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West Virginia wage and hour cheat sheet

Minimum wage, overtime, breaks, final pay, and record retention on one sheet. Rates verified November 2026.

Minimum wage

$8.75 per hour since January 1, 2016 (W. Va. Code § 21-5C-2). The state minimum wage applies whenever an employer has six or more non-exempt employees working at any one separate, distinct, and permanent location. The six-employee test is applied location by location, so some employees of one employer can be covered while others are not. Where a location has fewer than six, the federal minimum wage may apply instead. Tipped employees: covered employers may take a credit of up to 70 percent of the minimum wage, $6.13, so the cash wage must be at least $2.62 per hour, and cash wage plus reported tips must reach $8.75. The employer needs written tip records completed by the employee to take the credit. When a tipped employee spends more than 20 percent of the workweek on duties that do not earn tips, the employer must pay the full $8.75 for that time. Training wage: the statute allows a training wage of at least $6.40 per hour for employees under 20 during their first 90 days, and the Division of Labor refers training-wage questions to the US DOL. If the federal minimum ever equals or exceeds the state rate, the state rate follows the federal rate. No change is scheduled for January 1, 2027.

Overtime

1.5x the regular rate for all hours actually worked over 40 within a seven consecutive day workweek (W. Va. Code § 21-5C-3). The state rule applies only when all of these are true: the employer is not covered by federal overtime law through federal enterprise coverage, fewer than 80 percent of its employees are individually covered by federal overtime law, and it has at least six non-exempt employees at one separate, distinct, and permanent location (W. Va. Code § 21-5C-1(e)). The West Virginia Division of Labor notes that most employers are covered by state law for minimum wage and by federal law for overtime. Paid vacation, holiday, sick, or PTO hours are not hours worked for overtime.

Daily overtime

None. West Virginia overtime is based on hours actually worked over 40 within a seven consecutive day workweek. Working more than 8 hours in a day does not by itself trigger overtime.

Meal break

At least 20 minutes for a workday of six or more hours (W. Va. Code § 21-3-10a). The law reads: "During the course of a workday of six or more hours all employers shall make available to employees at least twenty minutes for meal breaks at times reasonably designated by the employer. This provision shall be required in all situations where employees are not afforded necessary breaks and/or permitted to eat while working." The West Virginia Division of Labor explains that the requirement does not apply when the employee already gets a lunch or break period, or is allowed necessary restroom breaks and allowed to eat while working. The 20 minutes stay the same however many hours past six are worked, and may be split into smaller breaks at the employer's discretion. Any meal break or rest period of 20 consecutive minutes or less must be paid. Meal periods of 30 minutes or longer may be unpaid.

Rest break

No separate rest-break requirement beyond the 20-minute break for a workday of six or more hours. If the employer gives a break of 20 consecutive minutes or less, that time must be counted as hours worked and paid (42CSR8-11.3).

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Final paycheck

Quit, resigned, or discharged: on or before the next regular payday on which the wages would otherwise be due and payable (W. Va. Code § 21-5-4(b)). Laid off, or work suspended by a labor dispute: in full by the next regular payday (§ 21-5-4(d)). Final wages go through the regular pay channels, or by mail if the employee asks, and mailed pay counts as paid on the postmark date (§ 21-5-4(c)). Fringe benefits payable directly to the employee are part of final wages, unless a written agreement makes them payable at a later date or on conditions, in which case they are paid under that agreement.

How long to keep time records

Federal law requires keeping time cards 2 years and payroll records 3 years, and some states go longer. Keep the records where you can produce them; a wage claim is decided on whoever has the better records.

Rates verified November 2026. The $8.75 rate took effect January 1, 2016. West Virginia does not index its minimum wage, and the Division of Labor lists no scheduled change. The state rate would rise only if the federal minimum came to equal or exceed it, or if the law is amended. This is general information, not legal or payroll advice. Check the West Virginia labor department for the current rules, and talk to a professional for your situation.

Primary source: https://labor.wv.gov/wage-hour/jobs-act/minimum-wage. Full list of sources: getclox.com/blog/west-virginia-time-tracking.