

EMPLOYMENT LAW SUMMARY

California Overtime Pay Exceptions



Federal overtime wage payment requirements are governed by the Fair Labor Standards Act (FLSA). California law also regulates certain provisions of overtime wage payment. Under both federal and state laws, employees must receive overtime wage rates for any overtime work performed.

The [Division of Labor Standards Enforcement](#) (DLSE), part of the California Department of Industrial Relations (DIR), enforces overtime standards throughout the state.

Overtime Pay

The table below summarizes the main provisions of California's overtime wage payment requirements.

Overtime Rate	Hours of Work
1.5 times the regular wage rate	More than 40 during a workweek (45 for domestic work employee)
	More than 8 during a workday (more than 9 for domestic work employee)
	More than 8 during 7th workday
Twice the regular wage rate	More than 12 during workday
	More than 8 during 7th workday

An employee's regular wage rate is the actual rate of pay he or she receives for a standard, non-overtime workweek. An employee's regular rate can vary from week to week and may be different from the employee's contractual rate of pay.

An employee's regular rate for a specific work period is calculated by dividing the employee's **total wages** for a workweek by the **number of hours the employee worked** during that period. "Total wages" generally includes the employee's hourly rate, shift differential, non-discretionary bonuses, production bonuses and commissions. Reimbursements for business expenses, bona fide gifts, discretionary bonuses, employer-investment contributions and payment for non-working hours (pay for vacation, sick leave or jury duty) are not included.

Overtime Exemptions

California also recognizes a fair number of exemptions to the state's overtime laws. The DIR has published the following chart as an overview of overtime wage exemptions under the state's Industrial Welfare Commission (IWC) wage orders.

IWC
Order

Affected Employees

Exemption
Under IWC
Order

IWC Order	Affected Employees	Exemption Under IWC Order
All orders, Section 1	Executive , administrative and professional employees	Sections 3 through 12 of the orders (3 through 11 for Order 16-2001) do not apply.
All orders, Section 1, except Orders 14 and 16	Employees in the computer software field who are paid on an hourly basis and meet all of the other requirements set forth in the Orders.	Exempt from orders (under " Professional " employee classification).
All orders, Section 1, except Orders 14 and 15	Employees directly employed by the state or any political subdivision thereof, including any city, county or special district.	Exempt from orders, except Sections 1, 2, 4, 10 and 20.
All orders by operation of law (see Labor Code Section 1171)	Outside salespersons	Exempt from orders
All orders, Section 1	Any individual who is the parent, spouse, child or legally adopted child of the employer.	Exempt from orders
All orders	Any individual participating in a national service program, such as AmeriCorps.	Exempt from orders
All orders, except Orders 11, 12, 15, and 16	Drivers whose hours are regulated by the U.S. Department of Transportation Code of Federal Regulation, Title 49, Sections 395.1 to 395.13, Hours of Service of Drivers	Exempt from overtime provisions
All orders, except Orders 11, 12, 15, and 16	Drivers whose hours are regulated by Title 13 of the California Code of Regulations, subchapter 6.5, section 1200 et seq.	Exempt from overtime provisions
All orders	Employees covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work and working conditions, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30% more than the state minimum wage.	Exempt from overtime provisions
Orders 4 and 7	Employees (except minors) whose earnings exceed one and one-half times the minimum wage and more than half their compensation represents commissions.	Exempt from overtime provisions
Order 5	Student nurses in a school accredited by the California Board of Registered Nursing or by the Board of Vocational Nurse and Psychiatric Technician Examiners.	Exempt from Order 5, except Sections 1, 2, 4, 10, and 20.
Order 9	Employees who have entered into a collective bargaining agreement under the Railway Labor Act .	Exempt from Order 9, except Sections 4, 10, 11, 12, 20, and 22
Order 9	Taxicab drivers	Exempt from overtime provisions

IWC Order	Affected Employees	Exemption Under IWC Order
Order 9	Airline employees who work over 40 but not more than 60 hours during the workweek due to a temporary modification in their normal work schedule not required by the employer and arranged at the request of the employee	Exempt from overtime provisions
Order 10	Full-time carnival ride operators employed by a traveling carnival	Exempt from Order 10, except Sections 1, 2, 4, 10, and 20
Order 10	Crew members employed on a commercial fishing boat (Fish and Game Code Section 7920 et seq.)	Exempt from overtime provisions
Orders 10, 11, and 12	Professional actors	Exempt from Order 10, except Sections 1, 2, 4, 10, and 20
Order 10	Employees whose duties are exclusively those of a motion picture projectionist	Exempt from overtime provisions
Order 11	An announcer, news editor or chief engineer employed by a radio or television station in a city or town with a population of 25,000 or less	Exempt from overtime provisions
Order 14	Any employee who is engaged in work that is primarily intellectual, managerial or creative, and which requires exercise of discretion and independent judgment, and for which the remuneration is not less than two times the monthly state minimum wage for full-time employment. Note: This exemption in Wage Order 14 would have to be harmonized with Labor Code section 515(a) for overtime purposes.	Exempt from order
Order 15	Personal attendants not covered under the Domestic Worker Bill of Rights	Exempt from order, except Sections 1, 2, 4, 10, and 15
Order 15	Any person under the age of 18 who is employed as a babysitter for a minor child of the employer in the employer's home.	Exempt from order

Source: [California Department of Industrial Relations](#) (Feb. 2019)