

# Amazon Must Pay Associates for Security Checks

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The Pennsylvania Supreme Court ruled that time spent by Amazon employees in mandatory security checks at the end of their shifts was compensable under the Pennsylvania Minimum Wage Act (PMWA).

The state's high court noted in [its July ruling](#) that the regulations implementing the act define four categories of compensable "hours worked":

- Time during which an employee is required by the employer to be on the premises of the employer
- Time during which an employee is required by the employer to be on duty or to be at the prescribed work place
- Time spent in traveling as part of the duties of the employee during normal working hours
- Time during which an employee is employed or permitted to work

The security checks fell under the first category, according to the court ruling.

The Pennsylvania regulations also provide two exclusions from this definition of hours worked:

- Time allowed for meals, unless the employee is required or permitted to work during that time
- Time spent on the premises of the employer for the convenience of the employee

Neither of the exclusions applied to the security checks.

In a somewhat unique procedure, the Pennsylvania Supreme Court was asked to decide the issue by the Sixth Circuit Court of Appeals (the federal appeals court that covers Kentucky, Michigan, Ohio and Tennessee), which was handling the Amazon appeal. The Pennsylvania court presumed for purposes of its decision that Amazon *required* its workers to go through the security screenings before leaving the worksite. Thus, the security screenings did not meet either of the two PMWA exclusions above.

Amazon had argued that the PMWA should be read in parallel with the federal Fair Labor Standards Act (FLSA) on this issue, which would not require Amazon to pay employees for security screenings because they were not "work." The FLSA, as amended by the Portal to Portal Act, does not require payment for activities that are preliminary to or postliminary to a worker's principal job duties. Amazon successfully made that argument to the U.S. Supreme Court in the [Integrity Staffing Solutions v. Busk](#) case, decided in 2014. Thus, under federal law Amazon was not required to pay employees for time spent in security checks. However, the Pennsylvania Supreme Court said it was not obligated to follow that U.S. Supreme Court decision.

The Pennsylvania Supreme Court also rejected Amazon's second argument, that the time spent in security

screenings was so small as to be "*de minimis*" and exempt from payment. The court held that neither the PMWA nor its implementing regulations contain a "*de minimis*" exception, and the "PWMA plainly and unambiguously requires payment for all hours worked,' signifying the legislature's intent that any portion of the hours worked by an employee does not constitute a mere trifle."

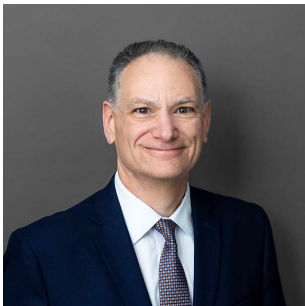
The Pennsylvania Supreme Court's decision resolves an unsettled area of the law: Does the PMWA incorporate these aspects of the FLSA? As to the security checks mandated by Amazon, the answer is no.

Pennsylvania employers should now consider examining the time that hourly, nonexempt employees are required to be on the premises, and whether the two exemptions from "hours worked" would apply if that time is currently unpaid.

If you have any questions about how this ruling could affect your company, please [contact me](#) or any member of the [Barley Snyder Employment Practice Group](#).

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