

## **KNOW YOUR RIGHTS: WAGE PAYMENT AND HOURS PROTECTIONS**

Wage and hour laws set basic standards for pay and work time, including but not limited to minimum wage, overtime, break time, and for what wages and when employees must be paid. This handout provides an overview of the rights provided to workers in Arizona under the Fair Labor Standards Act (FLSA) and the Arizona Minimum Wage Act.

### **Who Is Considered an Employee?**

- Any person in the service of another who is permitted to work for hire, including minors, part-time workers and aliens.
- But the following people are not employees: independent contractors, volunteers, and persons employed casually to babysit.

### **What is the Minimum Wage in Arizona?**

- Generally, all employers except the state and U.S. government must pay at least \$8.05/hour.
  - There are special rules for regularly tipped employees, who may be paid at least \$4.90 per hour provided tips make up the difference. If they do not, employers are required to make up the difference.
  - Employees are permitted to pool tips but only the tips actually received count toward minimum wage. Further, *the tip must be the property of the employee free from the employer's control* to count as wages.

### **What Overtime Rights Exist under FLSA?**

- Employers must pay non-exempt employees at least 1½ times the regular rate of pay for every hour worked over 40 hours per week.
  - Overtime for public employees may be calculated on a *biweekly* basis.
- All time spent performing job-related activities is work time, regardless of whether the employee was requested to stay after hours.
- On-call time only counts as work time if an employer puts restraints on the employee; employees who are permitted to stay at home during on-call time cannot count this time as compensable work time.
- Authorized breaks less than 20 minutes must count as compensable time worked.

### **Am I Protected from Retaliation if I Ask About or Try to Enforce These Rights?**

- Yes. Employers MAY NOT retaliate against someone for exercising these rights.

### **What Other Wage and Hour Rights Exist under State Law?**

- Employees must be paid all "wages" owed.
- This payment must be made at least twice a month on designated fixed payday that are not more than 16 days apart. If a scheduled payday falls on a holiday, the employer must pay on or before the scheduled payday.
- Wages only may be withheld if:
  - the employer is required to do so by federal or state law (such as wage garnishments for child support);
  - the employee has provided prior written authorization; or
  - there is a reasonable, good faith dispute regarding the amount of wages due.
- Employees must receive a statement of earnings and withholdings if the employer uses automatic payroll deposit.
- Employers are not required to provide vacation pay, sick leave, PTO, severance, bonuses, or commissions to employees. However, these items count as wages that must be paid if the employer has a policy or practice of making these payments.
- Employers must pay terminated employees for completed work on the sooner of (1) seven work days following the date of termination or (2) the employee's next designated pay day.
- Employees who quit must be paid on the next regular payday following resignation.

### **What If These Rights Are Violated?**

- You may file a complaint with the Industrial Commission of Arizona or file a lawsuit. For more information about enforcing state protections, visit <http://www.ica.state.az.us/>.
- You may file a complaint with the U.S. Department of Labor or a lawsuit. For more information about enforcing the FLSA's minimum wage and overtime rights, visit <http://www.wagehour.dol.gov>.