

Labor & Industries Updates Rules for Overtime Pay

Changes to be phased in beginning July 1, 2020

At the end of 2019, the Washington State Department of Labor & Industries announced proposed changes to the rules regarding overtime protection for workers. These new rules will incrementally raise the threshold for the minimum salary an employee must be paid to be classified as exempt from overtime pay. The rule changes will be phased in starting on July 1, 2020 (at which point exempt employees must be paid \$675 per week), and will be fully implemented by 2028.

When fully implemented, the new overtime rules are estimated to affect over 250,000 employees.

Although the new rules will not take effect until July, there is a new federal overtime rule that employers must follow beginning January 1, 2020 that also increases the threshold for overtime pay to \$684 per week (\$35,568 annually). This new federal requirement will actually exceed Washington State's threshold until January 1, 2021, at which time Washington State will require businesses with 1 – 50 employees to pay exempt employees 1.5 times the state minimum wage, or approximately \$827 per week (\$43,004 annually). Employers will be required to meet the more favorable standard to the employee if there is conflict between state and local requirements.

In addition to setting new salary thresholds for overtime exemption, rule changes from L&I also update the job duties test which is used to determine which workers can be considered exempt. The state previously used two job duties tests, but these have been combined into one test which more closely resembles the federal job duties test for overtime exemption.

There are also changes specifically regarding outside salespeople, including how that position is defined. Employees must be paid a guaranteed salary, or on a fee basis, and employers must advise employees working as outside salespeople of their job status.

When an exempt employee's current compensation fails to meet the new standards, employers can take actions to comply with the new standards. Some of these options are:

- 1) Convert exempt salaried employees to non-exempt salaried employees, track hours, and pay overtime.
- 2) Convert exempt salaried employees to non-exempt hourly employees, track hours, and pay overtime.
- 3) Convert exempt salaried employees to non-exempt hourly or salaried employees, track hours, and limit to 40 hours or less per week.
- 4) Raise exempt salaried employees' salaries to meet new threshold for exemption to maintain exempt status.

Employers with additional questions can consult [this Q&A from Washington State Department of Labor & Industries](#). Additionally, they have produced a [fact sheet](#) for employers with a timetable for implementation of the new salary thresholds.