

Massachusetts Wage Theft

Know your rights and how to enforce them



This provides general information. It is not legal advice about your specific situation. Speak with an attorney if you have questions about how this information applies to you.

You have the right to be paid on time for all *hours worked* and for all pay earned—including tips, earned sick time, any accrued vacation pay, overtime pay, and commissions.

“Hours worked” includes:

- Time on duty.
- Time spent working before or after your shift.
- Travel time during the workday (not your regular commute).

Reporting Pay

If you are scheduled to work 3 or more hours, report to work on time, and are not given the expected hours of work, you must be paid for at least 3 hours, at no less than the minimum wage.

Payment Deadline

Employers are required to pay most workers weekly or bi-weekly. Some salaried workers may be paid twice a month or monthly. Pay is due within 6 days after the pay period ends—or 7 days if you work 7 days a week (M.G.L. c. 149, § 148).

If you quit your job, your employer has to pay you in full—for all hours and all unused vacation time—on the next regular payday. If there isn't a regular payday, they have to pay you by Saturday.

If you're fired or laid off, your employer has to pay you in full the same day.

Pay Deductions

Employers are not allowed to deduct money from your pay to cover ordinary business costs, like supplies or damage to equipment.

There are also limits on how much they can deduct for housing and meals they provide.

If your employer makes you buy or rent a uniform, they must either pay for it or reimburse you for it quickly.

Tips

Employers and managers cannot keep tips intended for waitstaff, service employees, or service bartenders, nor can they distribute those tips to anyone else, including other managers or non-service employees.

Tip pooling is allowed, but only waitstaff, service bartenders, and service employees can participate. Managers and supervisors cannot join tip pools—even if they help serve customers—on days when they have managerial duties.

If your employer pays you late by even one day, or doesn't pay you at all, you can sue for three times the late or unpaid amount, plus interest and attorney's fees.

Enforcing Your Wage Rights

If your employer violates your wage rights, you have options under Massachusetts law.



Step 1: File a Complaint with the Attorney General’s Fair Labor Division

Before you can sue your employer under Massachusetts wage laws, you’ll need to file a complaint with the Attorney General’s Office (AGO). You can file a complaint [online](https://www.mass.gov/search?q=file+a+workplace+complaint) at mass.gov (search “file a workplace complaint”). If you need the wage complaint form in an accessible format other than filing online, call the Fair Labor Division Hotline at (617) 727-3465. There’s no cost to file, and you don’t need a lawyer. Documentation isn’t required to file, but you should include as much information as possible. File as soon as possible. The 3-year deadline to sue runs from when your wages were due.

When you file your complaint online, you’ll have the option to check a box that says:

☐ I am requesting permission to sue privately (“**private right of action**”).

☒ If you check the box

The AGO sends you a “Private Right of Action” letter, which gives you permission to sue your employer in court.

The AGO will not investigate your employer or take any action against them.

You can sue right away.

This is the fastest way to get your case to court.

☐ If you leave it blank

The AGO keeps your complaint and decides how to handle it. It may:

- Investigate your employer
- Fine your employer
- Order your employer to pay you
- Take no action and send you a “Private Right of Action” letter

You can sue 90 days after you filed, or sooner if the AGO sends you the letter.

Step 2: File a Lawsuit

When you receive your “Private Right of Action” letter, or if it’s been 90 days since you filed with the AGO, you can file a lawsuit against your employer in court. But first, you’ll need to decide where to file. There are multiple options, each with different rules, costs, and procedures, and each with its own pros and cons.

	Small Claims	Regular Civil (State Court)	Federal Court
Where	District Court or Boston Municipal Court	District Court (claims up to \$50,000) or Superior Court (claims above \$50,000)	U.S. District Court
Which claims	Claims of \$7,000 or less (M.G.L. c. 218, § 21)	Any amount	Generally, you can only sue in federal court if you have a federal claim, for example: • pay below the federal minimum wage (\$7.25/hour) • no pay at all • or unpaid overtime under the Fair Labor Standards Act (FLSA) If you have a federal claim, you can bring your state law claims in the same case.
Cost	Filing fee of \$40–\$150 (unless you qualify for a fee waiver)	Higher fees and service costs than small claims (unless you qualify for a fee waiver)	Highest filing fees
Process	Informal and faster than a full civil case	More formal, with longer timelines; you must draft a complaint, arrange service on your employer, and follow court rules and deadlines	Most formal; stricter deadlines and detailed procedural rules for written filings; challenging without legal training
Trade-off	If you lose, you can’t appeal.	More time and work than small claims	Hardest to navigate without a lawyer

For most workers, state court is a better venue—and FLSA claims can usually be brought there too.

What Claims to Bring

Which laws to sue under is a separate question from which court you file in. Many wage theft claims can be brought under Massachusetts state law, federal law, or both.

	MA Wage Act & Overtime Law	Federal Fair Labor Standards Act (FLSA)
What it covers	- Late wages (see Payment Deadline, p. 1) - Unpaid wages, including unused vacation time and earned commissions - Pay below the state minimum wage (\$15/hour) - Overtime (1.5x after 40 hours/week) - Illegal paycheck deductions	- Pay below the federal minimum wage (\$7.25/hour) - Overtime at 1.5x your regular rate, even in industries exempt from state overtime law
What it doesn't cover	Overtime in exempt jobs and industries (e.g., restaurants, hotels, gas stations, seasonal businesses) *	- Overtime in exempt jobs - Everything else, including unpaid wages above the minimum (other than overtime), commissions, bonuses, vacation time, and (generally) late pay
Damages available	Triple your unpaid wages, plus attorney's fees, court costs, and 12% yearly interest.	Double your unpaid wages, plus attorney's fees and court costs.
Filing deadline	3 years from when the wages were due.	2 years (3 years if the violation was willful).
	Related claims may have their own, shorter deadlines—for example, discrimination complaints with the Massachusetts Commission Against Discrimination (MCAD).	

* If you work in an industry that's exempt from state overtime law—like a restaurant or hotel—you may still be owed overtime under federal law.

⚠ Caution on FLSA Claims

Because the FLSA is a federal law, if you raise it in state district or superior court, your employer has the right to transfer the case to federal court, even if you filed in state court. If staying in state court matters to you, consider whether to include a federal claim, or talk to a lawyer first.

Other Employee Rights

Earned Sick Time

You have the right to earn 1 hour of sick time for every 30 hours you work, up to 40 hours a year. You can use it for your own or a family member's illness, routine medical appointments, or effects of domestic violence. If your employer has 11 or more employees, the sick time must be paid; smaller employers may offer it unpaid. Violations follow the same process as wage claims (M.G.L. c. 149, § 148C).

Job Postings and Salary Ranges

Employers with 25 or more Massachusetts employees must list a pay range in job postings. They must also give the range to employees offered a promotion or transfer, and to any applicant or employee who asks about their own job. Enforced by the AGO (M.G.L. c. 149, § 105F).

Meal Breaks

If you work more than six hours in a day, you're entitled to at a 30 minute break from all duties. Enforced by the AGO (M.G.L. c. 149, § 100).

Personnel File Access

You have the right to review and get a copy of your personnel file within 5 business days of a written request, up to twice a year. Your employer must notify you within 10 days of adding negative information to your personnel file, and you can add a written response (M.G.L. c. 149, § 52C).

Payroll Records

Employers must keep accurate payroll records for at least 3 years, and you have the right to see your own payroll records (including your pay stubs) at reasonable times and places. Enforced by the AGO (M.G.L. c. 151, § 15).

Criminal Record (CORI) Reports

Before taking action against you based on your criminal record, such as not hiring or firing you, your employer must give you the report, its CORI policy, and information on correcting errors. Report violations to the Department of Criminal Justice Information Services (M.G.L. c. 6, §§ 171A, 172).

Discussing Wages and Working Conditions

Federal law protects most employees' rights to discuss wages, hours, and working conditions with coworkers. This is known as "concerted activity" and is covered by Section 7 of the National Labor Relations Act. Employers cannot fire, discipline, or threaten you for engaging in this activity. Enforced by the National Labor Relations Board (NLRB). File an unfair labor practice charge with the NLRB within 6 months of the violation.

Workplace Safety (OSHA)

You have the right to a safe workplace. If your employer violates safety standards, you can file a complaint with the Occupational Safety and Health Administration (OSHA). If your employer retaliates against you for raising a safety concern or filing a complaint, you have 30 days to file a retaliation complaint with OSHA.



Where to Get Legal Help

Massachusetts Legal Resource Finder

The Massachusetts Legal Resource Finder connects you with free or low-cost legal aid, court programs, and self-help materials. To see if you qualify for free legal assistance and to get matched with the right program based on your location, income, and legal issue, visit the **Massachusetts Legal Resource Finder** (masslrf.org).

Lawyer Referral Services



If you don't qualify for free legal assistance, a lawyer referral service can connect you with an attorney in your area. Some offer low-cost initial consultations. Depending on your case, some attorneys may also offer contingency fee representation, meaning you pay attorney's fees only if they recover money for you.

Statewide

(617) 654-0400 or (866) 627-7577
massbar.org/public/lawyer-referral-service

Central Massachusetts

Worcester County Bar Association
 (508) 752-1311
worcestercountybar.org/lawyer-referral-service/

Western Massachusetts

Hampden County Bar Association
 (413) 732-4648
hcbar.org/lawyer-referral/

Hampshire County Bar Association
 (413) 586-8729
hampshirebar.org/lawyer-referral-service/

Greater Boston

Boston Bar Association
 (617) 742-0625 or (800) 552-7046
bostonbar.org/lawyer-referral/

Essex County Bar Association
 (978) 741-7888
essexcountybar.org/lawyer-referral-service/

Middlesex County Bar Association
 (781) 939-2797
middlesexcountybar.org/lawyer-referral-service/

Norfolk County Bar Association
 (617) 471-9693
norfolkbarassn.org/referral_service.php

Plymouth County Bar Association
 (774) 257-4488
plymouthcountybar.com/lawyer-referral-service/

Other Resources

- Visit MassLegalHelp.org to get self-help legal information on employment and more.
- Mass Legal Answers Online: Eligible low-income Massachusetts residents can visit <https://mass.freelegalanswers.org/> to get answers to civil legal questions online from volunteer attorneys.



Community Legal Aid provides free civil legal services to low-income and elderly residents in Central and Western Massachusetts. We work to ensure fairness for all in the justice system, protecting homes, livelihoods, health, and families. Residents of Berkshire, Franklin, Hampden, Hampshire, or Worcester County can request legal assistance from us online at www.communitylegal.org or by calling 855-CLA-LEGAL.