

State and Federal Disability Laws

In Brief

COVERED EMPLOYERS AND ORGANIZATIONS

- Private sector employers with six or more employees
- Public agencies
- Labor organizations

EXCLUDED EMPLOYERS

- Tax-exempt private membership clubs

MAJOR PROVISIONS

- Employers may not discriminate against qualified individuals with disabilities.
- Employers must make a reasonable accommodations-

ENFORCEMENT AGENCIES

Massachusetts Commission Against Discrimination (MCAD)

www.state.ma.us/mcad

1 Ashburton Place, Rm. 601 Boston, MA 02108 617-994-6000	436 Dwight St., Rm.220 Springfield MA 01103 413-739-2145	455 Main St., Rm. 100 Worcester, MA 01608 508-799-8010
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The Equal Employment Opportunity Commission (EEOC)

www.eeoc.gov

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
800-669-4000

PENALTIES: employers may be ordered to:

- Stop discriminatory practices
- Hire, promote, or restore employment
- Make reasonable accommodations
- Pay back wages and related benefits
- Pay damages for emotional pain
- Pay punitive damages
- Pay employee legal fees and litigation costs

ADDITIONAL INFORMATION

- Complaints must be filed with the MCAD or the EEOC 300 days of a violation.
- Employers may not discharge or punish employees who request accommodations, file complaints, or sue in court.

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The Family and Medical Leave Act

In Brief

COVERED

- Private workplaces with 50 or more employees
- Public agencies

MAJOR PROVISIONS

- Eligible employees may take time off from work (leave) for up to twelve weeks a year:
 - If unable to work due to a serious health condition
 - To care for family members with serious health conditions
 - For childbirth or to bond with newborn, adapted, or foster children
- Military families have additional rights:
 - to leave of a spouse, child or parent serving in the armed forces;
 - and up to twenty-six weeks if employee needed to care for a family member who suffers a service-related injury.

ENFORCEMENT AGENCY

Wage & Hour Division of U.S. Dep't of Labor

www.dol.gov/esa/whd/

JFK Federal Building, Room 525
Boston, MA 02203
617-624-6700

17 Broadway, Room 308
Taunton, MA 02780
508-821-9106

1441 Main St, Room 420
Springfield, MA 01103
413-785-0354

PENALTIES

- An employer may be ordered to:
- Allow time off
- Provide reinstatement and back pay to employees discharged or refused reinstatement because of protected absences
- Promote an employee who has been denied advancement because of FMLA absences

ADDITIONAL INFORMATION

- Employers must continue medical insurance during FMLA leaves on the same basis as when employees were working,
- Employers may not penalize employees for taking FMLA time off
- Employers must post notices explaining FMLA benefits.

The Massachusetts Public Employee Collective Bargaining Law (Chapter 150E)

In Brief

COVERED

- State and local government agencies
- Public educational institutions
- Housing authorities

MAJOR PROVISIONS

- Similar to NLRA except that employers may not strike or take part in work stoppages

ENFORCEMENT AGENCY

Massachusetts Division of Labor Relations (DLR)

www.mass.gov/dlr

19 Staniford Street, 1st floor
Boston, MA 02114
Boston: 617-626-7132
Springfield: 413-784-1230

REMEDIES

- Similar to NLRA

Federal and State Minimum Wage Laws

In Brief

COVERED EMPLOYEES

- Full and part-time workers, including casual and seasonal workers

EXCLUDED

- Professional, outside sales persons, participants in certain training and rehabilitation programs, inmates working in prison
- Independent contractors

MAJOR PROVISIONS

- Private sector employers must pay employees – including part-timers and teenagers – at least \$8.00 per hour
- Public agencies must pay employees at least \$6.55 as of July 24, 2008 and \$7.25 per hour as of July 24, 2009.
- Tipped employees must be paid at least \$2.63 per hour

ENFORCEMENT AGENCIES

Fair Labor Division of the Massachusetts Attorney General

www.ago.state.ma.us (Click Wage and Hour)

100 Cambridge St., 12th floor
Boston, MA 02108
617-727-3465

105 William St.
New Bedford, MA 02740
508- 990-9700

1350 Main St.4th floor
Springfield, MA 01103
413-784-1128

1 Exchange Place
Worcester, MA 01608
508- 792-7600

Wage & Hour Division of U.S. Dep't of Labor

www.dol.gov/esa/whd/

JFK Federal Building, Room 525
Boston, MA 02203
617-624-6700

17 Broadway, Room 308
Taunton, MA 02780
508-821-9106

1441 Main St, Room 420
Springfield, MA 01103
413-785-0354

PENALTIES

An employer may be ordered to:

- Pay triple unpaid wages plus interest
- Reimburse employees for legal fees and court costs
- Pay a fine of up to \$50,000
- Serve a jail sentence of up to two years

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The National Labor Relations Act

In Brief

COVERED EMPLOYERS

- Private sector employers
- U.S. Postal Service

EXCLUDED EMPLOYERS

- Railroads and airline
- Businesses with yearly revenue less than \$500,000
- Race and dog tracks
- Parochial schools

EXCLUDED EMPLOYEES

- Agricultural laborers
- Domestic service employees
- Supervisors
- Persons employed by a parent or spouse

MAJOR PROVISIONS

- Employees may engage in concerted activity to improve their wages and working conditions, including soliciting, petitioning, leafleting, signing unions cards, picketing, and striking.
- Unions may petition the National Labor Relations Board (NLRB) to hold an election to certify whether employees want a bargaining representative.
- An employer must bargain in good faith with a union about all matters relating to employment

ENFORCEMENT AGENCY

National Labor Relations Board (NLRB)

www.nlr.gov

Thomas P. O'Neil Federal Building
10 Causeway St., Suite 601
Boston, MA 02222
617-565-6700

REMEDIES

Violations of the NLRA are called *unfair labor practices*. After a hearing, the NLRB can order an employer to:

- Stop violating worker or union rights
- Reinstatement of an employee fired for unlawful reasons (with back pay and benefits)
Reverse any other action taken against a worker because the worker engaged in activities protected by the NLRA
- Recognize and bargain in good faith with the union

OTHER INFORMATION

- NLRB charges must be filed within six months of an unfair labor practice

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The Massachusetts Fair Employment Practices Act and Title VII

In Brief

COVERED EMPLOYERS, ORGANIZATION, AND AGENCIES

- Private workplaces with six or more employees
- Public agencies
- Employment agencies
- Labor organizations

NOT COVERED

- Tax-exempt private membership clubs

MAJOR PROVISIONS

- Employers may not discriminate against job applicants or employees on the basis of race, color, sex, religious creed, national origin, age 40 or over, ancestry, handicap, sexual orientation, genetic background, or military service.
- Hiring or promotion policies that screen out a disproportionate percentage of minorities or women must be justified by a business necessity.

ENFORCEMENT AGENCIES

Massachusetts Commission Against Discrimination (MCAD)

www.state.ma.us/mcad

1 Ashburton Place, Rm. 601
Boston, MA 02108
617-994-6000

436 Dwight St., Rm.220
Springfield MA 01103
413-739-2145

455 Main St., Rm. 100
Worcester, MA 01608
508-799-8010

The Equal Employment Opportunity Commission (EEOC)

www.eeoc.gov

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
800-669-4000

PENALTIES

Employers may be ordered to:

- Cease discriminatory practices
- Hire, promote, or restore employment
- Pay back wages and benefits
- Compensate for emotional distress
- Pay punitive damages
- Pay fines of up to \$25,000
- Pay an employee's legal fees and litigation expenses

ADDITIONAL INFORMATION

- Employees must file MCAD or EEOC claims within three hundred days of the last incident of discrimination.
- Employers may not discharge or otherwise punish employees for opposing discriminatory practices, complaining to management, or taking legal action.

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The Occupational Safety and Health Act

In Brief

COVERED EMPLOYERS

- Private sector employers workplaces
- U.S. Postal Service
- Federal agencies (through executive order)

MAJOR PROVISIONS

Employers must:

- Furnish workplaces free from recognized hazards
- Comply with health and safety standards

PENALTIES

An employer can be ordered to:

- Pay up to \$7,000 per violation (up to \$70,000 for a willful or repeat violation)
- Eliminate health hazards or pay up to \$7,000 per day
- Shut down an operation that is creating an imminent danger

ADDITIONAL INFORMATION

- Employer may not punish employees who complain about safety hazards or file an OSHA complaints
- For life-threatening situations, call (800)321-OSHA

ENFORCEMENT AGENCY

Occupational Safety and Health Administration (OSHA)

www.osha.gov

North Boston Area Office
Valley Office Park
13 Branch St.
Methuen, MA 01844
617-565-8110

South Boston Area Office
639 Granite St.
Fourth Floor
Braintree, MA 02184
617-565-6924

Springfield Area Office
1441 Main St, Room 550
Springfield, MA 01103
413-785-0123

The Massachusetts Worker Compensation Act

In Brief

COVERED EMPLOYEES

- Private sector workers
- Government workers

EXCLUDED

- Police officer and firefighters
- Longshore, harbor, and shipyard workers
- Maritime and railroad workers
- Household employees employed for fewer than 16 hours per week
- Independent contractors

MAJOR PROVISIONS

- Employers must purchase workers' compensation insurance or qualify as a self-insurer
- Insurers must pay benefits to injured workers.
- Employers and supervisors are given immunity from negligence lawsuits
- Weekly benefits for temporary total disability are set at 60 percent of average weekly gross wages up to a maximum rate

ENFORCEMENT AGENCY

Massachusetts Department of Industrial Accidents (DIA)

www.mass.gov/dia

600 Washington St. 7th floor
Boston, MA 02111
617-727-4900

1 Father Devalles Blvd.
Fall River, MA 02723
508-676-3406

160 Winthrop Ave.
Lawrence, MA 01843
978-683-6420

436 Dwight St.
Springfield, MA 01103
413-784-1133

340 Main St., Suite 370
Worcester, MA 01608
508-753-2072

ADDITIONAL INFORMATION

- Employers must post notices listing the names and addresses of insurance carriers
- Claims must be filed at the DIA within four years of a known injury
- Employers may not punish employees who file claims or testify in DIA proceedings
- An employer who fails to obtain compensation coverage can be fined up to \$1,500 and imprisoned for up to one year

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

Federal and State Overtime Laws

In Brief

COVERED EMPLOYEES

- Private sector workers
- Government workers

EXCLUDED

- Executive, administrative, professional, and outside sales employees
- Employees of seasonal (fewer than 121 days/year) businesses holding federal and state exemption permits
- Seafarers, fishers, and agricultural workers
- Railway and air carrier workers
- Drivers of commercial motor vehicles engaged in interstate commerce and their helpers
- Independent contractors

MAJOR PROVISIONS

- Employees must be paid 1.5 times their regular rates for hours worked in excess of forty in a workweek

ENFORCEMENT AGENCIES

Wage & Hour Division of U.S. Dep't of Labor

www.dol.gov/esa/whd/

JFK Federal Building, Room 525
Boston, MA 02203
617-624-6700

17 Broadway, Room 308
Taunton, MA 02780
508-821-9106

1441 Main St, Room 420
Springfield, MA 01103
413-785-0354

Fair Labor Division of the Massachusetts Attorney General

www.ago.state.ma.us (Click Wage and Hour)

100 Cambridge St., 12th floor
Boston, MA 02108
617-727-3465

105 William St.
New Bedford, MA 02740
508- 990-9700

1350 Main St.4th floor
Springfield, MA 01103
413-784-1128

1 Exchange Place
Worcester, MA 01608
508- 792-7600

PENALTIES: An employer may be ordered to:

- Pay triple back overtime wages plus interest
- Pay employee legal fees and court costs
- Pay a fine of up to \$50,000
- Serve a jail sentence of up to two years

ADDITIONAL INFORMATION

- Employers may not retaliate against employees who complains about overtime violations, file complaints, or sue in court.
- Employers must retain records of daily and weekly hours worked for at least two years and allow inspections by employees at reasonable times and places.

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The Small Necessities Leave Act

In Brief

COVERED

- Private workplaces with more than 50 employees
- Public employees

MAJOR PROVISIONS

Allow employees eligible for FMLA leave to take up to 24 hours unpaid time off every twelve months to:

- Participate in children's school activities that relate to the "educational advancement" of the child
- Accompany children or elderly relatives to routine medical and dental appointments
- Accompany an elderly relatives to appointments for professional services
- Leave can be taken intermittently

ENFORCEMENT AGENCY

Fair Labor Division of the Massachusetts Attorney General

www.ago.state.ma.us (Click Wage and Hour)

100 Cambridge St., 12th floor
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617-727-3465

105 William St.
New Bedford, MA 02740
508- 990-9700

1350 Main St.4th floor
Springfield, MA 01103
413-784-1128

1 Exchange Place
Worcester, MA 01608
508- 792-7600

REMEDIES FOR VIOLATIONS

A court may order an employer to:

- Obey the law
- Reinstatement an employee with triple back pay
- Pay an employee's legal fees and litigation expenses
- Pay a \$500 fine

OTHER INFORMATION

- Retaliation against an employee for using SNLA time off is illegal
- The statute of limitations for a SNLA lawsuit is three years

The Massachusetts Maternity Leave Act

In Brief

COVERED

- Public and private workplaces of 6 or more employees
- Full-time employees who have completed their probationary period or worked full-time for three consecutive months

MAJOR PROVISIONS

- Allows full-time employees, male or female, to take eight weeks of unpaid leave before or after the birth or adoption of a child.
- Employees have a right to return to their original positions, or an equally paid position with similar duties and working conditions

ENFORCEMENT AGENCIES

Massachusetts Commission Against Discrimination (MCAD)

www.state.ma.us/mcad

1 Ashburton Place, Rm. 601
Boston, MA 02108
617-994-6000

436 Dwight St., Rm.220
Springfield MA 01103
413-739-2145

455 Main St., Rm. 100
Worcester, MA 01608
508-799-8010

The Massachusetts Unemployment Insurance System

In Brief

COVERED EMPLOYEES

- Private sector workers
- Government workers

NOT COVERED

- Independent contractors

MAJOR PROVISIONS

- Employees who lose their jobs through no fault of their own are eligible for weekly benefits
- Eligible claimants can qualify for up to 30 weeks of benefits, after serving a one-week waiting period.
- Employees who are fired because of deliberate misconduct or who quit voluntarily are disqualified

ELIGIBILITY REQUIREMENTS

To qualify for UI benefits a claimant must:

1. Be unemployed through no fault of his or her own;
2. Have earned at least \$3,000 and worked at least fifteen weeks over the prior year, and
3. Be capable of, available for, and actively seeking work.

ENFORCEMENT AGENCY

Massachusetts Division of Unemployment Assistance (DUA)

www.mass.gov/dua

Charles F. Hurley Building
Government Center
19 Staniford St
Boston, MA 02114
General information: 617-626-6560

ADDITIONAL INFORMATION

- Employers must give separated employees, including employees who are discharged or resign, a DUA pamphlet entitled "How to File for Unemployment Insurance Benefits.:"
- Employees may initiate claims or DUA walk-in center or by calling 1-877-626-6800

The Equal Pay Act of 1963

In Brief

WHO IS COVERED?

Employers covered by the federal minimum wage law (including public sector employees.)

MAJOR PROVISIONS

- Men and women must be paid **equal** wages for **substantially similar** work in the same establishment
- Pay differences between men and women doing equal work are allowed if based on legitimate reasons other than gender. Some reasons recognized by the law are: seniority, more job experience or better educational background, merit, productivity (when wages are determined by piece rates)

ENFORCEMENT AGENCY

The Equal Employment Opportunity Commission (EEOC)

www.eeoc.gov

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
800-669-4000

REMEDIES

Employers may be ordered to:

- Raise the pay of lower-paid employees to that of higher-paid employees
- Pay up to three years' doubled back pay
- Pay employee's attorney's fees and costs if a suit is brought in court

ADDITIONAL INFORMATION

- Equal pay complaints are confidential. Retaliation against employees suspected of making complaints is unlawful.
- Lawsuits must be filed within two years of the last infraction (three years if the violation is willful.)

Massachusetts Equal Pay Act of 1945

MAJOR PROVISIONS

- Requires wage equality between men and women who perform work "of like or comparable character."
- Seniority is the only acceptable basis for pay differences between men and women.

University of Massachusetts Labor Extension Program 2009

From: Robert M. Schwartz, *Your Rights on the Job: 5th Edition*, The Labor Guild of Boston, Weymouth, MA
781-340-7887

The Massachusetts Wage Act

In Brief

COVERED EMPLOYEES

- Private sector workers, including persons working for nonprofit organizations.
- Government workers

EXCLUDED

- Independent contractors

MAJOR PROVISIONS

- Wages, salaries, and commissions must be paid within six days when pay periods close
- Discharged employees must be paid in full on their final day
- Hourly workers must be paid on a weekly or biweekly basis
- Salaried executive, administrative, and professional employees can be paid weekly, biweekly, semimonthly or, if employee requests, monthly.

ENFORCEMENT AGENCY

Fair Labor Division of the Office of the Massachusetts Attorney General

www.ago.state.ma.us (Click Wage and Hour)

100 Cambridge St., 12th floor
Boston, MA 02108
617-727-3465

105 William St.
New Bedford, MA 02740
508- 990-9700

1350 Main St.4th floor
Springfield, MA 01103
413-784-1128

1 Exchange Place
Worcester, MA 01608
508- 792-7600

PENALTIES

- A criminal prosecution can be brought against a president, treasurer, managing officer, managing agent, or responsible public official.
- A civil penalty of up to \$25,000 can be assessed if a violation is intentional; up to \$10,000 if it is unintentional.
- Employees can sue for triple damages plus legal expenses.

ADDITIONAL INFORMATION

- Employers may not fire or otherwise retaliate against employees who complain about wage violations or file charges with the attorney general.
- The wage act applies to undocumented immigrants.
- Unionized employees may not be able to use the wage act if the amount owed requires interpretation of a collective bargaining agreement.
- Employers may not, by special agreements or contracts, exempt themselves from compliance.