

Know Your Legal Rights!

Immigrant Workers' Rights in the Workplace



Wage & Hours Laws

Employment Discrimination

Workers' Compensation

Health & Safety

Living Conditions

Sexual Harassment

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Immigrant Workers' Rights in the Workplace

Wage and Hours

No matter your status, if you are working in the United States, you have the right to receive a minimum wage and wages for your hours worked. This applies to both workers with immigration papers and “undocumented workers” who either do not have immigration papers or are not authorized to work. Please see below for more details.

What is the minimum wage in Maine?

Most workers in Maine are entitled to a minimum wage of **\$7.50 an hour**. If you work in a position where you get **tips**, then your employer may pay you **half the minimum wage**: \$3.75 an hour. **BUT**, if your wage and tips do not add up to \$7.50 an hour, then you are entitled to be paid \$7.50 an hour. If you are an agricultural worker, there are other rules for determining your wages. Please contact Pine Tree Legal Assistance under “**Who do I contact**” on the right for more information.

Can my boss pay me differently from other workers?

Employers must pay the same rate to workers who are doing the same work. That means, if a man and woman are doing substantially the same work, with the same “skill, effort, responsibilities and working conditions,” they are entitled to the same pay. Check the links on the right under “**For More Information**” or contact an attorney for further information.

How can I find out if I am being paid less than my coworkers?

Employers cannot discriminate against workers for asking about, discussing, or comparing wages with other workers. You have the right to share information about your pay with others, but other workers are not obligated to tell you how much they are paid.

When am I entitled to overtime pay?

Many workers are entitled to overtime pay. Most hourly workers who work more than 40 hours a week are entitled to **time and a half**. This means that if you work 50 hours in a week, you will be paid your hourly rate for 40 hours and then paid for an extra **15 hours** at your hourly rate (10 hours x 1.5). Employers do not have to pay overtime for any work under 40 hours a week – even if it is more than your typical number of hours. Employers cannot make you work more than 80 hours of overtime for two weeks in a row.

Most agricultural workers are not entitled to overtime. Please contact Pine Tree Legal Assistance under “**Who do I contact**” on the right for details.

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Steve Johnson



Viktor Hanacek

Who do I contact with questions or to file a complaint?

Maine Department of Labor: Bureau of Labor Standards: (207) 623-7900

Under Maine law, Maine Department of Labor employees cannot disclose confidential information about your immigration status. State employees should not ask about your immigration status, and even if you reveal it, they cannot report it to Immigration Authorities unless you are suspected of illegal activity other than being undocumented.

U.S. Department of Labor: (866) 487-9243

Federal employees may disclose your immigration status but if you call the U.S. Department of Labor, you are not obligated to give federal employees information about your immigration status.

Pine Tree Legal Assistance: (800) 879-7463

(Ask for Mike Guare for Farmworkers Information)

Southern Maine Workers' Center: (207) 200- SMWC (7692)

For More Information, visit the following:

http://www.maine.gov/labor/labor_laws/wagehour (Maine Department of Labor)

<http://www.ptla.org/library/394>

(Pine Tree Legal Assistance Employment Law Guide)

Created and distributed by:

Chris Marot and Mongkol Siwaluk, Student Attorneys at the Cumberland Legal Aid Clinic, Refugee and Human Rights Clinical Program, University of Maine School of Law

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Immigrant Workers' Rights in the Workplace

Employment Discrimination

No matter your status, if you are working in the United States, you have the right to be free from discrimination at work. This applies to both workers with immigration papers and “undocumented workers” who have been hired even though they do not have immigration papers. Please see below for more details.

What is employment discrimination?

Discrimination means unequal treatment. Workers have the right to work free from discrimination based on race, religion, gender, disability, sexual orientation, national origin or age.

What are some examples of employment discrimination?

A female worker cannot be required to pay more for health insurance than a man because she might get pregnant.

A worker should not be verbally or physically abused or called names for being from another country.

No one at your job should threaten or joke about “calling immigration” to report you.

You cannot be fired or denied promotion because of your race, religion, gender, disability, sexual orientation, home country, or age.

You cannot be fired, laid off, or refused for promotion because you reported discrimination in the workplace.

Who is protected from Employment Discrimination?

Workers who work for employers with fifteen or more workers are protected by federal law. If you work for a smaller employer, you still have protections under Maine’s Human Rights Act.

How do I report discrimination?

First, report it to your supervisor or Human Resources Office. If the supervisor or employer does not act, check the resources at the right under **“For More Information”** about how to report or seek an attorney to help you decide if there is a claim. You must file a claim with the Maine Human Rights Commission within 300 days of the incident. Check the right-hand column for more resources.

Can my immigration status affect my rights in a lawsuit?

Documented workers can sue their employers for pay for hours worked, lost wages (because of being fired or laid off due to discrimination), and a number of other remedies. Undocumented workers **may only be entitled to pay for work actually performed.** Undocumented workers are not entitled to be rehired by the discriminatory employer.

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Who do I contact with questions?

Pine Tree Legal Assistance: (207) 774-8211

Maine Department of Labor: Bureau of Labor Standards: (207) 623-7900

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U.S. Department of Labor: (866) 487-9243

Federal employees may disclose your immigration status but if you call the U.S. Department of Labor, you are not obligated to give federal employees information about your immigration status.

**Southern Maine Workers' Center:
(207) 200- SMWC (7692)**

How do I report a complaint?

Maine Human Rights Commission: (207) 624-6050

**Equal Employment Opportunity Commission:
(800) 669-4000**

For More Information, visit the following:

Equal Employment Opportunity Commission:

<http://www.Eeoc.gov>

Maine Human Rights Commission:

<http://www.maine.gov/mhrc/>– Maine Human Rights Commission

www.maine.gov/portal/employment/rights.html

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Workers' Compensation

No matter your status, if you are working in the United States, you may have a right to help if you are injured at work. This applies to both workers with immigration papers and “undocumented workers” who do not have immigration papers. Please see below for more details.

What is Workers' Compensation?

This is a program paid for by employers that gives benefits to workers who are injured on the job. Most employers are covered by this law and pay into the Workers' Compensation system.

Who is covered by Workers' Compensation?

If you are a worker and you are a documented immigrant, Workers' Compensation can give you the following protections:

- 1) money for your work-related medical bills,
- 2) wages while you are out of work, and
- 3) Job protection when you return from the injury.

If you are undocumented, you may only receive money for work-related medical bills.

Different laws apply to seasonal farmworkers and farmworkers on year-round farms. Check the resources at the right under “For More Information” for details.

What do I have to do to start a claim?

Workers who are injured at work must begin by notifying their employer of the injury. Notify your employer as soon as you can. From there, the employer should start the compensation process. If you do not receive benefits quickly, you can seek mediation and a hearing where you will be appointed a free advocate. Check “**Who Do I Contact with Questions?**” on the right for details.

Should I apply for Workers' Compensation if I am injured at work?

It depends. If you are documented, please see “Who is Covered by Workers' Compensation?” above. If you are undocumented, the only possible benefit you may receive is payment towards your work-related medical bills. If your employer knows that you are undocumented, your job is not protected and you may not be able to return to work. You may wish to see an attorney to help you decide what the best option is for you.

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Who do I contact for questions or to file a claim?

Workers' Compensation Board: (877) 832-5525

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**Southern Maine Workers' Center:
(207) 200- SMWC (7692)**

For More Information, visit the following:

State of Maine Resources

<http://www.mainelegislature.org/legis/statutes/39-a/title39-ach0sec0.html> (Maine Workers' Compensation statutes)

<http://www.maine.gov/wcb/rules/RulesAndRegs.htm>
(State rules relating to Workers' Compensation claims)

<http://www.maine.gov/wcb/facts.htm> (contact information for where to make a claim)

<http://umaine.edu/ble/files/2011/01/Workers-Comp-BP-2012.pdf> (Workers' Compensation Fact sheet)



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Health and Safety

No matter your status, if you are working in the United States, you have a right to a safe and healthy workplace. This applies to both workers with immigration papers and “undocumented workers” who do not have immigration papers. Please see below for more details.

Do I have a right to a safe workplace?

Yes. The Federal Occupational Safety and Health Administration (known as “OSHA”) requires employers to keep workplaces safe. There are rules that employers have to follow and employees have a right to report unsafe conditions.

What do I do if my workplace is not safe?

If you believe that you would be in danger of death or serious injury by working in a particular place or by working on a certain task, you have a right to tell your employer and ask to have the danger fixed.

Do I have a right to report a health or safety violation at work?

Yes. You can request that OSHA do a health and safety inspection of your workplace. An inspection is when an OSHA officer checks your workplace for violations. You have the right to participate in the inspection, but you also have the right to request that OSHA keep your name secret to avoid being punished by your employer.

Do I have a right to know what chemicals I work with?

Yes. Federal law requires employers to tell employees if the chemicals or substances they are working with are harmful. You have a right to ask whether the substance is harmful and a right to be trained how to handle it safely.

Am I protected if my boss fires me or punishes me for reporting to OSHA?

Yes. You may file a complaint for retaliation with OSHA or the Maine Human Rights Commission for wrongfully being punished. Retaliation includes being fired, having pay withheld or being punished because you filed a complaint. You have 30 days from the time of being punished to file with OSHA and 300 days to file with the Maine Human Rights Commission.

If your employer fires or threatens you because you reported a violation, a health and safety risk, or you refused to do something that was a danger to your life or someone else’s life, then you should seek the help of an attorney or call the Maine Human Rights Commission under **“To File a Complaint”** on the right.

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Who do I contact with questions?

Maine Department of Labor, Bureau of Labor Standards: (207) 623-7900

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U.S. Department of Labor: (866) 487-9243

Federal employees may disclose your immigration status but if you call the U.S. Department of Labor, you are not obligated to give federal employees information about your immigration status.

**Southern Maine Workers' Center:
(207) 200- SMWC (7692)**

To File a Complaint:

**Occupational Safety and Health Agency
Augusta Office: (207) 626-9160**

**Maine Human Rights Commission:
(207) 624-6290**

For More Information, visit the following:

http://www.safetyworksmaine.com/safe_workplace/rights-responsibilities.html (list of rights and responsibilities for work conditions)

<https://www.osha.gov/Publications/poster.htm> (poster detailing safety requirements)



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Living Conditions for Migrant Workers

No matter your status, if you are an immigrant worker working in the United States and your employer provides your housing, you have the right to acceptable living conditions. This applies to both workers with immigration papers and “undocumented workers” who do not have immigration papers. Please see below for more details.

What are my rights regarding my living conditions as a migrant worker?

You have a right to safe living conditions. If you are an agricultural worker in Maine and your employer provides housing to five or more workers, then your living conditions are protected under the Migrant and Seasonal Agricultural Worker Protection Act.

What are safe living conditions?

All housing must be safe, free of electrical problems, and come with clean water, both hot and cold. When you move in, the house should be free of garbage, bathrooms must be clean, the toilet and shower must work, and there must be storage for food, a working refrigerator and a working stove. Lastly, there must be enough room for everyone living there.

How can I report poor living conditions?

Federal and State law gives the Bureau of Labor Standards and the U.S. Department of Labor the right to enter any employer-owned or controlled housing in order to determine whether or not it meets appropriate living standards. You can ask for an inspection by making a complaint to the Maine Department of Labor, Bureau of Labor Standards or the U.S. Department of Labor (check **“Who do I contact with questions”** on the right).

Do I have to pay for the housing my employer provides?

Unless your employer promises you will not have to pay for housing, your employer may charge you. When you receive your job disclosure, it should be in your native language and include information about your housing and its costs. The employer must also post a statement of the housing conditions and a certificate of occupancy at each house.

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Who do I contact with questions or to file a complaint?

Pine Tree Legal Assistance: (207) 942-0673

(Ask for Mike Guare, Farmworkers' Unit)

Maine Department of Labor: Bureau of Labor Standards: (207) 623-7900

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U.S. Department of Labor: (866) 487-9243

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**Southern Maine Workers' Center:
(207) 200- SMWC (7692)**

For More Information, visit the following:

<http://Maine.gov/labor/bls/> (Maine Bureau of Labor Standards)

<http://www.ptla.org/housing-1> - Pine Tree Legal Assistance Housing for Migrant Workers information (details on acceptable conditions)

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Immigrant Workers' Rights in the Workplace

Sexual Harassment

No matter your status, if you are working in the United States, you have the right to be free from sexual harassment. This applies to both workers with immigration papers and “undocumented workers” who have been hired even though they do not have immigration papers. Please see below for more details.

What is sexual harassment?

Sexual harassment means any unwelcome advances, remarks, requests or touching. Your employer cannot fire you or retaliate for complaining about sexual harassment.

What are some examples of sexual harassment?

- A worker pinches you whenever s/he is close to you.
- A worker repeatedly asks you to have sex even when you have said no.
- A supervisor asks to trade sexual favors for a promotion.
- Any other unwanted advances or comments of a sexual nature if they are “severe and pervasive” (meaning it seriously affects your ability to work and happens frequently).

Who is protected from sexual harassment?

Every worker has a right to work free from sexual harassment.

How do I report harassment?

First, report it to your supervisor. You should let your employer know if another worker is sexually harassing you. If the supervisor or employer does not act, or if your supervisor is the one discriminating against you, then you should see the resources at the right under “For More Information” or seek an attorney to help you decide if there is a claim. You must report harassment to the Maine Human Rights Commission within 300 days of the incident. You can also file a claim if you are fired, laid off or not promoted for reporting sexual harassment.

Can my immigration status affect my rights in a lawsuit?

Documented workers can sue their employers for pay for hours worked, lost wages because of being fired or laid off due to punishment for speaking out, and other payment, such as emotional distress. Undocumented workers **may only be entitled to pay for hours worked**. Undocumented workers are not entitled to be rehired by the discriminatory employer.

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Craig Cloutier



Luigi Morante

Who do I contact with questions or to file a complaint?

Maine Human Rights Commission:
(207) 624-6290

Maine Department of Labor: Bureau of Labor Standards: (207) 623-7900

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U.S. Department of Labor: (866) 487-9243

Equal Employment Opportunity Commission:
(800) 669-4000

Federal employees may disclose your immigration status but if you call the U.S. Department of Labor, you are not obligated to give federal employees information about your immigration status.

Pine Tree Legal Assistance: (207) 774-8211

Southern Maine Workers' Center:
(207) 200- SMWC (7692)

For More Information, visit the following:

[http:// www.Maine.gov/mhrc/index.html](http://www.Maine.gov/mhrc/index.html) – Maine Human Rights Commission (MHRC website)

<http://www.maine.gov/portal/employment/rights.html> – Maine State Employee Rights and Services Resource (State guide to workplace rights)

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