

# Pennsylvanias New Overtime Regulations Are Finally Final

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Pennsylvania's new overtime rules were finally published in the Pennsylvania Bulletin on October 3, bringing a long-running battle to an end. While companies won't see an increase in the minimum salary threshold for exempt employees this year, they need to prepare for a 14% increase one year from now, and a nearly 28% increase by October 2022.

Currently, to qualify for the overtime exemption in Pennsylvania, executive, administrative and professional employees must be paid a minimum guaranteed salary of \$684 per week (\$35,568 annually), equal to the federal salary threshold, and the future thresholds will be phased in as follows:

Every three years after 2022, the threshold will be updated automatically.

"Oct. 3 marks the first update to the commonwealth's overtime regulations in more than four decades," Pennsylvania Department of Labor & Industry Secretary Jerry Oleksiak said. "The modernized regulation will expand eligibility for overtime to 143,000 people and strengthen overtime protections for up to 251,000 or more."

Other aspects of Pennsylvania's final overtime rules take effect immediately:

- Pennsylvania's final rule allows up to 10% of the salary threshold to be satisfied by nondiscretionary bonuses, incentives and commissions that are paid at least annually.
- If the employee's salary plus non-discretionary bonuses does not meet the minimum salary threshold by the end of the year, a one-time catch-up payment is permitted in the next regularly-scheduled paycheck to bring the employee's salary up to the minimum threshold.

Although touted to align with the federal white-collar exemptions, Pennsylvania's overtime rules do not contain an exemption for highly-compensated employees, or certain computer professionals, who are exempt under the Fair Labor Standards Act. In addition, under the FLSA, teachers, lawyers and doctors can qualify as exempt professionals without having to meet any minimum salary. Under Pennsylvania's rules, however, these professionals must meet the minimum salary threshold.

Recall that the salary threshold is just one prong of the overtime exemption. Under both Pennsylvania's new rules and the federal FLSA, exempt employees must meet the minimum salary threshold as well as perform the duties outlined in the duties test.

It bears repeating from [previous alerts](#) - employers should consider analyzing the impact of Pennsylvania's new salary threshold well in advance:

- Plan to have exempt employees whose salaries currently fall between \$35,568 and \$40,560 per year keep a

record of their hours worked including off-hours time on electronic devices; upgrade time keeping systems where needed.

- Review job descriptions and exempt vs. non-exempt duties.
- Analyze the impact of bumping pay levels for exempt employees to match the salary threshold, hiring more employees to spread out what would otherwise be overtime hours for newly non-exempt employees, and/or reassigning job duties to funnel exempt tasks up the ranks to exempt employees.

If you have any questions about the new overtime rules, please [contact me](#) or any member of the [Barley Snyder Employment Practice Group](#).

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