

These guides and the information contained within do not constitute or are intended as legal advice. Please consult a licensed private attorney for specific help with your case.

A GUIDE FOR RESTAURANT WORKERS

Whether you are a documented or undocumented worker in Oregon, you have rights protected by state law, which will guarantee the payment of wages for work performed.

These are some of the rights that protect your working conditions:

- 1. The right to be paid minimum wage.** You must be paid no less than the minimum wage of \$9.25 per hour, regardless of whether your payment is measured by time, price per part, commission, or other method of calculation. Payment periods can be established as weekly, bi-weekly or monthly, but may not exceed 35 days. Tips cannot be used as payment to meet the minimum wage.

The employees serving customers have the right to receive any part of the payment of tips from customers. However, it is possible that your employer will require you to make an arrangement for the distribution of tips to be shared among waiters, bus boys, and bar tenders.

- 2. The right to a rest period of 10 minutes.** You should be allowed to take a rest period of 10 minutes for every four hours worked. This break period can be more than ten minutes but not less than ten minutes. If your employer does not give you a rest period, your employer has to pay an extra hour of pay at your regular rate for each workday that the rest period was not allowed.
- 3. The right to a meal break.** You have the right to take at least 30 minutes to have a meal if you work more than five hours. You will have to be free of all labor obligations during this meal period. Every workday during which you were not provided a meal period, or that you performed work during your lunch period, your employer must pay you an additional hour at your regular rate of pay. You have the right to a clean area to eat and rest.
- 4. The right to file a claim for workers' compensation if you are injured at work.** To request a fact sheet, information and assistance to file a claim for workers' compensation, call 1-800-927-1271 (toll free in Oregon). You have the right to process your claim of compensation for workers, and you are protected by law from wrongful termination by your employer.
- 5. The right to be provided all the tools and supplies (equipment) necessary to perform your job.** The employer must provide and maintain the tools, supplies (equipment) and uniforms that you need without cost to you. If you earn twice the minimum wage, it is possible that you will be asked to provide and maintain the hand tools required to do your job (for example, chef knives and utensils for cooking). Your employer is required to provide regular training on the health and safety in the workplace. If you are required to use your own vehicle for responsibilities related to your work, or refill gasoline for a company vehicle, your employer is required to reimburse these expenses, and compensate you for the travel time.

Texto adaptado de: "En California los Trabajadores de Restaurantes Tienen Derechos" publicado por la división para el Cumplimiento de Normas Laborales de California (DLSE).

6. **The right to a pay stub or declaration of wages each time you get paid.** Regardless of whether you are paid by check, in cash or otherwise, you must receive a pay stub or a written statement of wages indicating among other things: the name, address and telephone number of your employer; your name and your social security number; gross wages earned; all deductions; and the dates for pay period you are getting paid for. You are entitled to a regularly-scheduled payday, and your employer must comply with the established payday. Your employer also has the legal obligation to keep records about you, your hours of work, and pay rate.
7. **The right to receiving all wages at the latest by the end of the next day, or within five days of you leaving work voluntarily.** If you are fired, your employer has to pay you your final wages at the latest by the end of the next working day. If you gave 48 hours notice or more in advance, the wages must be paid on your last workday. If you gave fewer than 48 hours' notice, the wages must be paid within five days, excluding Saturdays, Sundays and Federal holidays or in the next pay day, whichever comes first. If your employer doesn't pay you, he could be penalized, and be forced to pay you the equivalent of a day's wage for every day he delays in paying your wages (up to a maximum of 30 days).
8. **The right to submit a wage claim or a complaint of discrimination, regardless of your immigration status, and without fear of retaliation by your employer.** You have the right to deal with your claim of wages, attend hearings to recover wages that you have not been paid and to investigate complaints of retaliation. You can talk about labor issues with [BOLI](#) or with your employer, under the protection of the law, and your employer cannot dismiss you, demote you, suspend or discipline you in any way because of this reason. You can file a complaint with BOLI so that you can be reinstated to work, be given full late payment and apply any other appropriate remedy, if they believe that you were fired due to your involvement in such activity.

IMPORTANT TO NOTE: KEEP YOUR OWN TIME RECORDS. Each day, record the time you start and end work. Also note the time in which you take your breaks, and lunch time. Write down the total number of hours worked, and register your rate per hour.

9. **The right to be paid overtime.** If you are an hourly employee (non-exempt), you have the right to receive overtime (at 1.5 times your regular hourly rate) for all hours worked in excess of 40 hours per week. For example, if you earn \$10/hour and you work 50 hours one week, you should be paid:
 \$10/hr x 40 hrs = \$400 for regular time
 \$15/hr x 10 hrs = \$150 for overtime (\$10 x 1.5 = \$15)
 Total: \$550