

## Exemptions from Vermont and Federal Wage and Hour Laws

Updated: April 22, 2021

### **Exemptions from Wage and Hour Provisions of Vermont Law**

1. Agricultural employees
2. Domestic employees working in a private home
3. Employees of the U.S. Government
4. Individual engaged in activities of a public supported nonprofit (except laundry employees, nurses' aides, or practical nurses)
5. Executive, administrative, or professional employees
6. Individual making home deliveries of newspapers or advertising
7. Taxicab drivers
8. Outside salespersons
9. Students working during school year and regular vacation periods

### **Exemptions from Wage and Hour Provisions of Fair Labor Standards Act**

1. Executive, administrative, or professional employee
2. Outside salespersons
3. Employees of certain seasonal and recreational establishments<sup>1</sup>
4. Commercial fishing and processing of seafood.
5. Certain agricultural employees<sup>2</sup>
6. Employees who are subject to a special certificate issued by the Secretary of Labor
7. Employees of certain small, local newspapers
8. Switchboard operator employed by independent public telephone company with not more than 750 stations
9. Sailor on a non-American vessel
10. Certain computer professionals<sup>3</sup>
11. Border patrol agents
12. Certain professional baseball players
13. State and local elected officials and their personal staff
14. State and local legislative employees
15. Certain volunteers
16. Babysitters employed on a casual basis
17. Companions for elders
18. Federal criminal investigators who receive availability pay
19. Homeworkers making wreaths
20. Newspaper deliverypersons

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<sup>1</sup> Must be an amusement/recreational establishment or camp that operates for not more than 7 months/year or earns 1/3 of the amount in 6 months that it earns in the other 6 months

<sup>2</sup> Must (1) work for an employer who did not use more than 500 man-days of agricultural labor in any calendar quarter; (2) be an immediate family member of the employer; (3) be paid on a piece rate basis for hand harvest, living off the farm, and employed in agriculture less than 13 weeks during preceding calendar year; (4) 16 years of age or younger, employed on same farm as parent, and paid at same rate as older workers; or (5) principally engaged in range production of livestock.

<sup>3</sup> Must be paid at least \$27.63/hour.

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### **Exemptions from the Overtime Provisions of Vermont Law**

1. Employees of retail or service establishment
2. Employees of amusement/recreational establishment or camp<sup>4</sup>
3. Employees of a hotel, motel, or restaurant
4. Certain employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care home<sup>5</sup>
5. Transportation employees to whom the overtime provisions of the FLSA **do not** apply
6. Municipal employees
7. State employees covered by the FLSA

### **Exemptions from the Overtime Provisions of the FLSA**

1. Certain drivers, driver's helpers, loaders, and mechanics employed by motor carriers
2. Railroad employees
3. Airline employees
4. Outside buyers of certain agricultural products
5. Sailors
6. Television and radio announcers, news editors, and chief engineers in certain small cities.
7. Auto salespeople, parts people, and mechanics
8. Trailer, boat, and aircraft salespeople
9. Local delivery drivers and driver's helpers that are paid on a trip rate basis
10. Agricultural employees, including employees that maintain waterways used to supply or store water for agricultural purposes
11. Employees of small "country" grain elevators<sup>6</sup>
12. Employees that process maple sap into sugar or syrup
13. Fruit & vegetable transportation employees
14. Taxicab drivers
15. Employees of small public fire departments
16. Domestic employees who reside in the household that they work in
17. Movie theater employees
18. Forestry and lumber employees of small firms
19. Certain amusement/recreational establishment employees in national parks, national forests, or national wildlife refuges
20. Federal criminal investigators who receive availability pay
21. Farm implement salespeople
22. House-parents in nonprofit educational institutions
23. Livestock auction workers

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<sup>4</sup> Must be an amusement/recreational establishment or camp that operates for not more than 7 months/year or earns 1/3 of the amount in 6 months that it earns in the other 6 months

<sup>5</sup> Employer must (1) pay employee on a biweekly basis; (2) elect to be covered by exemption; and (3) pay overtime for hours worked in excess of 8/day or 80/biweekly period

<sup>6</sup> "Country elevators . . . are typically located along railroads in small towns or rural areas near grain farmers, and have facilities especially designed for receiving bulk grain by wagon or truck from farms, elevating it to storage bins, and direct loading of the grain in its natural state into railroad boxcars. The principal function of such elevators is to provide a point of initial concentration for grain grown in their local area and to handle, store for limited periods, and load out such grain for movement in carload lots by rail from the producing area to its ultimate destination." 29 C.F.R. § 780.708.