



WORKER RIGHTS · NEW YORK

Your Rights as a Worker in New York

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

This guide is general information about New York employment law as of October 2026. It is not legal advice, and not a substitute for talking to a licensed attorney about your situation. A note before you start: New York wage law runs on two regions. Most rates below are given for New York City, Long Island, and Westchester County (“downstate”) and for the rest of the state (“upstate”). Make sure you’re reading your region’s numbers.

General information only — not legal advice.

As of October 2026 · Prepared by JYNX Recruiting · jynxrecruiting.com

You Can Be Fired for Almost Any Reason, but Not an Illegal One

- New York is an “at-will” state. Your employer can let you go for a good reason, a bad reason, or no reason at all. But they cannot fire you for:
- Your race, color, national origin, religion, age, sex, disability, sexual orientation, gender identity, marital or family status, or other protected characteristics — New York’s Human Rights Law covers every employer, even one with a single employee
- Filing a wage claim or complaining about unpaid wages
- Taking protected sick leave
- Union activity

One big exception: NYC fast food workers can’t be fired without just cause after a 30-day probationary period (see the NYC section below).

If you were fired for one of these reasons, consider talking to an employment lawyer.

Your Paycheck Is Protected

- Minimum wage (2026): \$17.00/hour downstate; \$16.00/hour upstate.
- Overtime: 1.5x your rate for hours past 40 in a week. New York has no daily overtime — a long day alone doesn't trigger it.
- You're paid weekly: Most hospitality workers are "manual workers" under the law and must be paid weekly, no later than 7 days after the week ends.
- Final paycheck: Everything you're owed is due by the regular payday for the pay period in which your employment ended. New York does not require payment on your last day.
- Wage notice: When you're hired, you must get a written notice — in English and your primary language — stating your pay rate, your overtime rate, any tip credit or allowances being claimed, and your regular payday.
- Pay stubs: Every paycheck must come with a statement showing the pay period, your rates, hours (regular and overtime), gross pay, deductions, any tip credit claimed, and net pay.
- Deductions: Your employer can never dock your pay for breakage, register shortages, fines, or damage to property — even if you signed something agreeing to it. Deductions are limited to things like taxes and benefits you've authorized in writing for your own benefit.

If your pay is short or a deduction looks wrong, you can file a claim with the NY Department of Labor — or consider talking to an employment lawyer.

If You Earn Tips

Hospitality has its own wage order in New York, and the rules depend on your job:

- Food service workers (servers, bartenders, bussers, runners): your employer can pay a cash wage of \$11.35/hour downstate or \$10.70/hour upstate, as long as your tips bring you to the full minimum wage. If they don't, your employer owes the difference.
- Service employees (other tipped staff, like bell and coat-check staff): cash wage of \$14.15/hour downstate or \$13.30/hour upstate, with the same top-up rule.
- Fast food workers (chains with 30+ locations) get the full minimum wage — no tip credit at all.
- The 80/20 rule: If you spend more than 2 hours — or more than 20% of your shift — on non-tipped work like prep or cleaning, your employer can't take a tip credit for that day.
- Your tips are yours. No owner or manager can take any part of them. An employer-run tip pool can only include food service workers — never managers, and never back-of-house staff. Credit card tips must reach you by the next regular payday.
- Banquet and event workers: If a bill includes an "administrative charge" or similar fee, the law presumes it's a tip that belongs to the staff — unless the customer was clearly told, in the contract and on the menu and bill, that the charge is not a gratuity.

Three hospitality extras most workers never hear about:

- **Spread-of-hours pay:** If your workday stretches more than 10 hours from first shift to last (a lunch-and-dinner double, for example), you're owed one extra hour of pay at the full minimum wage.
- **Call-in pay:** Sent home early after reporting for your shift? You're owed at least 3 hours of pay for one shift (6 for two shifts, 8 for three), with the unworked hours paid at the full minimum wage.
- **Uniform maintenance:** If your job requires a uniform and you wash it yourself, your employer owes a weekly maintenance amount on top of your wages — up to \$21.10/week downstate or \$19.85/week upstate if you work over 30 hours.

Sick Leave

- Paid sick leave is the law. You earn 1 hour for every 30 hours worked.
- Employers with 5–99 employees must let you use up to 40 hours a year, paid. Employers with 100 or more must allow 56 hours, paid. Very small employers (4 or fewer) must allow 40 hours — paid if the business nets over \$1 million.
- You can use it for your own illness or care, a family member's, or for safety reasons connected to domestic violence or stalking. Your employer can't take a tip credit against sick-leave hours, and unused sick leave does not have to be paid out when you leave.
- Separately, New York provides 20 hours of paid prenatal leave in a 52-week period.

Vacation and PTO

- New York does not require employers to offer vacation or paid holidays.
- But if your employer promises vacation, their written policy controls — and they must tell you the policy. A “use it or lose it” rule is legal only if you were told about it in advance.
- If the policy says nothing about what happens when you leave, your accrued, unused vacation must be paid out.

Breaks

- Meal break: If your shift is over 6 hours and covers the midday window (11 AM–2 PM), you’re entitled to an unpaid meal break of at least 30 minutes. Shifts starting between 1 PM and 6 AM get a longer meal break midway through. If you start before 11 AM and work past 7 PM, you get an additional 20-minute meal break in the evening.
- Rest breaks: New York does not require coffee or rest breaks. If your employer gives short breaks anyway, federal law treats them as paid time.

Hotel and restaurant workers are also covered by a one-day-of-rest-in-seven rule: at least 24 consecutive hours off in a calendar week.

If You're Under 18

- You need working papers (an employment certificate, through your school) from age 14 to 17, and your hours are limited — fewer hours on school weeks, and no late nights for younger teens.
- You must be 18 to serve or sell alcohol.

Non-Compete Agreements

New York did not ban non-competes — a ban passed in 2023 was vetoed, and none has become law since. Courts here enforce non-competes only when they're reasonable: no broader than needed to protect a real business interest, and not unduly hard on you. A non-compete from a restaurant or hotel job is often difficult to enforce — but it is not automatically void. Do not assume you can ignore yours — talk to an employment lawyer first.

Pay Transparency

- Employers with 4 or more employees must include a good-faith pay range in job postings for work performed in New York.
- No employer may ask about your salary history or use it to set your pay.

Working in New York City

- Fast food workers: Under the Fair Workweek law, you must get your schedule 14 days ahead, extra predictability pay (\$10-\$75) when it's changed on short notice, a \$100 premium for "clopening" shifts less than 11 hours apart (only with your written consent), and just-cause protection against being fired or having your hours cut by more than 15% after 30 days.
- Retail workers get schedules 72 hours ahead and can't be put on on-call shifts.
- Hotels and full-service restaurants are not covered by Fair Workweek — your scheduling protections are the state call-in and spread-of-hours rules above.
- Scheduling or sick-leave problems in NYC: contact the Department of Consumer and Worker Protection (call 311).

What New York Does NOT Require

- No severance pay, and no pay for holidays you don't work.
- No weekend or holiday premium just because of the day — overtime is about hours past 40 in a week.
- No final paycheck on your last day (see above).
- New York is not a right-to-work state: a union contract can require covered workers to join the union or pay a representation fee. (Public employees who don't join can't be charged a fee.)

If Your Rights Were Violated

- Wage issues (unpaid wages, tip violations, illegal deductions, missed meal breaks): NY Department of Labor, Division of Labor Standards (Form LS 223).
- Discrimination: NY Division of Human Rights — you have 3 years to file — or the U.S. Equal Employment Opportunity Commission (EEOC), where the deadline is 300 days. In NYC, the City Commission on Human Rights is another route.
- Unsafe working conditions: Federal OSHA (New York's state safety plan covers public employees only).

Deadlines apply to many claims, so don't wait. And when in doubt, consider talking to an employment lawyer — many offer free consultations.