

New Jersey Wage and Hour Law Governing Employment in Wage Order No.12 Beauty Culture Occupations

12:57-4.1 Scope of subchapter

This subchapter shall apply to the minimum wage rates paid to all minors engaged in beauty culture occupations, irrespective of the nature of the business of the employer or the location of the place where the work is being performed.

12:57-4.2 Definitions

- (a) "Beauty culture establishment" means any shop, store, place, room or part thereof, in which services are rendered in a beauty culture occupation, or any branch thereof, and a charge is made to the recipient of such services.
- (b) "Beauty culture occupation" means any service, operation or process used or useful in the care, cleansing, or beautification of or in the enhancement of personal appearance, and all service of demonstrators, maids, cashiers, reception or appointment clerks.
- (c) "Operator" means any employee duly licensed as an operator, manicurist, manager-operator or demonstrator by the New Jersey Board of Beauty Culture.
- (d) "Senior student permit" means a permit issued by the New Jersey Board of Beauty Culture.
- (e) "Temporary permit" means a permit issued by the New Jersey Board of Beauty Culture.

12:57-4.3 Minimum wage

Minors under 18 years of age at beauty culture occupations shall be paid not less than the statutory minimum wage rate.

12:57-4.4 Overtime rate

Overtime, at the rate of not less than one and one-half times the regular rate at which the employee is actually employed, shall be paid to each minor for hours worked in excess of 40 in any one week, except that the overtime rate shall not apply to an executive, professional or administrative employee who is paid for his services in accordance Subchapter 7 of Chapter 56, Wage and Hour Title 12, N.J.A.C.

12:57-4.5 Regular hourly wage

- (a) "Regular hourly wage" means the amount the employee is regularly paid for each hour of work.
- (b) The regular rate of pay at which the employee is employed shall not be less than the minimum rate established by N.J.A.C. 12:57-4.3.
- (c) When an employee is paid on a piece work basis or any other basis than an hourly rate the regular hourly wage shall be determined by dividing the total of the hours worked during the week into the employee's total earnings exclusive of part time bonuses for the week and exclusive of wages earned at overtime rates as such rates are defined.
- (d) The total computed earnings shall include commissions, bonuses and all compensation paid by the employer, except overtime pay.

12:57-4.6 Waiting time

Any period of time during which an employee is required to wait on the premises and during which period no work is provided by the employer shall be counted as working time and be paid at such employee's regular hourly wage.

12:57-4.7 Gratuities

In no case shall tips or gratuities from patrons be counted as part of the minimum wage or regular wage rate being paid to an employee.

12:57-4.8 Furnishing equipment

Employers shall furnish all material and equipment pertinent to performance of the work with the exception of personal manicuring and hair cutting tools.

12:57-4.9 Handicapped

No minor whose earning capacity has been impaired by physical or mental deficiency or injury shall be paid at less than the minimum wage, unless a special license, in accordance with the provisions of N.J.S.A. 34:11-48, has been obtained by the employer from the Division of Wage and Hour Compliance.

12:57-4.10 Records

(a) Every employer shall keep the following records for each minor employee:

1. Full name, address and occupational classification;
2. Date of birth;
3. A true and accurate record of hours worked each day including record of starting and stopping time, meal periods, total daily and weekly hours and amount of wages paid for each pay period.
4. Such other records as are essential in determining an employee's regular hourly wage and the amount of overtime wages earned and paid.

(b) Records shall be dated showing the payroll ending date by month, day and year, and all records shall be kept so as to enable representatives of the Division of Wage and Hour Compliance to determine readily whether or not the employer is complying with the orders of the commissioner.

12:57-4.11 Posting

The notice issued by the Division of Wage and Hour Compliance setting forth the provisions of this subchapter shall be posted in a conspicuous place in every room where minors are employed in a beauty culture occupation.

Penalties for Violation

Any employer who violates any provisions of this order shall be guilty of a disorderly persons violation and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000.

As an alternative to or in addition to any other sanctions provided by law for violations the commissioner is authorized to assess and collect administrative penalties, up to a maximum of \$250 for a first violation and up to a maximum of \$500 for each subsequent violation.

The employer shall also pay the commissioner an administrative fee equal to not less than 10% or more than 25% of any payment made to the commissioner.

