



Office of the Nevada Labor Commissioner

Nevada Department of Business and Industry
“Growing Business in Nevada”

Overview of Wage and Hour and 2019 Legislation Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) 608 and 607

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Office of the Labor Commissioner

Major Responsibilities

- Private Sector Employment
- Prevailing Wages On Public Works Projects
- Regulate Private Employment Agencies

Overview Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC)

607 Authority

608 Compensation, Wages and Hours

609 Employment Of Minors

611 Employment Agencies

613 Employment Practices

338 Prevailing Wages

*20 Total Employees in Carson City and Las Vegas
9 Investigators including Chief Investigator

NRS 607

Powers and duties of the Labor Commissioner. The Labor Commissioner shall enforce all labor laws of the State of Nevada the enforcement of which is not specifically and exclusively vested in any other officer, board or commission.

NRS 608

Governs Private Employment and encompasses all wage and hour issues for the state of Nevada. Refers to employer-employee relationship. However, it does not cover independent contractors.


Definitions

Employer (NRS 608.011): Every person having control or custody of any employment, place of employment or any employee.

Employee (NRS 608.010): Male and female persons in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

Independent Contractor (NRS 608.0155 and NAC 608.155): Are not employees.

NAC 608.155 - 4. As used in this section, “independent contractor” means a self-employed person who agrees with a client to do work for the client, for a certain fee, according to the means or methods of the self-employed person and not subject to the supervision or control of the client except as to the result of the work.



“An employer shall pay to the employee wages for each hour the employee works.”

NRS section 608.016

Wages:

Wages

**The Agreed Upon Rate Paid
For All Hours Worked**

- Hourly rate
- Salary
- Commissions
- Piece work
- Shift work

*Meals and Sleep –

NRS 608.155 NRS 608.0195

Wages Are Not

- Bonuses
- Profit sharing
- Fringe benefits

(Exception on Prevailing Wage)

Original Contractor Liability For Wages

NRS 608.150 Original contractor liable for indebtedness for labor incurred by subcontractor or contractor acting under, by or for original contractor; exceptions; civil action to recover.

1. Except as otherwise provided in subsections 2 and 3, every original contractor entering into any contract in this State for the erection, construction, alteration, maintenance or repair, including, without limitation, repairs made under a warranty, of any building or structure, including, without limitation, any equipment or fixtures related thereto, or other work of improvement, shall assume and is liable for the indebtedness for labor incurred by any subcontractor or any contractors acting under, by or for the original contractor in performing any labor, construction or other work included in the subject of the original contract, for labor, and for the requirements imposed by [chapters 616A to 617](#), inclusive, of NRS.

2. Except as otherwise provided in subsection 6, the provisions of subsection 1 do not require an original contractor to assume or be liable for any liability of a subcontractor or other contractor in excess of the indebtedness for labor incurred by a subcontractor or any other contractor acting under, by or for the original contractor if such indebtedness for labor had been paid when originally due.

3. The provisions of subsection 1 do not require an original contractor to assume or be liable for any liability of a subcontractor or other contractor for any amount for which the original contractor did not receive proper notice in accordance with [NRS 608.152](#).

4. It is unlawful for any original contractor or any other person to fail to comply with the provisions of subsection 1, or to attempt to evade the responsibility imposed thereby, or to do any other act or thing tending to render nugatory the provisions of this section.

5. The district attorney of any county wherein the defendant may reside or be found, or any potential claimant pursuant to this section may institute civil proceedings against any such original contractor failing to comply with the provisions of this section in a civil action for the amount of any indebtedness for labor that may be owing or have accrued as a result of the failure of any subcontractor acting under the original contractor, and any property of the original contractor, not exempt by law, is subject to attachment and execution for the payment of any judgment that may be recovered in any action under the provisions of this section.

6. In any court action regarding a claim instituted pursuant to this section, the court shall award costs and reasonable attorney's fees to the prevailing party. If the claimant is the prevailing party, the court shall award to the claimant the applicable interest that has accrued after the claimant provided to the original contractor, subcontractor or other contractor the written notice of such claim pursuant to [NRS 608.152](#) or otherwise notifies the original contractor of a claim under [NRS 608.150](#).

7. As used in this section:

(a) "Contractor" has the meaning ascribed to it in [NRS 624.020](#).

(b) "Original contractor" includes a contractor or any other person who enters into a contract described in subsection 1.

[1:208:1931; 1931 NCL § 2824] + [2:208:1931; 1931 NCL § 2825] — (NRS A [1967, 623](#); [1985, 580](#); [1999, 206](#); [2015, 1931](#); [2017, 1212](#))

Key Elements Of Nevada's Minimum Wage Requirements

Nevada Constitution – Article 15, Section 16

2006 Minimum Wage Amendment Passed by Voters

Assembly Bill (AB) 456 (2019 Legislative Session) will not change Two Tier System

- Two rates – (Two Tier System)
- Tips cannot be used to offset payment of Minimum Wage (Tips can be pooled by employees pursuant to NRS 608.160)
- Can pay lower rate if Qualified Health Insurance offered/made available to employee – Senate Bill (SB) 192
- Exemptions in NRS 608.250 No Longer Valid (*Yellow Cab Case 2014*)
AB 456 removes exemptions in NRS 608.250 consistent with *Yellow Cab*
- Exemptions to Minimum Wage: Workers under the age of 18; Workers employed by a non-profit for after school or summer employment; and Trainees
- Collectively Bargained exemption

MINIMUM WAGE

\$7.25 PER HOUR if Qualified Health Insurance offered/made available

Offer/Make Available Qualified Health Insurance to the employee (*Hancock Decision*)

Senate Bill (SB) 192 – “Establishes that the lower minimum wage rate may only be paid to an employee in private employment if the employer provides health benefits available to the employee and the employee’s dependents a health benefit plan that provides: Ambulatory patient services; Emergency services; Hospitalization; Maternity and newborn care; Mental health and substance use disorder services (including without limitation behavioral health treatment); Prescription drugs; Rehabilitative and habilitative services and devices; Laboratory services; Preventive and wellness services and chronic disease management; Pediatric services (not required to include oral and vision care); and Any other health care service or coverage level required to be included in an individual or group health benefit plan pursuant to any applicable provision of title 57 of NRS and NRS Chapters 689A and 689B.” (*See Senate Bill 192 for full text of bill.*)

Covers employee and dependents

Employee’s share of premiums not more than 10 percent of the employee’s gross taxable income from the employer.

(Cannot include Tips as part of income – *Hancock Decision*)

\$8.25 PER HOUR Qualified Health Insurance not offered/made available

Minimum Wage Increase

AB 456 (Passed 2019 Legislative Session)

Effective Date	Lower Tier	Higher Tier
July 1, 2019	\$7.25	\$8.25
July 1, 2020	\$8.00	\$9.00
July 1, 2021	\$8.75	\$9.75
July 1, 2022	\$9.50	\$10.50
July 1, 2023	\$10.25	\$11.25
July 1, 2024	\$11.00	\$12.00

UNLESS THERE IS AN EXEMPTION, OVERTIME MUST BE PAID FOR...

**More than 40 hours in any scheduled week of
work**

**In some cases, for more than 8 hours in any
workday**

(See NRS 608.018 for Exemptions)

How Minimum Wage Impacts The Daily Overtime Rates? (AB 456 Will Change These Rates Starting July 1, 2020)

➤ EMPLOYERS MUST PAY 1-1/2 TIMES AN EMPLOYEE'S REGULAR WAGE RATE WHENEVER AN EMPLOYEE WHO IS PAID LESS THAN 1-1/2 TIMES THE APPLICABLE MINIMUM WAGE RATE WORKS MORE THAN 40 HOURS IN ANY WORKWEEK OR MORE THAN 8 HOURS IN ANY WORKDAY*, UNLESS OTHERWISE EXEMPTED. (NRS 608.018)

❖ EMPLOYEE OFFERED QUALIFIED HEALTH BENEFITS

Pay Overtime at 1-1/2 times an Employee's Regular Rate if:

- (1) Employee works over 8 hours in a 24 hour period or over 40 hours in a week;
- (2) Employee is offered qualified health benefits;
- (3) Employee Makes Less than \$10.875 per hour.

❖ EMPLOYEE NOT OFFERED QUALIFIED HEALTH BENEFITS

Pay Overtime at 1-1/2 times an Employee's Regular Rate if:

- (1) Employee works over 8 hours in a 24 hour period or over 40 hours in a week;
- (2) Employee Makes Less than \$12.375 per hour.

*Four-Tens (4/10's) exception - By mutual agreement, the employee can work a schedule of four ten (4/10's) hour days in a workweek. Must be a regular and consistent schedule. If the 4/10 schedule is not followed it will revert to overtime. (See Advisory Opinion AO 2013-04)¹⁴

NRS and NAC section 608 Overview

- **Non Standard Deductions (NAC 608.160):**
 - The employer is required to have the employee voluntarily authorize in writing the specific purpose, pay period, and amount of deduction.
 - May not use a blanket authorization.
- **Record Keeping (NRS 608.115 and NAC 608.140):**
 - Gross wage or salary, deductions, net cash or salary, number of hours per day, date of payment); the records have to be kept for 2 years from the date the information was recorded.
- **Uniforms (NRS 608.165):**
 - If the uniforms clearly identify the employee with the business, the employer shall provide the uniform at no cost or deposit.
 - The employer must also pay for any cost that is required for special cleaning of the uniform.
- **Payment (NRS 608.060, NRS 608.070 and NRS 608.080):**
 - At least semimonthly and maintain the same scheduled paydays.
- **Paystub (NRS 608.110 and NRS 608.115):**
 - Itemized list of deductions showing the respective deductions made from the total amount of wages or compensation; any additional deduction should be authorized by the employee.
- **Breaks & Lunches (NRS 608.019 and NAC 608.145):**
 - Provide 10 minutes for each 3 1/2 hours worked and at least 30 minutes uninterrupted lunch break for employee working a continuous period of 8 hours.
- **Employee Terminated or Resigned/Quit Payment (NRS 608.020 and NRS 608.030):**
 - Immediately or within three days – terminated by the employer.
 - Next regular payday or within 7 days – resign or quit.

608 Wage Claim Process – (See also NAC sections 607.060-607.080)

Claims are filed either online, in person, or received in the mail.

Case Opened- Completed Wage Claim has been accepted and entered into the Labor Case Tracking System.

Notice of Claim- Notice of Claim mailed to employer/respondent, allowing 15 days to respond.

Investigation- Review objections to Wage Claim or settlement offer.

Determination/Close Claim- Investigation found violation(s) of law.

No violations found or lack of jurisdiction and the Wage Claim is closed.

Request Hearing/Final Order- A written objection is submitted by employer/respondent that has merit and requests a hearing in the matter.

No response to Determination is received, so Determination proceeds to Final Order.

Collections- After a Final Order has been issued and the employer has not remitted payment, the case will be forwarded to the State Controller's Office for collection.

General Employment Complaints

- Non-wage related violations
- May be anonymous complaint
- Administrative fine up to \$5,000 (NRS 608.195)
- May be used in lieu of some wage penalties
- Most common violation is failure to keep records

2019 Legislative Updates

- SB 312 – Paid Time Off (7/1/19 for regulations - 1/1/2020 for all other purposes)
- AB 181 – Reporting Sick Time (5/15/2019)
- AB 456 – Increase to Minimum Wage (7/1/2019 – First Increase 7/1/2020)
- AJR 10 – Ballot proposal to increase the Minimum Wage paid to employees (2024)
- SB 192 – Requirements of Qualified Health Benefit Plan (5/21/19 for regulations – 1/1/2020 for all other purposes)
- SB 493 – Employee Misclassification Task Force & Independent Contractor Construction Industry Presumption (7/1/2020)

New - Paid Time Off SB 312

Effective January 1, 2020, as set forth in Senate Bill 312 approved during the 2019 Legislative Session, Nevada Revised Statutes (NRS) section 608 governing *Private Employers* is hereby amended with a new section as follows:

- Except as otherwise provided in this section, every employer in private employment with not less than 50 employees shall provide paid leave to each employee of the employer as follows:
- A. An employee is entitled to at least 0.01923 hours of paid leave for each hour of work performed.
 - B. Paid leave accrued may carry over for each employee between his or her benefit years of employment, except an employer may limit the amount of paid leave for each employee carried over to a maximum of 40 hours per benefit year.
 - C. An employer shall:
 - 1. Compensate an employee for the paid leave available for use by that employee at the rate of pay at which the employee is compensated at the time such leave is taken; and
 - 2. Pay such compensation on the same payday as the hours taken are normally paid.
 - D. An employer may set a minimum increment of paid leave, not to exceed 4 hours that an employee may use at any one time.
 - 1. An employer shall provide to each employee on each payday an accounting of the hours of paid leave available for use by that employee. An employer may use the system that the employer uses to pay its employees to provide the accounting of the hours of paid leave available for use by the employee.
 - 2. An employer may, but is not required to, compensate an employee for any unused paid leave available for use by that employee upon separation from employment, except if the employee is rehired by the employer within 90 days after separation from that employer and the separation from employment was not due to the employee voluntarily leaving his or her employment, any previously unused paid leave hours available for use by that employee must be reinstated.

Paid Time Off SB 312 (Continued)

- E. An employee in private employment may use paid leave available for use by that employee as follows:
 - 1. An employer shall allow an employee to use paid leave beginning on the 90th calendar day of his or her employment.
 - 2. An employee may use paid leave available for use by that employee without providing a reason to his or her employer for such use.
 - 3. An employee shall, as soon as practicable, give notice to his or her employer to use the paid leave available for use by that employee.
 - 4. An employer shall not: deny an employee the right to use paid leave available for use by that employee in accordance with the conditions of this section; require an employee to find a replacement worker as a condition of using paid leave available for use by that employee; or retaliate against an employee for using paid leave available for use by that employee.
- F. An employer shall maintain a record of the receipt or accrual and use of paid leave pursuant to this section for each employee for a 1-year period following the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner.
- G. For the first 2 years of operation, an employer is not required to comply with the provisions of this section.
- H. This section does not apply to: (a) An employer who, pursuant to a contract, policy, collective bargaining agreement or other agreement, provides employees with a policy for paid leave or a policy for paid time off to all scheduled employees at a rate of at least 0.01923 hours of paid leave per hour of work performed; and (b) Temporary, seasonal or on-call employees.

Bulletins and Guides

Bulletins and Guides can be obtained at www.labor.nv.gov

- Nursing Mothers Accommodations – Assembly Bill 113, 2017 Legislative Session
- Tip Guide
- Notice to Employer of Sick or Injured Employee – Assembly Bill 181, 2019 Legislative Session
- Independent Contractor – Information Sheet
- Meal and Rest Period Notice
- Request for Meal and Rest Period Waiver Form
- AB 132 Guide to the Marijuana Testing Bill

Required Postings

Required Postings can be obtained at www.labor.nv.gov

- Annual Minimum Wage and Overtime Bulletin(s)
- Rules to be Observed by Employers
- Notice of Limitations Affecting the Application of Lie Detector Tests
- Domestic Violence Victim's Bulletin – Senate Bill 361, 2017 Legislative Session
- Domestic Worker's Bill of Rights – Senate Bill 232, 2017 Legislative Session
- Paid Leave – Senate Bill 312, 2019 Legislative Session
- Minimum Wage Bulletin – Assembly Bill 456, 2019 Legislative Session

THANK YOU

For complete Statutes/Regulations and contact information visit www.labor.nv.gov

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- All materials are summaries of the applicable statutes. It is for informational purposes and should not be considered legal advice. Please refer the actual statute in its entirety for further details.