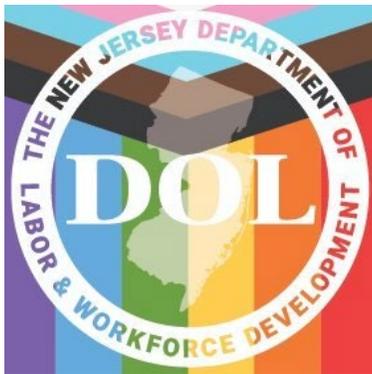


**New Jersey  
Department of Labor  
and Workforce  
Development**

**Wage and Hour Division**



The difference  
between NJ Law  
and the Fair  
Labor Standards  
Act

N.J.S.A. 34:2-21.3

# EMPLOYMENT IN SEASONAL AMUSEMENT OCCUPATIONS

## 34:2-21.1 (i)

“Seasonal amusement occupation”:

- 1. Means any activity as an employee in an establishment which is exclusively an amusement or recreational establishment, provided: i. It does not operate for more than seven months in any calendar year; or
- ii. During the preceding calendar year, its average receipts for any consecutive six months of such year were not more than 33 1/3 percent of its average receipts for the other six months of that year.
- 2. “Seasonal amusement occupation” includes but is not limited to amusement rides and amusement device operators, cashiers who sell tickets for the rides and device, and operators of game concessions.



# EMPLOYMENT IN SEASONAL AMUSEMENT OCCUPATIONS

- Minimum Wage: Employees engaged in seasonal amusement occupations shall be paid at least minimum wage rates
- Overtime: Employees engaged in seasonal amusement occupations shall be exempt from the overtime provisions of the act.
  - Minors under 18 are exempted from being paid the minimum wage except when a wage order exists.



HOWEVER

“Seasonal amusement occupation” *does not* include

- retail, eating or drinking concessions; nor does it pertain to
- ***camps, beach and swimming facilities,*** movie theatres, theatrical productions, athletic events, professional entertainment, pool and billiard parlors, circuses and outdoor shows, sports activities or centers, country club athletic facilities, bowling alleys, racetracks and like facilities which are not part of a diversified amusement enterprise

What does that mean? These employees are ALL subject to OVERTIME!



- *Camps, Beach and Swimming facilities,*



OVERTIME

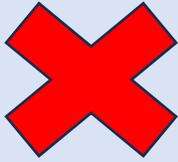


COMP TIME

## WHAT'S THE DIFFERENCE?

- The difference regarding lifeguards and others being not eligible for a seasonal exemption is that the exemption is an establishment exemption not an individual exemption.
- A state or municipality is a year-round establishment, and thus unlike USDOL's policy (not law), an employee cannot be considered employed in a seasonal establishment.
- NJ Law takes precedent and shall apply





# COMPENSATORY TIME



NJ Wage and Hour Law does not provide for the use of comp time in lieu of overtime payment.

## **USDOL's Fact Sheet #8: Law Enforcement and Fire Protection Employees Under the Fair Labor Standards Act (FLSA)**

**Compensatory Time:** Under certain prescribed conditions, employees of State or local government agencies may receive compensatory time off, at a rate of not less than one and one-half hours for each overtime hour worked, instead of cash overtime pay. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other state and local government employees may accrue up to 240 hours. An employee must be permitted to use compensatory time on the date requested unless doing so would “unduly disrupt” the operations of the agency.

In locations with concurrent State wage laws, some States may not recognize or permit the application of some or all of the following exemptions. Since an employer must comply with the most stringent of the State or Federal provisions, it is strongly recommended that the State laws be reviewed prior to applying any of the exclusions or exemptions discussed herein.

# NJ Law vs. Fair Labor Standard Act

- If you are subject to both laws, the higher of the two standards prevail !







## Minors Jobs & Restrictions

- 12 year olds – agriculture
- Minors who are 14 -17 years old are permitted to work as volunteers for nonprofit organizations such as Habitat for Humanity
- 15 years old – **Lifeguards cannot perform lifeguard duties for the public until the age of 16**
- 16 and 18 years of age *may* be employed in a seasonal amusement or restaurant occupation, **or any other occupation not specifically prohibited or deemed hazardous.**

# 16- 17 Year Olds

## Hours of Work Restrictions

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- May be employed after 11 p.m. during any regular vacation season, and on days which do not precede a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work;
- Provided that minors between 16 and 18 years of age *may* be employed in a **seasonal amusement or restaurant occupation** after 11 p.m. and following 12:01 a.m. of the next day, if that employment is a continuation of a workday which began before 11 p.m., either during any regular school vacation season, or on workdays which do not begin on a day which precedes a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work,
- Except that in no case shall minors between 16 and 18 years of age be employed after 3 a.m. or before 6 a.m. on a day which precedes a regularly scheduled school day



# New Process for Working Papers

1. Teenagers and employers each go to [MyWorkingPapers.nj.gov](https://MyWorkingPapers.nj.gov) to get started.
2. Employers receive a unique 8-digit code when they register, which they share with every minor they hire.
3. The minor completes the online working papers application, entering their caregiver's name and email address, and the employer's 8-digit code, which links the application to a specific employer.
4. Emails prompt the employer and caregiver to complete their portions of the application and sign off.
5. The minor begins working when their application is approved by NJDOL.



THANK YOU!  
QUESTIONS?

- New Jersey Department of Labor and Workforce Development
- Wage and Hour Division
- P.O. Box 389
- Trenton NJ 08625-0389
- Contact us: <http://www.nj.gov/labor>