

VIRGINIA

Virginia Aligns Overtime Pay Laws with FLSA

On April 11, 2022, Virginia [amended](#) its overtime wage laws to follow federal overtime pay provisions set by the federal Fair Labor Standards Act (FLSA). The amendments become effective July 1, 2022.

Background

Virginia adopted the [Virginia Overtime Wage Act](#) (VOWA) on March 31, 2021. The VOWA became effective on July 1, 2021. Like the FLSA, the VOWA requires employers to compensate their nonexempt employees for overtime work at a rate of 1.5 times the employees' regular wage rates. However, some VOWA requirements varied from FLSA overtime standards.

The new amendments align the VOWA with FLSA overtime pay provisions. Beginning July 1, Virginia employers will need to follow FLSA overtime pay requirements and exemptions, including:

- Regular wage rate calculations;
- Use of the [fluctuating workweek](#) method for overtime compensation;
- All exemptions available under FLSA ([29 U.S.C. § 207](#), [§ 213\(a\)](#) and [\(b\)](#)), except the exemption under [29 U.S.C. § 213\(b\)\(3\)](#) as applied to derivative carriers); and
- All relevant FLSA interpretations and guidance.

Remaining VOWA Provisions

In spite of the amendments, the VOWA still allows employees in Virginia to file individual or collective action claims for unpaid wages and overtime in state courts in addition to a right of action under the FLSA. As a result, employers may be liable for penalties under both the FLSA and the VOWA.

The VOWA also extends the period for filing a claim for unpaid wages to three years (two years under the FLSA).

Important Dates

April 11, 2022

Virginia adopted amendment to align state overtime pay with the FLSA.

July 1, 2022

Effective date for alignment of state and federal overtime provisions.

Beginning July 1, Virginia employers will need to follow FLSA overtime pay requirements and exemptions.

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