

## Wage and Hour Laws: South Carolina

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Status: Law stated as of 18 Jan 2024 | Jurisdiction: South Carolina, United States

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A Q&A guide to state-specific wage and hour laws for private employers in South Carolina. This Q&A addresses nuances of state law, including minimum wage, overtime, exemption, and litigation questions. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Wage and Hour Laws: State Q&A Tool).

For information on employment law developments and ongoing updates in response to COVID-19, see [COVID-19: Employment Law and Development Tracker: State Laws and Directives](#).

### Overview of State Wage and Hour Law

**1. Please list each wage and hour statute (for example, mini-FLSA laws, minimum wage, overtime, child labor, state government contracts, wage payment, timekeeping, and callback/report-in pay statutes). For each, please describe:**

- Which employers are covered.
- Whether it provides for a private right of action.
- The entity that administers the statute.

#### Payment of Wages Act: S.C. Code Ann. §§ 41-10-10 to 41-10-110

This statute establishes the obligations of South Carolina employers regarding notices to employees concerning:

- Payment issues and deductions.
- The methods of payment.
- Enforcement of these requirements.

(S.C. Code Ann. §§ 41-10-10 to 41-10-110.)

#### Covered Employers

The Payment of Wages Act covers all employers in South Carolina with at least five employees at all times within

the preceding 12 months except employers of domestic labor in private homes (S.C. Code Ann. § 41-10-20).

#### Private Right of Action

Employees can file either:

- A written complaint with the [South Carolina Department of Labor, Licensing, and Regulation](#) (LLR).
- A suit against the employer where the employee may recover:
  - treble damages;
  - costs; and
  - reasonable attorneys' fees.

(S.C. Code Ann. §§ 41-10-70 and 41-10-80.)

#### Administration

The LLR administers and enforces this law (S.C. Code Ann. §§ 41-10-70, 41-10-80, and 41-10-110).

#### Payment of Post-Termination Claims to Sales Representatives Act: S.C. Code Ann. §§ 39-65-10 to 39-65-80

When a contract between a principal and a sales representative for the solicitation of wholesale orders is terminated for any reason, the principal must pay the representative all commissions that have accrued or will accrue under the contract (S.C. Code Ann. § 39-65-20).

### Covered Employers

This law covers all South Carolina principals (S.C. Code Ann. § 39-65-10). A principal is any person who does all of the following:

- Manufactures, produces, imports, or distributes a tangible product for wholesale.
- Contracts with a sales representative to solicit orders for the product.
- Wholly or partly compensates sales representatives by commission.

(S.C. Code Ann. § 39-65-10(3).)

A person is any of the following:

- An individual.
- A corporation.
- A partnership.
- An association.
- An estate.
- A trust.

(S.C. Code Ann. § 39-65-10(2).)

### Private Right of Action

Sales representatives can enforce this statute through a civil suit against a principal that fails to pay and may be entitled to:

- All amounts due to the sales representative.
- Punitive damages not exceeding three times the amount of commissions due to the sales representative.
- Attorneys' fees.
- Court costs.

(S.C. Code Ann. § 39-65-30.)

### Administration

The law does not specify an administering agency.

### Child Labor Law: S.C. Code Ann. §§ 41-13-5 to 41-13-60

South Carolina prohibits oppressive child labor practices (S.C. Code Ann. § 41-13-20; see Question 6). The state's provisions regarding child labor generally track those of the Fair Labor Standards Act.

### Covered Employers

This law covers all South Carolina employers (S.C. Code Ann. §§ 41-13-5 and 41-13-20).

### Private Right of Action

The law does not specify a private right of action.

### Administration

The LLR enforces this law (S.C. Code Ann. § 41-13-50).

### The South Carolina Human Affairs Law: S.C. Code Ann. §§ 1-13-10 to 1-13-110

Among other acts, employers are prohibited from discriminating in the amount or rate of pay based solely on an employee's membership in a protected class (S.C. Code Ann. § 1-13-80(A)(1)). For more information on the South Carolina Human Affairs Law, see [State Q&A, Anti-Discrimination Laws: South Carolina](#).

### Covered Employers

This law covers all employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. The law does not cover:

- A Native American tribe.
- A bona fide private membership club that is not a labor organization.

(S.C. Code Ann. § 1-13-30(e).)

### Private Right of Action

Aggrieved individuals must file a complaint with the [South Carolina Human Affairs Commission \(SCHAC\)](#) in writing and under oath or affirmation within 180 days of the alleged discriminatory practice (S.C. Code Ann. § 1-13-90(a)). The employee may bring an action in equity (a non-jury trial) against the employer in state court if the SCHAC either:

- Dismisses the case and issues a notice of right to sue.
- Does not file an action or enter a conciliation agreement within 180 days from the filing of the charge.

(S.C. Code Ann. § 1-13-90(d)(6).)

The suit must be filed within the earlier of:

- 1 year of the alleged violation.
- 120 days from the date the employee's charge is dismissed.

(S.C. Code Ann. § 1-13-90(d)(6).)

The time period may be extended with the employer's written consent (S.C. Code Ann. § 1-13-90(d)(6)).

### Administration

The SCHAC administers and enforces this law (S.C. Code Ann. §§ 1-13-30(a) and 1-13-70). The SCHAC also is a Fair Employment Practices Agency that works with the federal Equal Employment Opportunity Commission (EEOC) (see [EEOC, Charlotte District Office](#)).

## Exempt Employees

### 2. With regard to your state's primary wage and hour statute (the one most similar to the federal FLSA), please describe:

- Exempt classifications of employees and what provisions of the law(s) they are exempt from.
- The test(s) used to determine whether an employee is exempt.
- Any significant differences with the FLSA regarding exemptions that practitioners should be aware of.

South Carolina does not have any state laws regarding the exempt classification of employees. However, employers must comply with federal law. For information on exempt classifications under the Fair Labor Standards Act, see [Practice Note, Wage and Hour Law: Overview: Minimum Wage and Overtime Pay Exemptions](#).

## Overtime Payment Requirements

### 3. Please state whether overtime requirements exist in your state. If so, please describe:

- How overtime due is calculated (by day or by week or both).
- How a workday and a workweek are defined.
- The rate at which overtime must be paid and how the rate is defined.
- The penalties for failure to pay overtime.

South Carolina does not have any state laws requiring private employers to pay overtime. However, employers in South Carolina must comply with federal law. For information on overtime requirements under the federal Fair Labor Standards Act, see [Practice Note, Wage and Hour Law: Overview: Minimum Wage and Overtime Pay Exemptions](#) and [Calculating Overtime Correctly](#).

## Minimum Wage

### 4. If there is a state minimum wage, please describe:

- The current minimum wage and the period it will remain current for.
- Any expected increases in the minimum wage rate, when they will take effect, and how long they are expected to be in effect for.
- How tipped employees are treated under the hourly minimum wage.
- Any circumstances under which employers are allowed to pay rates below the minimum wage (for example, obtaining a permit from the appropriate state agency for workers with disabilities, in vocational programs, or students), and any requirements for doing so (for example, obtaining a permit).

South Carolina has no state minimum wage law. However, employers in South Carolina must comply with federal law. For more information on the minimum wage law under the federal Fair Labor Standards Act, see [Practice Note, Wage and Hour Law: Overview](#).

## Compensable Time

### 5. Please state whether the following categories of time are generally compensable, and if so, under what circumstances:

- Donning and doffing protective gear, clothing, or uniforms.
- Participating in security checks.
- Checking e-mail, voicemail, or assignments from home.
- Attending lectures, meetings, or training programs.
- Traveling to and from work and traveling for work.
- Taking breaks and meal periods.
- Preparatory time (for example, oiling machinery before its use).
- Waiting time (also called "on-call" or "stand-by" time).

South Carolina does not have any statutes or case law addressing compensable time under state law. Employers in South Carolina are subject to federal standards regarding compensable time. For more information on compensable time under the federal Fair Labor Standards Act, see [Practice Note, Compensable Time Under the FLSA: Overview](#).

### Child Labor Laws

#### 6. Please describe any child labor laws in your jurisdiction, including any:

- Minimum working age.
- Limits on hours that may be worked by minors.
- Permits or certificates required to employ minors.

#### Minimum Working Age

South Carolina employers generally may not employ minors under 16 years old (S.C. Code Ann. Reg. 71-3103). Certain exceptions are allowed, for example:

- Minors under 16 years old may work in show business, such as acting or performing in:
  - theater;
  - television;
  - radio; or
  - film.

(S.C. Code Ann. Reg. 71-3105(d).)

- Minors 14 years old or older may work in agricultural jobs during non-school sessions. Minors 12 and 13 years old may work in agricultural jobs with parental consent during non-school sessions (S.C. Code Ann. Reg. 71-3105(b)).
- Minors of any age may:
  - be employed by their own parent or someone standing in a parent's place, except in those occupations found by the [South Carolina Department of Labor, Licensing, and Regulation](#) (LLR) to be particularly hazardous or detrimental to health or well-being; or
  - deliver newspapers.

(S.C. Code Ann. Reg. 71-3105(c), (e).)

Employers may not engage in oppressive child labor practices (S.C. Code Ann. § 41-13-20). Oppressive child labor is a condition of employment:

- An employee under 16 years old is employed by an employer in any occupation, except that parents or guardians may employ their own children in an occupation other than manufacturing, mining, or any occupation the LLR finds particularly hazardous.
- A 16- or 17-year-old employee is employed in an occupation LLR finds particularly hazardous occupation.

(S.C. Code Ann. Reg. 71-3102(1).)

#### Limits on Hours

##### 14- and 15-Year-Olds

Minors 14 and 15 years old:

- May only work:
  - outside school hours; and
  - between 7:00 a.m. and 7:00 p.m. in any one day, or until 9p.m. during summer break.
- May **not** work more than:
  - 40 hours in any one week when school is not in session;
  - 18 hours in any one week when school is in session;
  - 8 hours in any one day when school is not in session; and
  - 3 hours in any one day when school is in session.

(S.C. Code Ann. Reg. 71-3106(b).)

Minors 14 and 15 years old may not engage in certain activities, including:

- Manufacturing, mining, and processing.
- Warehousing and storage, except office and clerical work.
- Operating or helping to operate motor vehicles.
- Work involving:
  - the use of ladders or scaffolding; or
  - certain kinds of food preparation, cooking, and baking.
- Use of grinders.
- Operating or tending hoisting apparatus of power-driven machinery, except office machines.
- Any occupation deemed hazardous under the Fair Labor Standards Act (FLSA) (see 16- and 17-Year-Olds).

(S.C. Code Ann. Reg. 71-3106(d).)

### 16- and 17-Year-Olds

Minors 16 years old and older are exempt from the hour and schedule restrictions for 14- and 15-year-olds and may work as many hours as requested by the employer (see 14- and 15-Year-Olds). Unless otherwise prohibited, minors aged 16 and older may engage in any occupation the FLSA does not deem hazardous (S.C. Code Ann. Reg. 71-3107).

South Carolina adopted the following hazardous occupations orders that the FLSA recognizes:

- Manufacturing or storing explosives.
- Driving a motor vehicle and being an outside helper, except incidental and occasional driving and school bus driving.
- Logging and sawmilling.
- Operating power-driven:
  - woodworking machines;
  - hoisting apparatuses;
  - metal-forming, punching, and shearing machines;
  - bakery machines;
  - paper products machines; and
  - circular saws.
- Exposure to radioactive substances and ionizing radiations.
- Mining, other than coal mining.
- Meat packing or processing.
- Manufacturing brick, tile, and related products.
- Wrecking, demolition, and ship-breaking operations.
- Roofing operations.
- Excavation operations.

(S.C. Code Ann. Reg. 71-3107.)

South Carolina statutes include detailed restrictions on particular activities that are prohibited for minors of various ages. This Q&A provides only a general outline of those restrictions. They are specified in S.C. Code Ann. Reg. §§ 71-3105 to 71-3108.

### Required Permits or Certificates

There are no required permits or certificates under South Carolina's child labor law.

## Wage Payment Requirements

### 7. Please state whether:

- The law prescribes a regular pay period, and, if so, what that pay period is.
- The law prescribes a maximum time following a pay period that payment must be received, and, if so, what that time is.
- The law prescribes a maximum time following termination that a final pay check must be received, and, if so, what that time is.
- The law prescribes that accrued and unused vacation time is a type of compensation, and if an employer chooses to provide vacation, how it is to be administered, including how much can be carried over from year to year.
- The law prescribes penalties for failure to comply, and, if so, what those penalties are.

### Regular Pay Period

The South Carolina Payment of Wages Act does not specify a regular pay period. However, an employer must notify the employee in writing at the time of hire of both:

- The time and place of payment for the agreed-on wages.
- The deductions that will be made from the wages.

(S.C. Code Ann. § 41-10-30(A).)

### Payment Following Pay Period

The South Carolina Payment of Wages Act does not specify when an employer must pay an employee after a pay period ends.

### Payment Following Termination

On voluntary or involuntary termination, an employer must pay the employee all compensation due within either:

- 48 hours of the termination.
- At the next regularly scheduled payday, which cannot exceed 30 days from the date of termination.

(S.C. Code Ann. § 41-10-50.)

The Payment of Post-Termination Claims to Sales Representatives Act requires a principal to pay the sales representative all compensation due according to the

terms of the contract on termination. The statute does not specify a deadline. (S.C. Code Ann. § 39-65-20; see Question 1: Payment of Post-Termination Claims to Sales Representatives Act.)

### Vacation

On termination, an employer must pay a departing employee for any accrued vacation, holiday, or sick leave unless the employer has a policy or contract specifying otherwise (S.C. Code Ann. §§ 41-10-10(2) and 41-10-50).

The employer's policy can differentiate between voluntary and involuntary terminations and whether the employee must provide previous notice to the employer of the departure. The statute does not:

- Require that an employer provide paid vacation, holiday, or sick leave.
- Specify how an employer must administer its vacation policy.
- Limit the accrual or carrying forward of vacation, holiday, or sick leave.

An employer that decides to provide paid vacation, holiday, or sick leave must give notice of the policy to employees ([South Carolina Department of Labor, Licensing, and Regulation \(LLR\): Frequently Asked Questions](#)). Employers routinely address these issues in payroll policies.

### Penalties

The LLR enforces the Payment of Wages Act through civil penalties of up to \$100 for each violation of:

- The notice and recordkeeping requirements under S.C. Code Ann. § 41-10-30.
- The payment provisions under S.C. Code Ann. § 41-10-40.

(S.C. Code Ann. § 41-10-80(A), (B).)

Employees may file suit to enforce their rights under the Payment of Wages Act and recover:

- Treble damages.
- Costs.
- Reasonable attorneys' fees.

(S.C. Code Ann. § 41-10-80(C).)

The Payment of Post-Termination Claims to Sales Representatives Act does not specify an administering agency. Sales representatives may file suit and may be entitled to:

- All commissions due under the agreement.
- Punitive damages not to exceed three times the amount of commission due.
- Attorneys' fees.
- Costs.

(S.C. Code Ann. § 39-65-30.)

## Timekeeping Requirements

### 8. Does the law require employees or employers to record employees' working time using a specific method? Please describe.

South Carolina does not prescribe any particular method of recording an employee's working time. Employers must:

- Maintain accurate wage records with the names and addresses of all employees for three years.
- Provide an itemized statement showing each employee's gross pay and deductions from wages for each pay period.

(S.C. Code Ann. § 41-10-30(B), (C).)

## Deductions from Pay

### 9. Please describe any circumstances under which a deduction from wages can be made. Please also describe any deductions that could place an employee's exemption from overtime or minimum wage requirements at risk, and under what circumstances.

South Carolina employers may not deduct any portion of an employee's wages unless the deduction is required or permitted by state or federal law. Employers must notify employees in writing of any deductions to be made from wages at least seven calendar days before the deductions become effective (S.C. Code Ann. § 41-10-30(A)). These deductions can include:

- Tax withholding.
- Insurance premiums to be paid.
- Repayment of debts to the employer.
- Other agreed on deductions.

South Carolina law does not address any deductions that might affect an employee's exemption from overtime or minimum wage requirements.

### Callback/Report-in Pay

#### 10. Please describe any callback and report-in pay requirements.

South Carolina does not have any laws governing callback and report-in pay.

### Notice to Employees

#### 11. For each wage and hour law, what obligations does an employer have to inform its employees of their rights?

#### Payment of Wages Act: S.C. Code Ann. §§ 41-10-10 to 41-10-110

Every South Carolina employer must notify each employee, in writing, at the time of hire of:

- Agreed-on wages.
- Normal hours of work.
- Time and place of payment.
- Deductions made from any paycheck, including payments to insurance programs.

(S.C. Code Ann. § 41-10-30(A).)

#### Payment of Post-Termination to Sales Representatives Act: S.C. Code Ann. §§ 39-65-10 to 39-65-80

This statute has no notice requirements.

#### Child Labor Law: S.C. Code Ann. §§ 41-13-5 to 41-13-60

This statute has no notice requirements.

#### The South Carolina Human Affairs Law: S.C. Code Ann. §§ 1-13-10 to 1-13-110

An employer must both:

- Provide written notice of the employee's right to be free from discrimination for medical needs arising from:

- pregnancy;
- childbirth; or
- related medical conditions.
- Conspicuously post the notice at the employer's place of business in an area accessible to all employees.

(S.C. Code Ann. § 1-13-80(A)(4)(a)(i), (ii).)

### Consequences for Violation

#### 12. For each wage and hour law listed in response to Question 1, what are possible consequences for employers who violate the law?

#### Payment of Wages Act: S.C. Code Ann. §§ 41-10-10 to 41-10-110

South Carolina employers who violate the Payment of Wages Act may be fined up to \$100 for each violation of:

- The notice and recordkeeping requirements under S.C. Code Ann. § 41-10-30.
- The payment provisions under S.C. Code Ann. § 41-10-40.

(S.C. Code Ann. § 41-10-80(A), (B).)

Employees may file suit to enforce their rights under the Payment of Wages Act and may recover:

- Treble damages.
- Costs.
- Reasonable attorneys' fees.

(S.C. Code Ann. § 41-10-80(C).)

#### Payment of Post-Termination to Sales Representatives Act: S.C. Code Ann. §§ 39-65-10 to 39-65-80

Sales representatives may file suit to enforce their rights and may be entitled to:

- All commissions due under the agreement.
- Punitive damages not to exceed three times the amount of commission due.
- Attorneys' fees.
- Costs.

(S.C. Code Ann. § 39-65-30.)



### **Child Labor Law: S.C. Code Ann. §§ 41-13-5 to 41-13-60**

Violations of child labor provisions can result in:

- A written warning for a first offense.
- Fines of up to:
  - \$1,000 for a first offense; or
  - \$5,000 for a subsequent offense.

(S.C. Code Ann. § 41-13-25(A).)

### **The South Carolina Human Affairs Law: S.C. Code Ann. §§ 1-13-10 to 1-13-110**

An employer that has intentionally violated the statute may be subject to:

- An injunction.
- An order requiring the employer to engage in affirmative action, including reinstatement with back pay.

(S.C. Code Ann. § 1-13-90(d)(9).)

An employer is only required to pay back pay for up to two years before when the employee filed the complaint with the [South Carolina Human Affairs Commission](#) (S.C. Code Ann. § 1-13-90(d)(9)).

## Recordkeeping

### **13. What are the recordkeeping obligations for each wage and hour law listed in response to Question 1?**

#### **Payment of Wages Act: S.C. Code Ann. §§ 41-10-10 to 41-10-110**

A South Carolina employer must maintain for three years records of:

- The names and addresses of all employees.
- The wages paid each payday and deductions made.

(S.C. Code Ann. § 41-10-30(B).)

Each employer must maintain the following information for five years:

- The beginning and ending date of each pay period.
- The largest number of workers in employment during each calendar week of each pay period.

- For each employed individual during each pay period:
  - the individual's name and Social Security number;
  - number of hours worked each week, if less than full time;
  - monetary wages paid for employment;
  - reasonable cash value of remuneration the employer paid in any medium other than cash;
  - date of hire, rehire, or return to work after temporary layoff, including the date and reason the individual was separated from employment; and
  - time lost, if any, due to the employee's unavailability for work.

(S.C. Code Ann. Reg. 47-14.)

#### **Payment of Post-Termination to Sales Representatives Act: S.C. Code Ann. §§ 39-65-10 to 39-65-80**

This statute has no recordkeeping requirements.

#### **Child Labor Law: S.C. Code Ann. §§ 41-13-5 to 41-13-60**

This statute has no recordkeeping requirements.

#### **The South Carolina Human Affairs Law: S.C. Code Ann. §§ 1-13-10 to 1-13-110**

This statute has no recordkeeping requirements.

## Pay Disclosure Requirements

### **14. Is there a pay transparency or disclosure requirement in your state, including any major local requirements?**

There are no state or major local pay transparency or disclosure requirements in South Carolina.

## State Government Contracts

### **15. Are state government contracts subject to additional wage and hour requirements? If so, please describe the governing law and its requirements.**



South Carolina has no general laws relating to the payment of wages to employees working on state contracts.

### Other Significant Differences

**16. Please describe any other significant differences between wage and hour law in your state and federal wage and hour law.**

There are no other significant differences between South Carolina wage and hour law and federal wage and hour law.

### Often Used Wage and Hour Forms

**17. Please insert web links to any wage and hour forms from your state's administrative entity administering wage and hour laws that employers often use.**

The [South Carolina Department of Labor, Licensing, and Regulation](#) provides frequently used wage and hour forms on its website.

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