



WORKER RIGHTS · MONTANA

Know Your Rights in Montana

What every hospitality worker should know, in plain language.
No legal jargon.

Read this first — Montana is different. There is no tip credit here at all: you must be paid the full minimum wage in wages. And Montana is not an at-will state once you finish probation — after that, your employer needs good cause to fire you.

General information only — not legal advice.

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The Minimum Wage

- Montana's minimum wage is \$10.85 per hour. It rises to \$11.20 per hour on January 1, 2027. Montana's rate is the greater of the federal or state rate, adjusted each year for cost of living (calculated by September 30, rounded to the nearest five cents).
- Small-business exception: a business not covered by the federal Fair Labor Standards Act with gross annual sales of \$110,000 or less may pay \$4.00 per hour — but any employee who produces or moves goods across state lines, or is otherwise federally covered, must be paid the greater of the federal or Montana rate.

Tips — There Is No Tip Credit in Montana

TRAP — Montana allows NO tip credit, no meal credit, and no training wage. Your employer may not use your tips to make up any part of your wage; you must be paid at least the full state minimum wage in wages. In the Department's words: "No tip credit, meal credit, or training wage is allowed under Montana's Wage & Hour Laws."

- Tips, gratuities, and service charges belong to the employee.
- Hospitality service charges: a service charge a food, beverage, or lodging business adds to a customer's bill in place of a tip must be distributed directly to the non-management employees who prepare or serve the food or beverage, or who are involved in related services, under a tip pool agreement.

Overtime

- Time-and-a-half your regular rate for hours actually worked over 40 in a workweek. Paid holiday, vacation, or sick hours that you did not work do not count toward the 40. There is no daily-overtime rule.
- Exceptions the Department notes: student employees of seasonal amusement or recreational employers who receive board and room get overtime only after 48 hours. Farm workers are outside the state overtime provisions. Executive, administrative, and professional employees paid on a salary basis, and outside salespersons, are exempt — but a salaried worker who does not meet those definitions is still owed overtime.

Final Pay

TRAP — Montana's final-pay clocks are fast. Fired or laid off: your wages are due immediately — within four hours or by the end of the business day, whichever comes first — unless your employer has a preexisting written policy extending the time, and even then no later than the next payday for the separation period or 15 calendar days, whichever comes first.

- Quit: your wages are due on the next scheduled payday for the separation period or within 15 calendar days, whichever comes first.
- Your employer may not hold your final paycheck until you return keys, uniforms, or other property. The penalty for late payment: up to 110% of the wages not paid.

- While still employed, you must be paid within 10 business days after the end of the pay period.

Breaks

- Montana law does not require rest breaks or meal periods. If your employer offers a break, the break time is paid time. A meal period is unpaid only if it is 30 minutes or longer AND you are completely relieved of duty.

Vacation, Sick Leave, and Other Benefits

TRAP — earned vacation is wages in Montana. Once you have earned vacation under your employer's policy, it is treated as wages and must be paid the same way. "Use it or lose it" vacation policies are NOT permitted in Montana. An employer may cap how much vacation you can accumulate, which pauses further accrual until you use some.

- Private employers are not required to provide or pay out severance, sick leave, or paid time off — those are benefits set by employer policy. Payout of a combined PTO benefit at separation follows your employer's policy; the earned-vacation rule above is the one Montana treats as wages.
- There is no "show-up" pay requirement — you must be paid for time actually worked. There is no required premium for holidays or weekends unless those hours push you over 40 actually worked.

- "Hours worked" includes preparation time, opening and closing the business, company travel, and required meetings and training — all of it must be recorded and paid.

Deductions

- Deductions are lawful only if required by law (taxes, Social Security, garnishment) or for board, lodging, or other incidentals for your benefit (a written agreement is highly recommended). Wages cannot be withheld for shortages, damages, or mistakes. Your employer must give you an itemized pay statement showing all deductions.

Wrongful Discharge — Montana Is Not At-Will

TRAP — Montana is NOT an at-will state after probation. In the Department's plain words: "Montana is not an 'at will' state." Generally, once you complete your probationary period, your employer needs good cause to fire you. This section is the Montana Wrongful Discharge From Employment Act.

- Probation: if your employer did not set a specific probationary period (or say there is none) before or when you started work, your probationary period is 12 months from your start date. An employer may extend it before it expires, but the original period plus extensions may not exceed 18 months. During probation, either side may end the employment for any reason or no reason.

- A discharge is wrongful under the Act when: (a) it was in retaliation for refusing to violate public policy or for reporting a violation of public policy; (b) it was not for good cause and you had completed your probationary period; or (c) your employer materially violated an express provision of its own written personnel policy before the discharge, in a way that deprived you of a fair and reasonable opportunity to remain employed.
- "Good cause" means reasonable job-related grounds: failure to satisfactorily perform job duties; disruption of the employer's operation; material or repeated violation of an express provision of the employer's written policies; or other legitimate business reasons in the employer's reasonable business judgment. Your legal use of a lawful product off your employer's premises during nonworking hours is NOT good cause.
- "Discharge" includes constructive discharge, resignation, elimination of the job, layoff for lack of work, and failure to recall or rehire. The Act does not cover independent contractors, employees covered by a written collective bargaining agreement or a written contract for a specific term, or discharges governed by another statute with its own procedure or remedy.
- Remedies: lost wages and fringe benefits for up to 4 years from the discharge, plus interest (amounts you earned, or could have earned with reasonable diligence, are deducted). There is no right to damages for pain and suffering or emotional distress under the Act. Punitive damages are available only for a public-policy discharge (ground (a)) proven by clear and convincing evidence of actual fraud or actual malice.

TRAP — the deadline and the procedure. You must file in court within 1 year after the date of discharge. If your employer has written internal appeal procedures, you must use them first; if they are not finished within 90 days of starting them, they count as exhausted and you may file. Your employer must notify you of those procedures within 14 days of discharge — if it does not, you need not exhaust them. No state agency administers this Act — claims go through the courts.

- Blacklisting is prohibited: an employer that tries to prevent a discharged or departed employee from getting other work is liable for punitive damages in a civil action and may be separately punishable by law.

Maternity Leave

- Under the Montana Maternity Leave Act, a pregnant employee is entitled to a reasonable leave of absence for temporary disabilities associated with childbirth, delivery, and related medical conditions. Your employer may not impose restrictions that would not apply to leave for any other valid medical reason, may not fire you because of pregnancy, and may not force maternity leave of an unreasonable length. You may use accrued disability benefits, sick leave, vacation, or compensatory time under your employer's plans; if your employer has no such plans, the leave is unpaid. Complaints go to the Human Rights Bureau within 180 days.
- Federal FMLA provides eligible employees up to 12 weeks of unpaid, job-protected leave per year (employers with 50 or more employees; 12 months of service; 1,250 hours).

Non-Competes

- Montana's statute is blunt: "Any contract by which anyone is restrained from exercising a lawful profession, trade, or business of any kind... is to that extent void" — except two narrow statutory exceptions (MCA 28-2-704 and 28-2-705). A non-compete that restrains you from working in your trade is void in Montana outside those exceptions.

Filing a Wage Claim

- File with the Montana Department of Labor & Industry, Employment Relations Division. File the Electronic Wage Claim online, get forms at Job Service offices statewide, or email dlierdwage@mt.gov. Phone: (406) 444-6543. Mailing: P.O. Box 8011, Helena, MT 59604. Bring pay stubs, timecards, correspondence, policies, wage agreements, and your calculation of what is owed.
- Deadline: file your complaint within 180 days of the default or delay in payment. You can recover wages and penalties going back 2 years before filing (or before your last day of employment) — 3 years if your employer engaged in repeated violations. If a final paycheck is withheld, your alternatives are a private attorney, a court claim, or the Division wage claim.

Discrimination

- File with the Montana Human Rights Bureau (in the Department of Labor & Industry) within 180 days after the discriminatory act occurred or was discovered. Start by phone: (406) 444-2884 or 1-800-542-0807. If the claim is in the Bureau's jurisdiction, an intake interview is scheduled and an investigator drafts the formal complaint for your signature. Your complaint may be dual-filed with the EEOC.
- Coverage: anyone who hires one or more persons is subject to the Montana Human Rights Act — there is no 15-employee threshold like federal law. Protected classes include age, race, color, national origin, creed, religion, physical or mental disability, marital status, and sex.
- The Bureau does not handle firings that are not about discrimination — a no-good-cause firing after probation is a Wrongful Discharge Act court claim (see the Wrongful Discharge section), not a Bureau complaint.

Sources

Montana Department of Labor & Industry, Employment Relations Division

— state minimum wage:

erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act/state-minimum-wage

wage and hour FAQ:

erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act/wage-and-hour-faq;

Wage and Hour Labor Law Reference Guide:

erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act/wage-and-hour-laws;

filing a wage claim: erd.dli.mt.gov/human-rights/filing-a-complaint/;

Human Rights Bureau: erd.dli.mt.gov/human-rights/; legal rights of pregnant employees:

erd.dli.mt.gov/human-rights/human-rights-laws/sex-discrimination/pregnant-emp

Montana Code Annotated, titles 39-2, 39-3, and 28-2 — leg.mt.gov.