

POST AND KEEP POSTED WHERE EMPLOYEES MAY READ

Mandatory Order No. 8

Inquiries or Complaints of Violation of this Order Should be Sent to Wage and Workplace Standards Division, Department of Labor, 200 Folly Brook Blvd., Wethersfield, CT 06109-1114.

STATE OF CONNECTICUT MINIMUM FAIR WAGE RATES FOR PERSONS EMPLOYED IN THE RESTAURANT AND HOTEL RESTAURANT OCCUPATIONS

Web Site: www.ct.gov/dol

Sec. 31-62-E1. WAGE ORDER:

(a) RATE: THE FOLLOWING MINIMUM WAGES ARE ORDERED:

\$8.00 an hour beginning January 1, 2009; \$8.25 an hour beginning January 1, 2010 except for persons employed under this wage order who customarily and regularly receive gratuities shall be \$5.52 per hour beginning January 1, 2009 through December 31, 2009 and \$5.69 per hour beginning January 1, 2010; except during said period the minimum wage for bartenders who customarily and regularly receive gratuities shall be \$7.12 an hour beginning January 1, 2009 through December 31, 2009 and \$7.34 an hour beginning January 1, 2010. (See PA 08-113)

(b) MINIMUM DAILY EARNINGS GUARANTEED:

An employee regularly reporting for work, unless given adequate notice the day before to the contrary, or any employee called for work in any day shall be assured a minimum of two hours' earnings at not less than the minimum rate if the employee is able and willing to work for that length of time. If the employee is either unwilling or unable to work the number of hours necessary to insure the two-hour guarantee, a statement signed by the employee in support of this situation must be on file as a part of the employer's records.

(c) WORK ON SEVENTH CONSECUTIVE DAY: Not less than one and one-half times the minimum rate for all time worked on the seventh consecutive day.

(d) OVERTIME: Not less than one and one half times the regular rate for all hours worked in excess of 40 in any work week.

Sec. 31-62-E2. DEFINITIONS:

(a) "RESTAURANT OCCUPATION" includes all persons engaged in the preparation and serving of food for human consumption, or in any operation incidental or supplemental thereto irrespective of whether the food is served at or away from the point of preparation, and irrespective of whether the preparation and serving of food is the sole business of the employing establishment or enterprise, with the exception that this definition shall not include the preparation and serving of food in a non-profit educational, charitable or religious organization where the food service is not regularly available to the general public, or the preparation and serving of food in hospitals, convalescent homes or homes for the elderly where the food service is not regularly available to the general public and is incidental to the care of the patient. This occupation includes but is not limited to employees of restaurants, cafeterias, that portion of hotel business involving the preparation and serving of food, commissaries, dairy bars, grills, coffee shops, luncheonettes, sandwich shops, tearooms, nightclubs, cabarets, automats, caterers, frankfurter stands, operators of food vending machines, and that portion of the business involving the serving of food in department and variety stores, drugstores, candy stores, bakeries, pizzerias, delicatessens, places of amusement and recreation, commercial and industrial establishments and social, recreational, fraternal and professional clubs which either regularly or intermittently serve food, as well as other establishments or businesses meeting the condition stated in this paragraph.

(b) "RESTAURANT EMPLOYEE" means any person who is employed or permitted to work in any restaurant occupation, establishment or enterprise.

(c) "SERVICE EMPLOYEE" means any employee whose duties relate solely to the serving of food and/or beverage to patrons seated at tables or booths, and to the performance of duties incidental to such service, and who customarily receives gratuities. For the purpose of this order, a person shall not be considered to customarily receive gratuities unless a minimum of \$10.00 per week in gratuities is received in the case of full-time employees, or \$2.00 per day in the case of parttime employees, as evidenced by signed statements of the employee, stating unequivocally that such worker did receive gratuities as herein required, which must be maintained as part of the records of the employer.

(d) "NON-SERVICE EMPLOYEE" means an employee other than a service employee as herein defined. A non-service employee includes, but is not limited to, countermaids, counterwaitresses, countermen, counterwaiters and those employees serving food or beverage to patrons at tables or booths and who do not customarily receive gratuities as defined above.

(e) "GRATUITIES" means a voluntary monetary contribution received by the employee directly from a guest, patron or customer for service rendered.

Sec. 31-62-E3. GRATUITIES AS PART OF THE MINIMUM FAIR WAGE. Gratuities may be recognized as constituting a part of the minimum fair wage when all of the following provisions are complied with:

(a) The employee must be engaged in an employment in which gratuities have customarily and usually constituted and have been recognized as part of his remuneration for hiring purposes and

(b) The amount received in gratuities claimed as credit for part of the minimum fair wage must be recorded on a weekly basis as a separate item in the wage record even though payment is made more frequently and

(c) Each employer claiming credit for gratuities as part of the minimum fair wage paid to any employee shall obtain weekly a statement signed by the employee attesting that he has received in gratuities the amount claimed as a credit for part of the minimum fair wage. Such statement shall contain the week ending date of the payroll week for which credit is claimed. Gratuities received in excess of 31% of the minimum wage per hour need not be reported or recorded for the purpose of this regulation. [Currently 31% and 11% for bartenders]

Sec. 31-62-E4. DIVERSIFIED EMPLOYMENT WITHIN THE RESTAURANT INDUSTRY. If an employee performs both service and non-service duties, and the time spent on each is definitely segregated and so recorded, the allowance for the gratuities as permitted as part of the minimum fair wage may be applied to the hours worked in the service category. If an employee performs both service and non-service duties and the time spent on each cannot be definitely segregated and so recorded, or is not definitely segregated and so recorded, no allowances for gratuities may be applied as part of the minimum fair wage.

Sec. 31-62-E5. EMPLOYMENT UNDER OTHER WAGE ORDERS.

(a) *Mercantile*: If an employee is engaged partly in the restaurant occupation but is also engaged partly in the occupation covered by the mercantile wage order, the provisions of the mercantile wage order shall apply to the entire work period, except that, when time spent in each occupation is segregated and separately recorded, the allowance for gratuities as permitted as part of the minimum fair wage may be applied to the hours worked by an employee in the restaurant service category.

(b) *Other*: If an employee is engaged partly in an occupation under the restaurant wage order but is also engaged partly in an occupation covered by another wage order other than the mercantile wage order, the higher provisions of each wage order shall apply to the entire work period unless the time spent in each occupation is definitely segregated and so recorded. Where the time spent in each occupation is definitely segregated and so recorded the provisions of the applicable wage order shall apply.

Sec. 31-62-E6. DEDUCTIONS AND ALLOWANCES FOR THE REASONABLE VALUE OF BOARD AND LODGING.

(a) For the purposes of this section "Board" means food furnished in the form of meals on a regularly established schedule. "Lodging" means a housing facility (available to him at all hours of the day) wherein the employee sleeps and rests and may store clothing and personal belongings. Wages paid to any employee may include the reasonable value of board and/or lodging as herein established and may be considered as part of the minimum fair wage if such condition is made known to and accepted by the employee at the time of hiring or change of classification as a usual condition of employment.

(b) In accordance with the foregoing, an allowance (or deduction) of not more than 85 cents for a full meal and 45 cents for a light meal will be permitted as part payment of the minimum fair wage, provided such allowance (or deduction) shall be made in accordance with the hiring agreement which provides for such an allowance (or deduction). A full meal must provide to the employee a variety of wholesome nutritious food and shall include adequate portions of at least one of the types of food from four of the following groups:

- (a) fruit juice or soup
- (b) fruit or vegetables
- (c) bread, cereal or potatoes
- (d) eggs, meat, fish (or a recognized substitute)
- (e) beverage
- (f) dessert

For a meal which does not meet the qualifications of a full meal as herein defined but does provide to the employee adequate portions of wholesome nutritious food and does include one of the types of food from at least three of the following groups, an allowance not to exceed 45 cents will be permitted as part payment of the minimum fair wage:

- (a) fruit, fruit juice or soup
- (b) cereal, bread (or a recognized substitute)
- (c) eggs, meat, fish, including sandwiches made thereof (or a recognized substitute)
- (d) beverage
- (e) dessert

No allowance (or deduction) in excess of \$2.55 a day for full meals as supplied or in excess of 90 cents for light meals as supplied, will be permitted as part payment of the minimum fair wage. In any case where full meals are made available to the employee by the employer, the allowance of 85 cents for a full meal as defined will be permitted as part payment of the minimum fair wage. In such a case the employee may not elect the light meal in lieu of the full meal. Allowances (or deductions) may be made only for meals consistent with the employee's work shift when the employee is on duty, and only for meals consistent with a regular meal schedule when the employee is off duty.

(c) An allowance (or deduction) of not more than \$4.00 a week for a private room or of not more than \$3.00 a week for a room shared with others, will be permitted as part payment of the minimum fair wage, provided the allowance (or deduction) shall be made in accordance with a hiring agreement which provides for such an allowance (or deduction). An allowance (or deduction) for lodging will be permitted as part payment of the minimum fair wage only when the facility supplied conforms to reasonable specifications with respect to size, privacy, sanitation, heat, light, and ventilation. All such facilities shall be open to inspection by an authorized representative of the labor commissioner at any reasonable time. When housing consisting of more than one room is provided for the employee and such circumstances are established in the hiring agreement, the labor commissioner shall establish reasonable allowance for such housing and in establishing such allowances as it should apply in terms of sections 31-58 through 31-69 of the general statutes shall be guided by the prevailing rentals for similar quarters including those authorized by the local housing authority in privately or publicly financed housing. No allowances (or deductions) will be permitted as part payment of the minimum fair wage when an employee is required to share a bed.

(d) Any deduction for board and lodging not conforming to the conditions herein set forth leaves the employer liable under those sections of statute forbidding the payment to the employee of a wage less than that due him because of his services.

Sec. 31-62-E7. DEDUCTIONS. No deductions shall be made from the minimum wage rates excepting those required or authorized by law, and excepting deductions made by the employer for the purpose of paying the employee's premium in an individual or group life insurance policy or a hospitalization policy. Deductions for such premiums should not be made without the written consent of the employee. Such written consent shall be kept on file and subject to review by the labor department.

SEC. 31-62-E8. DEPOSIT. No deposit shall be required by an employer from any employee for a uniform or for any other purpose except by permission of the labor department.

SEC. 31-62-E9. HOURS WORKED. Hours worked shall include all time during which the employee is required to be on the employer's premises or to be on duty, or to be at a prescribed work place, and all time during which an employee is employed or permitted to work, whether or not required to do so. Meal periods may be credited as nonworking time, provided the beginning and ending time of the meal period shall be so recorded on the time records, and provided the employee shall be entirely free from all work requirements during the period and shall be free to leave the establishment.

SEC. 31-62-E10. TRAVEL TIME AND TRAVEL EXPENSES.

Any employee who is required or permitted to travel from one establishment to another after the beginning or before the close of the work day, shall be compensated for travel time at the same rate as for working time, and shall be reimbursed for the cost of transportation.

SEC. 31-62-E11. COMPUTATION OF TIME. All time shall be reckoned to the nearest unit of fifteen minutes.

SEC. 31-62-E12. PHYSICALLY OR MENTALLY HANDICAPPED EMPLOYEES.

(This regulation defines a "physically or mentally handicapped person" as a person whose earning capacity is impaired by age or physical or mental deficiency or injury and provides guidelines for a modification of the minimum wage.)

Sec. 31-62-E14. RECORDS.

(a) For the purpose of this regulation issued in accordance with the provisions of section 31-66 of the general statutes, "true and accurate records" means accurate legible records for each employee showing:

- (1) Name;
- (2) Home address;
- (3) Occupation in which employed;
- (4) Total daily and total weekly hours worked, showing the beginning and ending time of each work period, computed to the nearest unit of 15 minutes;
- (5) Total hourly, daily or weekly basic wage;
- (6) Additions to or deductions from wages each pay period;
- (7) Total wages paid each pay period;
- (8) Overtime wage as a separate item from basic wage;
- (9) Payment for the seventh consecutive day of work as a separate item;
- (10) Separate itemization on payroll records of each allowance (meals, lodging, gratuities) used as part of the minimum fair wage;
- (11) Statements signed by employee in accordance with section 31-62-E3 when credit for gratuities is claimed as part of the minimum fair wage;
- (12) Such other records as are stipulated in accordance with administrative regulation sections 31-60-1 through 31-60-14;
- (13) Working certificates for minor employees (16 to 18 years).

(b) True and accurate records shall be maintained and retained at the place of employment for a period of three years for each employee. The labor commissioner may authorize the maintenance of wage records and the retention of both wage and hour records as outlined either in whole or in part at a place other than the place of employment when it is demonstrated that the retention of such records at the place of employment either:

- (1) works an undue hardship upon the employer without materially benefiting the inspection procedures of the labor department, or
- (2) is not practical for enforcement purposes.

Where permission is granted to maintain wage records at other than the place of employment a record of total daily and weekly hours worked by each employee shall also be available for inspection in connection with such wage records.

(c) In the case of an employee who spends 75% or more of his working time away from the employer's place of business and the maintaining of time records showing the beginning and ending time of each work period for such personnel either imposes an undue hardship upon the employer or exposes him to jeopardy because of his inability to control the accuracy of such entries, a record of total daily and total weekly hours will be approved as fulfilling the record-keeping requirements of this section. However, in such cases the original time entries shall be made by the employee in his own behalf and the time entries made by the employee shall be used as the basis for payroll records.

Under Connecticut General Statutes section 31-23 no minor under 16 years of age shall be employed or permitted to work in any restaurant.



Gary K. Pechie
Director