carolina does not have a law specifically addressing the payment of wages to an employee who quits. However, to ensure compliance with known laws, an employer should

pay employee all wages due no later than the regular pay day for the pay period, not to exceed thirty (30) days, during which the separation from employment occurred. SC Statute 41-10-50

Employees who are suspended or resigns due to a labor dispute (strike)

South Carolina does not have a law specifically addressing the payment of wages to an employee who leaves employment due to a labor dispute. However, to ensure compliance with known laws, an employer should pay employee all wages due no later than the regular pay day for the pay period, not to exceed thirty (30) days, during which the separation from employment occurred. SC Statute 41-10-50

WAGES IN DISPUTE

In case of a wages dispute, an employer must pay an employee all uncontested wages and provide the employee a written statement of the wages conceded to be due. SC Statute 41-10-60

DEDUCTIONS FROM WAGES

An employer may not withhold, deduct, or divert any portion of an employee's wages unless:

- permitted by state or federal law, or
- the employer has given the employee written notice of the withholding or deduction at the time of hire, or
- the employer has given the employee at least seven (7) days written notice of the withholding or deduction.

SC Statute 41-10-40

An employer must comply with the above requirements before deduction wages for:

- shortages,
- damages,
- rent,
- uniforms,
- tools, or
- any other necessary item.

UNIFORMS, TOOLS, AND OTHER EQUIPMENT NECESSARY FOR EMPLOYMENT

South Carolina does not have any laws prohibiting an employer from requiring an employee to purchase a uniform, tools, or other items necessary for employment.

PRE-HIRE MEDICAL, PHYSICAL, OR DRUG TESTS

South Carolina does not have any laws prohibiting an employer from requiring an applicant or employee to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment.

NOTICE OF WAGE REDUCTION

An employer must provide an employee seven (7) days' notice in writing of any wage reduction. SC Statute 41-10-30

STATEMENT OF WAGES (PAY STUB)

An employer must furnish each employee an itemized statement showing their gross pay and deduction for each pay period. SC Statute 41-10-30

RECORDKEEPING REQUIREMENTS

An employer must retain the names, addresses, wages paid each payday, and deductions of each employee for three (3) years. SC Statute 41-10-30

NOTICE REQUIREMENTS

An employer must notify each employee in writing at the time of hire of:

- their normal hours,
- wages agreed upon,
- the time and place of payment, and
- the deductions that will be made from the wages, including payments to insurance programs.

An employer can satisfy this notification requirement by posting the terms conspicuously at or near the employee's place of work. An employer must provide an employee at least seven (7)

days' notice of any changes in the above listed terms, except for wage increases. SC Statute 41-10-30

SEVERANCE PAY

South Carolina labor laws do not require employers to provide employees with severance pay. If an employer chooses to provide severance benefits, it must comply with the terms of its established policy or employment contract.

DISCLAIMER

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