## Mandatory overtime laws: Everything employers need to know

Sometimes there is more work to get done than you can fit into an 8-hour day or a 40 -hour workweek. When this happens, you may need to have your employees work overtime. This is common during peak busy seasons in certain industries like tax season or the holiday shopping season. Overtime can also be necessary when your business is short-staffed.

Since many industries are currently experiencing a labor shortage, overtime is becoming increasingly necessary for the continued operation of businesses. If your business has found itself in this position, you might be worried about mandatory overtime laws. Are you really allowed to require your employees to work mandatory overtime? Are there limits to how much overtime an employee can work? Keep reading to learn about the federal overtime rules on when you can and can't require overtime.

## Can employers require mandatory overtime?

Generally, yes. Federal law does not prohibit mandatory overtime as long as nonexempt employees receive proper overtime pay for the extra hours. For exempt employees, no overtime compensation is required for working over 40 hours per week. The FLSA provides specific guidelines on which employees may be considered exempt vs non-exempt.

The Fair Labor Standards Act (FLSA) requires employers to provide overtime pay for hours worked over 40 in a workweek at a rate of at least one and one-half of their regular rate of pay. This is often referred to as time and a half. Though you should be aware that some states including Nevada and Alaska have daily overtime laws. Daily overtime means that employers must pay an overtime rate if an employee works over 8 hours in a workday regardless of their weekly total. The FLSA does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days off, unless working on those days would cause the employee to surpass 40 hours in the workweek.

Employers also generally have the right to discipline or terminate employees that do not perform mandatory overtime when required. If an employee refuses to work overtime, you may fire them, though this may not be the best idea if you're already experiencing a labor shortage. It is also important to enforce this fairly. Firing someone for refusing overtime can be a slippery slope if you have made exceptions for others in the past that were not explicitly required by law.

It's also important to be aware that some exceptions do apply and there are situations where you may be unable to enforce mandatory overtime.

## When is mandatory overtime not allowed?

Under federal law, mandatory overtime is generally legal. Though employers planning to mandate overtime should be aware of these exceptions.

## Safety Hazards

Mandatory overtime is generally not allowed under federal and state law if it would result in a safety hazard.
Employees that are responsible for operating heavy machinery may not be able to safely engage in mandatory overtime. Pilots and truck drivers may be at risk of falling asleep at the wheel or having delayed reaction times if they are forced to work extended hours. In these cases, lawmakers and regulatory groups may place certain restrictions on overtime hours. Some states also have restrictions on mandatory overtime for healthcare workers due to the nature of their work. While extended hours are common in these fields, forced overtime can create safety hazards for patients.

Even if legal restrictions are not in place for your industry, it is important to consider whether overtime could create safety concerns for your employees. After all, you don't want to start racking up worker's com cases because tired employees are having accidents.

## People with disabilities

The Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodations to employees with disabilities. Under the ADA a disability is defined as a physical or mental impairment that substantially limits one or more of the major life activities. Adjustments to work hours can be considered a valid ADA accommodation.

If an employee is unable to work extended hours or overtime due to a disability, employers will typically have to accommodate them. The exception is when the accommodation would place an undue burden. For very small businesses that do not have enough staff to cover the required overtime and would have to hire additional employees, it may be considered an undue burden. Before rejecting an ADA request, it is a good idea to seek legal advice from a qualified employment attorney.

## Minors

Federal law technically does not prevent 16 or 17-year-old employees from working overtime. In fact, the FLSA places no maximum limits on the number of hours that employees 16 and older may work in a workweek.
However, there is a good chance that your state laws do, so always check your local laws before allowing or requiring overtime for minors. Minors under 16 typically cannot work overtime and are subject to child labor laws.

Minors that are enrolled in high school also often have limitations. Work permits for minors may also have cutoffs for the number of hours that they may work or how late they may work. If the mandatory overtime would make them work too late or otherwise interfere with their school schedule or education, you may run into issues with the law or the agency approving the work permit (as well as angry parents).


Employees covered by labor unions and
collective bargaining agreements
Overtime compensation and guidelines are often covered under collective bargaining agreements. If you hire union workers or your workplace has unionized, you will need to follow those agreements. It is common for unions to negotiate extra pay for overtime or weekend work beyond what federal law requires. They may also place some limitations on mandatory overtime such as a cap on how much overtime may be required each week.

## Other considerations

Here are a few other issues to consider when imposing mandatory overtime.

## State and local laws

Many states have their own overtime laws which may further restrict mandatory overtime. States typically do not prohibit mandatory overtime, but some do place limits on it. For example, in California you cannot require mandatory overtime if it would result in an employee working 7 days in one workweek. Employees may choose to do so, but employers may face penalties if they mandate work on the 7th day.

## Retention and morale

Hourly employees are generally not opposed to doing some overtime as it does add a nice extra bit to their paychecks. However, excessive mandatory overtime can hurt morale overtime.

Workers are at risk of burnout when they are unable to maintain a proper work-life balance or obtain adequate rest in between shifts. Tired or burnt-out workers are also likely to be less productive and more likely to make mistakes, which can result in lower quality work and more workplace injuries.

Mandatory unexpected overtime can also create problems for employees when it comes to childcare, second jobs, or other obligations. Workers that did not expect to have to perform mandatory overtime are likely to quit if it becomes too strenuous or causes repeated childcare problems for them. For this reason, it is advisable to
provide notice when possible and to look for alternatives to mandatory overtime where possible.

## Alternatives to mandatory overtime

If you are not sure that mandatory overtime will be the right option for your staff, here are some alternatives that might be better for morale and for your budget.

## Ask for volunteers

Overtime isn't necessarily undesirable. In fact, you probably have a handful of employees that would love some overtime. Working overtime is a great way to save up for a vacation or pay down some debt quickly without cutting into your day-to-day budget.

Consider asking for volunteers before mandating overtime for everyone. Many companies also take this approach with holiday work, as it allows those with free time or additional financial needs to work without creating tension with employees that may have family obligations.

## Freelance or temporary labor

In many cases, it is actually cheaper to recruit outside labor than to require overtime from your employees. If you are experiencing a major labor shortage or entering into a particularly busy season, using freelance or temporary labor can help. Consider working with a local staffing agency. If the job can be performed remotely, sites like UpWork or Freelancer can help you quickly find extra support.

## Allow remote overtime

If employees are unable to perform mandatory overtime because of childcare or eldercare responsibilities at home, allowing them to work overtime from home may be a good compromise. Employers have the right to enforce mandatory overtime, but offering some flexibility is a good idea when possible.

