

### Minimum Wage

Department of Labor and Industry, Division of Labor and Employment Law

#### Minimum Wage

**Minimum Wage Increases to  
\$12.00 per hour  
Effective January 1, 2023**

|   |  |
|---|--|
| <p><b>Tipped Employees</b></p> <p>Tipped employees (those who regularly receive more than \$30.00 a month in tips) may be paid at the tipped minimum wage of \$2.13 per hour. <b>However</b>, an employee's hourly wages plus tips <b>must</b> meet the Virginia minimum wage rate of \$12.00 per hour. If they do not, an employer <b>must</b> pay the difference to an employee so that they earn at <b>least</b> \$12.00 per hour.</p> | <p><b>Employees previously exempt from minimum wage coverage <i>may now be covered under the Virginia Minimum Wage Act.</i></b></p> <p>These include:</p> <ul style="list-style-type: none"> <li><b>Domestic Service Employees</b> - Employees who perform services related to the care of an individual in a private home or the maintenance of a private home or its premises. <ul style="list-style-type: none"> <li>May be on a permanent or temporary basis</li> <li>Includes services such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs</li> </ul> </li> <li><b>Home care providers</b></li> <li><b>Babysitters</b> who work more than 10 hours per week</li> </ul> |
|---|--|

The Virginia Minimum Wage Act **does not** exempt employees based on the size of their employer. Employees of "small" businesses generally **must** be paid at a rate of no less than \$12.00 per hour.

#### For More Information, please visit :

- Virginia Minimum Wage Act - Definitions & Exemptions: <http://law.lis.virginia.gov/vacode/title40.1/chapter3/section40.1-28.9/>
- Virginia Minimum Wage Act - Rates: <http://law.lis.virginia.gov/vacode/title40.1/chapter3/section40.1-28.10/>
- Fair Labor Standards Act: <https://www.law.cornell.edu/uscode/text/29/chapter-8>

#### Questions?

Contact the Labor Law Division

Phone: 804-786-2706  
Fax: 804-371-4643  
E-mail: [labornlaw@doli.virginia.gov](mailto:labornlaw@doli.virginia.gov)  
Website: <https://www.doli.virginia.gov/>

**NOTICE:** This state has its own minimum wage law. Employers are also required to display the federal Employee Rights Under the Fair Labor Standards Act posting, which indicates the federal minimum wage. Where federal and state rates both apply to an employee, the U.S. Department of Labor dictates that the employee is entitled to the higher minimum wage rate.

**THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY.**

### EITC

Department of the Treasury, Internal Revenue Service

#### Life's a little easier with

### eitc

earned income tax credit

EITC is for people who work for someone else or own or run a business or a farm. To qualify, you must have low to mid income and meet the following rules.

- To qualify, you and your spouse (if filing a joint return):
  - Must have earned income
  - Must have a Social Security number that is valid for employment issued on or before the due date of the return (including extensions)
  - Cannot have investment income, such as interest income, over a certain amount
  - Generally must be a U.S. citizen or resident alien all year
  - May not file as married filing separately
  - May not be a qualifying child of another person
  - May not file Form 2555 or 2555-EZ (related to foreign earned income)
  - Must have a qualifying child or if you do not have a qualifying child, you must:
    - be at least age 25 but under age 65 at the end of the year,
    - live in the United States\* for more than half the year, and
    - not qualify as a dependent of another person.

To claim the EITC, you have to file a federal tax return even if you owe no tax and are not required to file. File your tax return as soon as you have all the information you need about how much you earned. However, refunds for returns claiming the EITC can't be issued before mid-February. This delay applies to the entire refund, not just the portion associated with the EITC.

EITC provides a boost to help pay your bills or save for a rainy day.

**Just imagine what you could do with EITC.**

#### Do you want help with the EITC?

- Go to [www.irs.gov/eitc](http://www.irs.gov/eitc) for free information and to check out the interactive EITC Assistant to see if you qualify for the credit and estimate the amount of your EITC.
- Visit a Volunteer Income Tax Assistance (VITA) site for free tax help and preparation. Go to [www.irs.gov/VITA](http://www.irs.gov/VITA) or call 1-800-906-9887 to find a site.
- Use FreeFile at [www.irs.gov/FreeFile](http://www.irs.gov/FreeFile) for free online filing through commercially available tax preparation software.

Errors can delay the EITC part of your refund until corrected. If the IRS audits your return and finds an error in your claim of the EITC, you must pay back the amount of the EITC you received in your error plus interest and penalties. You may also have to file Form 8862 for future claims. And, if the IRS finds your incorrect claim was due to reckless or intentional disregard of rules and regulations or fraud, we may ban you from claiming the EITC for 2 years or 10 years, depending on the reason for the error.

\* U.S. military personnel on extended active duty outside the United States are considered to live in the United States while on active duty.

Publication 962 (EITC) Catalog Number 34506V  
Department of the Treasury Internal Revenue Service [www.irs.gov](http://www.irs.gov)

REV. 09/2019

### Non-compet

#### Code of Virginia

**§ 40.1-28.7-8. Covenants not to compete prohibited as to low-wage employees; civil penalty.**

A. As used in this section:

"Covenant not to compete" means a covenant or agreement, including a provision of a contract of employment, between an employer and employee that restrains, prohibits, or otherwise restricts an individual's ability, following the termination of the individual's employment, to compete with the former employer. A "covenant not to compete" shall not restrict an employee from providing a service to a customer or client of the employer if the employee does not initiate contact with or solicit the customer or client.

"Low-wage employee" means an employee whose average weekly earnings, calculated by dividing the employee's earnings during the period of 52 weeks immediately preceding the date of termination of employment by 52, or if an employee worked fewer than 52 weeks, by the number of weeks that the employee was actually paid during the 52-week period, are less than the average weekly wage of the Commonwealth as determined pursuant to subsection B of § 65.2-500. "Low-wage employee" includes interns, students, apprentices, or trainees employed, with or without pay, at a trade or occupation in order to gain work or educational experience. "Low-wage employee" also includes an individual who has independently contracted with another person to perform services independent of an employment relationship and who is compensated for such services by such person at an hourly rate that is less than the median hourly wage for the Commonwealth for all occupations as reported, for the preceding year, by the Bureau of Labor Statistics of the U.S. Department of Labor. For the purposes of this section, "low-wage employee" shall not include any employee whose earnings are derived, in whole or in predominant part, from sales commissions, incentives, or bonuses paid to the employee by the employer.

B. No employer shall enter into, enforce, or threaten to enforce a covenant not to compete with any low-wage employee.

C. Nothing in this section shall serve to limit the creation or application of nondiscrimination agreements intended to prohibit the taking, misappropriating, threatening to misappropriate, or sharing of certain information, including trade secrets, as defined in § 59-1-336, and proprietary or confidential information.

D. A low-wage employee may bring a civil action in a court of competent jurisdiction against any former employer or other person that attempts to enforce a covenant not to compete against such employee in violation of this

section. An action under this section shall be brought within two years of the latter of (i) the date the covenant not to compete was signed, (ii) the date the low-wage employee learns of the covenant not to compete, (iii) the date the employment relationship is terminated, or (iv) the date the employer takes any step to enforce the covenant not to compete. The court shall have jurisdiction to void any covenant not to compete with a low-wage employee and to order all appropriate relief, including enjoining the conduct of any person or employer, ordering payment of liquidated damages, and awarding lost compensation, damages, and reasonable attorney fees and costs. No employer may discharge, threaten, or otherwise discriminate or retaliate against a low-wage employee for bringing a civil action pursuant to this section.

E. Any employer that violates the provisions of subsection B as determined by the Commissioner shall be subject to a civil penalty of \$10,000 for each violation. Civil penalties owed under this subsection shall be paid to the Commissioner for deposit in the general fund.

F. If the court finds a violation of the provisions of this section, the plaintiff shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorney fees from the former employer or other person who attempts to enforce a covenant not to compete against such plaintiff.

G. Every employer shall post a copy of this section or a summary approved by the Department in the same location where other employee notices required by state or federal law are posted. An employer that fails to post a copy of this section or an approved summary of this section shall be issued by the Department a written warning for the first violation, shall be subject to a civil penalty not to exceed \$250 for a second violation, and shall be subject to a civil penalty not to exceed \$1,000 for a third and each subsequent violation as determined by the Commissioner. Civil penalties owed under this subsection shall be paid to the Commissioner for deposit in the general fund.

The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and to pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

2020, cc. 948, 949, § 40.1-28.7.7.

### Unemployment Ins.

#### Virginia Employment Commission

### NOTICE TO WORKERS

Every day many unemployed workers tell us that unemployment insurance is due them "because they have paid for it." This is not true in Virginia. There are no deductions from your paycheck for unemployment insurance. Employers' taxes are deposited in a trust fund from which unemployment insurance benefits are paid. Do not confuse unemployment insurance with Old Age and Survivors Insurance to which both you and your employer contribute.

#### YOU MAY APPLY FOR UNEMPLOYMENT INSURANCE BENEFITS IF:

- You are totally unemployed, or
- You are working at reduced wages and hours,

#### IF TOTALLY UNEMPLOYED, ON A TEMPORARY LAYOFF, OR IF WORKING REDUCED HOURS:

The first week you are unemployed, register for work, and file a claim for benefits. You can file your claim online at [www.vec.virginia.gov](http://www.vec.virginia.gov) or by calling our Customer Contact Center at 1-866-832-2363. If you are totally unemployed you must register for work online at [www.vawc.virginia.gov](http://www.vawc.virginia.gov).

#### TO BE ELIGIBLE FOR BENEFITS, THE LAW REQUIRES THAT YOU:

- File a claim with the Virginia Employment Commission.
- Have earned sufficient wages from employers who are subject to the Virginia Unemployment Compensation Act or any other State within your Base Period.

- Must be unemployed through no fault of your own.
- Must be able and available to work and making an active search for work.
- Continue to report as instructed by the Virginia Employment Commission.

You cannot be paid unemployment benefits until you have filed your claim and have met all of the eligibility requirements. To speed payment of benefits, you should file your claim as soon as you become unemployed or your hours are reduced. If you have any questions about your rights and responsibilities under the Virginia Unemployment Compensation Act, visit our website, or call our Customer Contact Center at 1-866-832-2363.

#### THE LAW REQUIRES EMPLOYERS TO POST THIS NOTICE IN A PLACE VISIBLE TO ALL WORKERS.

An Equal Opportunity Employer/Program  
Auxiliary services are available upon to individuals with disabilities.  
Please call 804-584-9841 or 866-373-6915 for Language Access/Assistance.

This notice is available in Spanish.  
Direct requests to: **Employer Accounts Unit**  
**PO Box 26441**  
**Richmond, VA 23261-6441**

### Reasonable Accommodations

#### VIRGINIA HUMAN RIGHTS ACT

#### REASONABLE ACCOMMODATIONS FOR DISABILITY

##### Protections from Discrimination – Va. Code § 2.2-3905.1

Effective July 1, 2021, employers with more than five employees for a 20-week period in the current or preceding year must provide reasonable accommodations for otherwise qualified persons with disabilities if necessary to assist such person in performing a particular job, unless the accommodation would impose an undue hardship on the employer. "Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of her major life activities or who has a record of such impairment. Employers also may not, in response to a request for a reasonable accommodation for disability:

- take adverse actions against an employee;
- deny employment or promotions; or
- require an employee to take leave if another reasonable accommodation can be provided.

#### Reasonable Accommodations

Examples of reasonable accommodations include modifying work policies, permitting the use of leave, reassignment to a vacant position, acquisition or modification of equipment, assistance with manual labor, job restructuring, a modified work schedule, and light duty assignments.

#### Interactive Process

When an employee requests an accommodation, employers must engage in a timely, good faith interactive process with the employee to determine if the requested accommodation is reasonable and, if not, discuss alternative reasonable accommodations that may be provided.

#### Complaints

Any person who believes they were discriminated against on this basis may file a complaint with the Office of Civil Rights.

#### OFFICE OF THE ATTORNEY GENERAL

Office of Civil Rights  
202 North 9th Street  
Richmond, Virginia 23219  
[www.ag.virginia.gov](http://www.ag.virginia.gov)  
[civilrights@oag.state.va.us](mailto:civilrights@oag.state.va.us)  
P: (804) 225-2292; F: (804) 225-3294

### Pregnancy Accommodations

#### VIRGINIA HUMAN RIGHTS ACT

#### REASONABLE ACCOMMODATIONS FOR PREGNANCY

##### Protections from Discrimination – Va. Code § 2.2-3909

Effective July 1, 2020, employers with five or more employees for a 20-week period in the current or preceding year must provide reasonable accommodations for pregnancy, childbirth or related medical conditions, including lactation, unless the accommodation would impose an undue hardship. Employers also may not, in response to a request for a reasonable accommodation for pregnancy:

- take adverse actions against an employee;
- deny employment or promotions; or
- require an employee to take leave if another reasonable accommodation can be provided.

#### Reasonable Accommodations

Examples of reasonable accommodations include more frequent or longer bathroom breaks, breaks to express breast milk, access to a private location other than a bathroom for the expression of breast milk, acquisition or modification of equipment or access to or modification of employee seating, a temporary transfer to a less strenuous or hazardous position, assistance with manual labor, job restructuring, a modified work schedule, light duty assignments, and leave to recover from childbirth.

#### Interactive Process

When an employee requests an accommodation, employers must engage in a timely, good faith interactive process with the employee to determine if the requested accommodation is reasonable and, if not, discuss alternative reasonable accommodations that may be provided.

#### Complaints

Any person who believes they were discriminated against on this basis may file a complaint with the Office of Civil Rights or seek relief by filing a civil action in state court.

#### OFFICE OF THE ATTORNEY GENERAL

Office of Civil Rights  
202 North 9th Street  
Richmond, Virginia 23219  
[www.ag.virginia.gov](http://www.ag.virginia.gov)  
[civilrights@oag.state.va.us](mailto:civilrights@oag.state.va.us)  
P: (804) 225-2292; F: (804) 225-3294

### Human Rights

#### Virginia Human Rights Act

##### Code of Virginia – Title 2.2, Chapter 39

#### It is the policy of the Commonwealth of Virginia to:

Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, or disability in employment, places of public accommodation, including educational institutions, in real estate transactions; preserve the public safety, health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

#### Unlawful Discriminatory Practice Defined

Conduct that violates any Virginia or federal statute or regulation governing discrimination is an unlawful discriminatory practice under the Virginia Human Rights Act.

### Credit

## Did you know Virginia has an income tax credit for low-income, working individuals and families?

### Could you be eligible?

#### FIND OUT IF YOU QUALIFY

For the Commonwealth of Virginia income tax credit today! Visit

the Low Income Individuals Credit page on the Virginia Tax site:

[www.tax.virginia.gov/low-income-individuals-credit](http://www.tax.virginia.gov/low-income-individuals-credit)

#### Two ways to increase your income:

- The Federal Earned Income Tax Credit
- The Virginia Credit for Low Income Individuals

Call the Virginia Department of Taxation at: (804) 367-8031, PAY-VTAX at: (804) 339-1307 or visit: [www.tax.virginia.gov](http://www.tax.virginia.gov)

### Workers' Comp.

#### WORKERS' COMPENSATION NOTICE

The employees of this business are covered by the Virginia Workers' Compensation Act. In case of injury by accident or notice of an occupational disease:

#### THE EMPLOYEE SHOULD:

- Immediately give notice to the employer, in writing, of the injury or occupational disease and the date of accident or notice of the occupational disease.
- Promptly give to the employer and to the Virginia Workers' Compensation Commission notice of any claim for compensation for the period of disability beyond the seventh day after the accident. In case of fatal injuries, notice must be given by one or more dependents of the deceased or by a person in their behalf.
- In case of failure to reach an agreement with the employer in regard to compensation under the act, file application with the Commission for a hearing within two years of the date of accidental injury or first communication of the diagnosis of an occupational disease.
- If medical treatment is anticipated for more than two years from the date of the accident and no award has been entered, the employee should file a claim with the Commission within two years from the date of the accident.

**NOTE:** The employer's report of accident is not the filing of a claim for the employee.

#### THE EMPLOYER SHOULD:

- At the time of the accident, give the employee the names of at least three physicians from which the employee may select the treating physician.
- Report the injury to the Commission through your carrier or directly to the Commission.
- Accurately determine the employee's average weekly wage, including overtime, meals, uniforms, etc.

Questions may be answered by contacting the Commission. A booklet explaining the Workers' Compensation Act is available without cost from:

#### THE VIRGINIA WORKERS' COMPENSATION COMMISSION

333 E. FRANKLIN ST.  
RICHMOND, VIRGINIA 23219  
1-877-664-2566  
[www.workcomp.virginia.gov](http://www.workcomp.virginia.gov)

Every employer within the operation of the Virginia Workers' Compensation Act MUST POST THIS NOTICE IN A CONSPICUOUS PLACE in his place of business.

Form VWC1

### Seizure First Aid

#### Seizure First Aid

How to help someone having a seizure

|                |  |
|----------------|--|
| 1              | <b>STAY</b> with the person until they are awake and alert after the seizure.<br>✓ Time the seizure    ✓ Remain calm    ✓ Check for medical ID   |
| 2              | Keep the person <b>SAFE</b><br>✓ Move or guide away from harm  |
| 3              | Turn the person onto their <b>SIDE</b> if they are not awake and aware.<br>✓ Keep airway clear<br>✓ Loosen tight clothes around neck<br>✓ Put something small and soft under the head  |
| Call 911 if... | <ul style="list-style-type: none"> <li>Seizure lasts longer than 5 minutes</li> <li>Person does not return to their usual state</li> <li>Person is injured, pregnant, or sick</li> <li>Repeated seizures</li> <li>First time seizure</li> <li>Difficulty breathing</li> <li>Seizure occurs in water</li> </ul> |
| Do NOT         | <ul style="list-style-type: none"> <li>Do <b>NOT</b> restrain.</li> <li>Do <b>NOT</b> put any objects in their mouth.</li> <li>Rescue medicines can be given if prescribed by a health care professional</li> </ul>  |

Learn More and Register for Training: [epilepsy.com/firstaid](http://epilepsy.com/firstaid)

EPILEPSY FOUNDATION  
[epilepsy.com](http://epilepsy.com)  
24/7 Helpline: 1-800-332-1000

In Partnership with  
Virginia Department  
of Labor and Industry

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

This publication was created by the Epilepsy Foundation, a nationwide network organization. This publication is made possible with funding from the Centers for Disease Control and Prevention (CDC) under cooperative grant agreement number 1NUS80P006256-04-00. Its contents are solely the responsibility of the Epilepsy Foundation and do not necessarily represent the views of the CDC. EFA440/PAB0220

REV. 03/2021

Department of Labor and Industry

## Job Safety and Health Protection

THE VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) LAW, BY AUTHORITY OF TITLE 40.1 OF THE LABOR LAWS OF VIRGINIA, PROVIDES JOB SAFETY AND HEALTH PROTECTION FOR WORKERS. THE PURPOSE OF THE LAW IS TO ASSURE SAFE AND HEALTHFUL WORKING CONDITIONS THROUGHOUT THE STATE. THE VIRGINIA SAFETY AND HEALTH CODES BOARD PROMULGATES AND ADOPTS JOB SAFETY AND HEALTH STANDARDS, AND EMPLOYERS AND EMPLOYEES ARE REQUIRED TO COMPLY WITH THESE STANDARDS. THESE STANDARDS MAY BE FOUND AT THE FOLLOWING WEB ADDRESS: [http://www.doli.virginia.gov/doli\\_regulations/doli\\_regulations.html](http://www.doli.virginia.gov/doli_regulations/doli_regulations.html). YOU MAY ALSO CONTACT THE DEPARTMENT OF LABOR AND INDUSTRY OFFICES LISTED BELOW TO RECEIVE PRINTED COPIES OF THE VIRGINIA UNIQUE STANDARDS AND OBTAIN THE NAMES OF PUBLISHERS OF THE FEDERAL IDENTICAL STANDARDS.

#### Employers

Each employer shall furnish to each of his employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to his employees, and shall comply with occupational safety and health standards issued under the law.

#### Employees

Each employee shall comply with all occupational safety and health standards, rules, regulations and orders issued under the Law that apply to his own actions and conduct on the job.

#### Inspection

The Law requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the VOSH inspector for the purpose of aiding the inspection. Where there is no authorized employee representative, the VOSH inspector must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

#### Citation

If upon inspection VOSH believes an employer has violated the Law, a citation alleging such violations must be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected.

The VOSH citation must be prominently displayed at or near the place of alleged violation for three days or until the violation is corrected, whichever is later, to warn employees of dangers that may exist there.

#### Proposed Penalty

The Law provides for mandatory penalties against private sector employers of up to \$14,270 for each serious violation and for optional penalties of up to \$14,270 for each other than—serious violation. Penalties of up to \$14,270 per day may be proposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the Law may be assessed penalties of up to \$142,691 for each such violation.

Public Sector employers, all departments, agencies, institutions or other political subdivisions of the Commonwealth, are subject to the penalty provisions of 16VAC 25-60-260.

Criminal penalties are also provided for in the Law. Any willful violation resulting in the death of an employee is punishable, upon conviction, by a fine of not more than \$70,000 or by imprisonment for not more than six months, or by both. Subsequent conviction of an employer after a first conviction doubles these maximum penalties.

#### Complaint

Employees or their representatives have the right to file a complaint with the nearest VOSH office requesting an inspection if they believe unsafe or unhealthy conditions exist in their workplace. VOSH will withhold, on request, names of employees filing complaints. Complaints may be made at the Department of Labor and Industry addresses shown below.

#### Discrimination

It is illegal to retaliate against an employee for using any of their right under the law, including raising a safety or health concern with the employer or VOSH, or reporting a work-related injury or illness.

An employee who believes they have been discriminated against for exercising their rights under the Law, may file a complaint with the Commissioner of the Virginia Department of Labor and Industry within 60 days of the alleged discrimination.

#### CASPA

Complaints about State Plan Administration: Any person may complain to the Regional Administrator of OSHA (address below) concerning the Administration of the State Safety and Health Program.

#### State Coverage