

TITLE XXIII

LABOR

CHAPTER 279

MINIMUM WAGE LAW

Hourly Rate

Section 279:21

279:21 Minimum Hourly Rate. – Unless otherwise provided by statute, no person, firm, or corporation shall employ any employee at an hourly rate lower than that set forth in the federal minimum wage law, as amended.

Tipped employees of a restaurant, hotel, motel, inn or cabin, or ballroom who customarily and regularly receive more than \$30 a month in tips directly from the customers will receive a base rate from the employer of not less than 45 percent of the applicable minimum wage. If an employee shows to the satisfaction of the commissioner that the actual amount of wages received at the end of each pay period did not equal the minimum wage for all hours worked, the employer shall pay the employee the difference to guarantee the applicable minimum wage. The limitations imposed hereby shall be subject to the following exceptions:

I. These limitations shall not apply to employees engaged in household labor, domestic labor, farm labor, nor to outside salesmen, nor to employees of summer camps for minors.

II. These limitations shall not apply to employees engaged as newsboys, non-professional ski patrolmen or golf caddies.

III. [Repealed.]

IV. These limitations shall not apply to a person with less than 6 months' experience in an occupation; provided, however, such person shall not be paid less than 75 percent of applicable statutory minimum wage in an occupation, after application is filed by the employer with the labor commissioner within 10 days after hire.

V. These limitations shall not apply to a person 16 years of age or under; provided, however, such person shall not be paid less than 75 percent of applicable statutory minimum wage rate and evidence of such person is kept on file by the employer.

VI, VII. [Repealed.]

VIII. Those employees covered by the introductory paragraph of this section, with the following exceptions, shall, in addition to their regular compensation, be paid at the rate of time and one-half for all time worked in excess of 40 hours in any one week:

(a) Any employee employed by an amusement, seasonal, or recreational establishment if:

(1) It does not operate for more than 7 months in any calendar year; or

(2) During the preceding calendar year, its average receipts for any 6 months of such year were not more than 33- 1/3 percent of its average receipts for the other 6 months of such year. In order to meet the requirements of this subparagraph, the establishment in the previous year shall have received at least 75 percent of its income within 6 months. The 6 months, however, need not be 6 consecutive months.

(b) Any employee of employers covered under the provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. section 201, et seq.); provided however, employers that pay any delivery drivers or sales merchandisers an overtime rate of compensation for hours worked in excess of 40 hours in any one week shall not calculate such overtime rate of compensation by the fluctuating workweek method of overtime payment under 29 C.F.R. section 778.114.

Source. 1949, 310:1, par. 25. 1953, 232:1, par. 25. RSA 279:21. 1955, 288:1, par. 25. 1957, 311:1. 1959, 275:1. 1963, 203:1. 1967, 440:10. 1971, 494:1, 2; 552:1, 2. 1973, 350:1. 1977, 234:1. 1983, 267:1. 1985, 83:1. 1986, 63:1; 64:1. 1989, 86:1, 4. 1990, 198:3. 1995, 94:7, XXI. 1997, 226:5. 2007, 24:1. 2008, 327:2, eff. Jan. 1, 2009. 2010, 284:1, eff. July 8, 2010; 284:2, eff. Dec. 31, 2011. 2011, 204:1, eff. Aug. 21, 2011; 204:2, eff. Dec. 31, 2011 at 12:01 a.m. 2015, 1:1, eff. April 10, 2015.