

# Maryland Wage and Hour Regulations

“MWHR”

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**CHAPTER 39 – LIEN FOR UNPAID WAGES****.01 Definitions.**

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
  - (1) “Employer Complaint to Dispute Lien for Unpaid Wages” means the complaint filed by an employer in circuit court to dispute a Notice to Employer of Intent to Claim Lien for Unpaid Wages.
  - (2) “Notice to Employer of Intent to Claim Lien for Unpaid Wages” means the written form or comparable notice that an employee serves on an employer stating the employees intent to claim a lien for unpaid wages.
  - (3) “Wage Lien Statement” means the form that may be recorded by an employee after a lien for unpaid wages has been established pursuant to Labor and Employment Article, § 3-1104, Annotated Code of Maryland.

**.02 Notice of Claim for Unpaid Wages.**

- A. An employee shall serve his or her employer with a Notice to Employer of Intent to Claim Lien for Unpaid Wages on a form that contains the information specified in § B of this regulation, a sample of which may be found on the Department’s website.
- B. The form shall include the following:
  - (1) The name and address of the individual seeking a lien;
  - (2) The name of the business or individual for whom the employee performed work;
  - (3) The dates of employment;
  - (4) The dates for which wages are due but were not paid;
  - (5) The basis for the claim that wages were due but were not paid;
  - (6) The monetary amount of the lien sought;
  - (7) The real or personal property, or both, against which the lien is sought along with a description adequate to identify the property, name of owner, and location; and
  - (8) Notice to the employer of their right to dispute the lien by filing a complaint within 30 days of receipt of the notice.

- C. An employee shall serve the employer by:
- (1) Delivering personally a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages to the employer;
  - (2) Leaving a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages at the employers home or place of dwelling with a resident of suitable age and discretion; or
  - (3) Mailing a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages to the employer by certified mail requesting, "Restricted Delivery Show to whom, date, and address of delivery".

### **.03 Employer Complaint to Dispute Notice to Employer of Intent to Claim Lien for Unpaid Wages.**

- A. An employer may dispute a lien for unpaid wages by filing a complaint in the circuit court for the county where the property of the employer is located.
- B. The complaint disputing a lien for unpaid wages shall include the following:
- (1) The date that the employee served the Notice to Employer of Intent to Claim Lien for Unpaid Wages on the employer;
  - (2) An explanation of why the wages claimed by the employee are not due and owing by the employer;
  - (3) A description of supporting documents with the supporting documents attached; and
  - (4) A certificate of service reflecting service upon the employee.

### **.04 Wage Lien Statement.**

A Wage Lien Statement shall include the following:

- A. A description of the property;
- B. The name of the property owner;
- C. The monetary amount of the lien;
- D. A copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages and proof of service of the notice; and
- E. A copy of a court order establishing the lien for unpaid wages if the lien for unpaid wages is established in a court.

### **.05 Recording Lien.**

If an employer does not dispute a Notice to Employer of Intent to Claim Lien for Unpaid Wages or if a court orders the establishment of a lien, an

employee may record the Wage Lien Statement together with proof of service.

## **CHAPTER 40 – WORKPLACE FRAUD**

### **.01 Scope.**

This chapter applies to construction services and landscaping services.

### **.02 Notice.**

- A. If an employer contracts with an individual and classifies that individual as an independent contractor or an exempt person, the employer shall complete the information required by § A(9) of this regulation and provide the individual with a “Notice to Independent Contractors and Exempt Persons” that contains the following information:
- (1) Notification to the individual that they have been hired as an independent contractor or exempt person;
  - (2) A statement by the employer that the independent contractor will perform the work according to their own means and methods, free from control of the employer in all details connected with the performance of the work, except as to its product and result;
  - (3) Notification that the individual’s classification as an independent contractor or exempt person means the individual will be responsible for all tax obligations, including, but not limited to, the filing of business or self-employment income tax returns with the U.S. Internal Revenue Service;
  - (4) Notification that the individual’s classification as an independent contractor or exempt person means that they are not eligible for protection under protective laws, including, but not limited to, employment discrimination and anti-retaliation laws, occupational safety and health laws, living wage and prevailing wage laws, and wage and hour laws;
  - (5) Notification that, if the independent contractor or exempt person hires employees to perform work, the independent contractor or exempt person is responsible as an employer for all tax, unemployment insurance, workers’ compensation insurance, and labor and employment law obligations on behalf of those employees;
  - (6) Notification that the independent contractor or exempt person is obligated to provide a “Notice to Independent

- Contractors and Exempt Persons” for independent contractors or exempt person with whom they contract;
- (7) Notification that the individual is required to provide copies of any licenses or registrations issued to the individual related to the work to be performed to the employer;
  - (8) The name, address, telephone number and email address of the Commissioner of Labor and Industry if the individual has any questions; and
  - (9) A detailed statement of the work to be performed by the independent contractor or exempt person or the appropriate provisions of the contract between the parties, which shall be attached to the notice.
- B. An employer shall use the Commissioner’s “Notice to Independent Contractors and Exempt Persons”, which is available for download on the Maryland Department of Labor’s website.
  - C. An employer shall post the Commissioner’s “Notice to Independent Contractors and Exempt Persons” in English and Spanish in a conspicuous location at places where notices to employees are normally posted at each job site and at the office of the employer.
  - D. An employer shall retain proof that the independent contractor or exempt person was provided a copy of the “Notice to Independent Contractors and Exempt Persons” with an acknowledgment signed by the individual.

### **.03 Record Keeping.**

- A. For each independent contractor and exempt person hired, an employer shall retain the following records at the work site or at its place of business:
  - (1) A statement with a description of the employer’s usual course of business or a fully executed copy of the contract between the employer and the independent contractor or exempt person;
  - (2) Acknowledgement forms signed by the independent contractor and exempt person; and
  - (3) Licenses or registrations provided by an individual classified as an independent contractor or exempt person.
- B. An employer shall retain each record for 3 years.

#### **.04 Evidence of a Knowing Violation.**

- A. The Commissioner may consider evidence, as provided in § B of this regulation, that an employer knowingly failed to properly classify an employee.
- B. The evidence shall include the following:
  - (1) Any previous violation of the Workplace Fraud Act or a violation of any other state or federal law that involves similar issues related to the classification of employees;
  - (2) Refusal or failure of the employer to produce records requested pursuant to Labor and Employment Article, § 3-905(d)(1), Annotated Code of Maryland;
  - (3) Refusal or failure of the employer to cooperate with an investigation authorized under Labor and Employment Article, § 3-905, Annotated Code of Maryland;
  - (4) Evidence that the employer classifies differently individuals who perform substantially the same tasks, allowing for the business model described in Labor and Employment Article, § 3-903(c)(3), Annotated Code of Maryland; and
  - (5) Any other credible evidence of the employer's actual knowledge of, deliberate ignorance of, or reckless disregard for whether or not the worker is misclassified.

#### **.05 Landscaping Illustrations.**

- A. The illustrations in this regulation provide guidance under the Workplace Fraud Act only and do not apply to any other State or federal law.
- B. The illustrations in §§ C--E of this regulation, provide guidance for the landscaping services industry in the application of Labor and Employment Article, § 3-903(c), Annotated Code of Maryland.
- C. The JB Landscaping Company (JB) is hired to install the landscaping for a new large housing development. After JB commences work, it determines that it does not have enough employees to complete the job. JB subcontracts some of its work to the Red Company (Red), a smaller landscape company. JB sets the work hours for all workers on the job. Red provides the plants and other necessary tools and equipment for the job. Red maintains its own place of business but does not perform service for more than one person or company at a time. Either JB or Red can end the services at any time. Red pays federal employee taxes. Red is an independent contractor.

- D. While working on a large landscaping job with a Friday deadline, the Tree Company (Tree) determines that it needs additional workers to meet that deadline. On Wednesday afternoon, Tree contacts Keith Brown to see if he knows at least five workers who can report to the landscaping job in the morning. Keith Brown engages five other workers to assist with the Tree job. Tree sets the hours, provides the tools and equipment, and frequently inspects the work during the day. Keith Brown does landscaping work but does not have his own business. Tree pays Keith Brown a lump sum, which he distributes to the other workers. Keith Brown and the five other workers are employees of Tree.
- E. The Green Company (Green), a landscaping company, is hired to landscape a building complex. Once the work is underway, the owner of the building complex decides to install a pond with a waterfall. Green does not build ponds and waterfalls so it subcontracts that work to the Water Company (Water). Water is licensed to build ponds with waterfalls, and it carries workers' compensation and liability insurance under the company name. Water performs services for more than one person at a time. All equipment and tools necessary for the pond installation are owned by Green. Because of Water's experience in the area, there is no oversight of the daily work by Green. Water is paid by Green at the completion of the job. However, Green is ultimately responsible for the final product if there are any faults or defects in the construction. Water is an independent contractor.

## **.06 Construction Illustrations.**

- A. The illustrations in this regulation provide guidance under the Workplace Fraud Act only and do not apply to any other State or federal law.
- B. The illustrations in §§ C--J of this regulation provide guidance for the construction services industry in the application of Labor and Employment Article, § 3-903(c), Annotated Code of Maryland.
- C. John Brown has an oral agreement with ACE Building Company (ACE) to do carpentry work on houses in a development designated by ACE. John Brown supplies his own hand tools. ACE supplies the material for each job. He has to do the work himself and he works on a full time basis for the company. For some work he is paid on a piecework basis and for some work he is paid on an hourly basis. He does not have assistants, does not have an office, and does not advertise in newspapers or otherwise hold himself out to the public as being in the carpentry business. ACE can fire



him any time before he finishes a job without contractual liability. John Brown is an employee of ACE.

- D. HVAC, Inc. (HVAC) is the mechanical subcontractor on a large hospital construction contract. There is so much work to perform that HVAC contracts with two other companies, Air Supply, Inc. (Air Supply) and Kool and the Gang, Inc. (Kool), to assist with the work. Air Supply and Kool each have their own employees. HVAC retains some supervisory control over the employees of the other companies to make sure that the job is being done to the specifications of the overall mechanical contract. Air Supply and Kool exercise supervision over the installation methods of their respective workforces. Even though the two subcontractors are in the same business as HVAC and they perform the same type of work at the same location as HVAC, there is no employer-employee relationship between the contracting companies, and there is no employee-employer relationship between the subcontractors' employees and HVAC.
- E. Sarah Green is a painting subcontractor who has contracted with XYZ General Contracting, Inc. (XYZ) to paint 264 houses. She hired 40 painters to do the work for her, although only about 15 are on the job at any one time. She supplies all the paint, brushes, and ladders. She designates the house to be painted and either pays the painters per house or by the hour. Detailed instructions about the work are not necessary because of the painters' skill in their trade. Sarah Green inspects the work and requires them to repaint any unsatisfactory work. The painters cannot engage helpers without her consent. She can discharge them for any reason, and they are free to resign at any time. The painters assume no business risks and have no capital investment. None of them has an established business. The painters are employees of Sarah Green, not XYZ, and Sarah Green is an independent contractor, not an employee of XYZ.
- F. Milton Manning, an experienced tile and terrazzo journeyman, orally agreed with MEGA, Inc. (MEGA) to perform full-time services at construction sites. He uses his own tools and performs services in the order designated by MEGA and according to its specifications. MEGA supplies all materials, makes frequent inspections of his work, pays him on a piecework basis, and carries workers' compensation insurance on him. He does not have a place of business or hold himself out to perform similar services for others. Either party can end the services at any time. Milton Manning is an employee of MEGA.

- G. Wallace Black agreed with the Sawdust Company (Sawdust) to supply the construction labor for a group of houses. The company agreed to pay all construction costs. However, Wallace Black supplies all the tools and the equipment. He performs personal services as a carpenter and mechanic for an hourly wage. He also acts as superintendent and foreman, and engages other individuals to assist him. Sawdust has the right to select, approve, or discharge any helper. A company representative makes frequent inspections of the construction site. When a house is finished, Wallace Black is paid a certain percentage of its costs. He is not responsible for faults, defects of construction, or wasteful operation. At the end of each week, he presents the company with a statement of the amount he has spent, including the payroll. Sawdust gives him a check for that amount from which he pays the assistants, two of whom are day laborers although he is not personally liable for their wages. Wallace Black and all of his assistants are employees of Sawdust.
- H. Trisha Gold; Pristine; Painters.
- (1) Trisha Gold is a painting contractor who has been subcontracted by Pristine Construction, Inc. (Pristine), the general contractor responsible for painting 20 individual cottages. Prior to entering the contract, Pristine seeks and obtains proof from Trisha Gold of payroll withholdings, payment of unemployment insurance and workers' compensation with respect to Trisha Gold's employees. Pristine also provides Trisha Gold with a written notice of her status as an independent contractor and the rights and obligations pursuant to that status. Per the terms of their written contract, Trisha Gold is to complete ten cottages.
  - (2) Trisha Gold hires Painters, LLC (Painters) to assist in the completion of this contract. Painters is responsible for delivery of five completed cottages. In order to ensure that the cottages are completed with matching colors, Pristine provides all of the paint. However, Trisha Gold and Painters each provide their own ladders and brushes. Painters work under Trisha Gold's direction and control and she sets the work hours for the job. Trisha Gold inspects Painters' work to ensure satisfactory performance and she is responsible for paying for any repairs for inadequate work. Trisha Gold is an independent contractor of Pristine. Painters' workers are employees of Trisha Gold. Painters and their workers are not employees of Pristine.

- I. ABC Company (ABC) hires three crews of workers to do the siding on new houses in a residential development. ABC pays each of the crews per square foot of siding installed. ABC tells each crew leader that they are independent contractors responsible for their own workers' compensation premiums and any taxes. None of the crew leaders appears to have their own business, and they fail to get any workers' compensation coverage. One of the crew leaders is designated as general foreman and has been given total responsibility for running the job, but ABC has a superintendent who periodically walks the site to make sure the work is done properly. ABC also provides safety equipment for each worker. At the end of each week, ABC pays the crew leaders a lump sum based on the square footage of siding installed. The crew leader then pays each worker based on how much siding they installed. The workers doing the siding are employees of ABC.
- J. POP; DIG. POP General Contracting (POP) leases two employees and a backhoe from DIG Excavators, Inc. (DIG). The DIG workers are engaged to open a trench, lay some pipe, and backfill the trench. Both POP and DIG contend that neither of them is the employer of the workers, that for purposes of these lend/lease type jobs, they are independent contractors for POP. None of the workers has his own business or pays his own workers' compensation. The workers always consider DIG to be their employer and if they have questions about how to do the job, they ask their boss at DIG. The workers are employees of DIG, even while they are leased-loaned to POP.

## CHAPTER 41 – WAGE AND HOUR LAW

### **.01 Administrative Capacity.**

"Administrative capacity" has the meaning stated in 29 CFR § 541.200 et seq.

### **.02 Agriculture.**

"Agriculture" means work performed by a farmer or on a farm as an incident to or in conjunction with farming operations, such as:

- A. The cultivation and tillage of soil, including grading, rock removal, building terraces, irrigation, and fertilization;
- B. The production, growing, cultivation, or harvesting of agricultural or horticultural products or commodities;
- C. Breeding, fattening, feeding, or the general care of livestock, bees, fur-bearing animals whose fur has marketable value, or poultry, including poultry hatchery operations;

- D. Dairying, including:
  - (1) Caring for and milking of milk-giving animals,
  - (2) Containing, cooling, and storage of milk when done on the farm, and
  - (3) Farm-based manufacturing operations directly and closely related to dairying, such as separating cream or making butter;
- E. Farming activities on experimental farms or nurseries, or in greenhouses or mushroom cellars; or
- F. Duties directly and closely related to farming operations, including the:
  - (1) Preparation of products or commodities for market, or
  - (2) Delivery of products or commodities to storage, market, or carriers for transportation to market.

### **.03 Complaints.**

Before the Commissioner of Labor and Industry initiates an investigation, the Commissioner may require the employee to submit a written complaint.

### **.04 Directly and Closely Related.**

“Directly and closely related” has the meaning stated in 29 CFR § 541.703 et seq.

### **.05 Executive Capacity.**

“Executive capacity” has the meaning stated in 29 CFR § 541.100 et seq.

### **.06 First Processing.**

- A. “First processing” means the procedure by which the form of a product or commodity is changed from its original state.
- B. “First processing” does not refer to an employer who acts as a wholesaler, broker, factor, or other middleman in the chain from producer to consumer.

### **.07 Food and Drink Establishment.**

- A. “Annual gross income”:
  - (1) Means the total of all receipts from all sales made during the preceding four calendar quarters; and
  - (2) Is the sole basis for determining the annual gross income for all subsequent quarters.

- B. "Cafe" means a combination of a restaurant and a tavern.
- C. "Drive-in" means an establishment:
  - (1) Which sells prepared food items for consumption on the premises or in the purchaser's car;
  - (2) Which is characterized by a parking lot adjacent to the establishment; and
  - (3) To which purchasers generally drive to consummate a purchase.
- D. "Restaurant" means an establishment which:
  - (1) Is primarily engaged in selling and serving prepared food and beverages for consumption on the premises;
  - (2) Provides characteristic employee services and dining facilities; and
  - (3) Contains physical and functional equipment and facilities required for the consumption of a meal.
- E. "Similar establishment" means an establishment which has the characteristics of a restaurant, drive-in, tavern, or cafe.
- F. "Tavern" means an establishment whose primary sales consist of alcoholic beverages for consumption on the premises on a drink-by-drink basis.

### **.08 Gasoline Service Station.**

- A. "Gasoline service station" means an establishment primarily engaged in selling gasoline and lubricating oils to the general public.
- B. A gasoline service station may be part of a larger enterprise which also repairs automobiles.
- C. An establishment which derives the greater part of its net income from the sale of goods other than gasoline, lubricating oils, and related services is not a gasoline service station.

### **.09 Hotel or Motel.**

- A. "Hotel" or "motel" for purposes of Labor and Employment Article, § 3-415, Annotated Code of Maryland, means an establishment engaged primarily in providing lodging or lodging and meals to the general public.
- B. "Hotel" or "motel" includes an apartment or residential establishment that derives more than half of its annual gross income from providing transient guests with lodging or lodging and meals.

- C. “Hotel” or “motel” does not mean an establishment whose income is derived primarily from providing bedroom and kitchen facilities for leased periods of longer than 3 months.

### **.10 Hours of Work.**

- A. “Hours of work” means the time during a workweek that an individual employed by an employer is required by the employer to be on the employer’s premises, on duty, or at a prescribed workplace.
- B. Meal periods are included in computing hours of work if the individual is required to perform any duties during the meal period.
- C. Travel time is included in computing hours of work if the individual:
  - (1) Travels during regular work hours;
  - (2) Travels from one worksite to another; or
  - (3) Is called out after work hours in emergency situations.

### **.11 Immediate Family.**

- A. “Immediate family” means an employer’s parent, spouse, child, brother, sister, grandchild, or grandparent who:
  - (1) Resides with the employer; and
  - (2) Enjoys the same privileges as other members of the family.
- B. “Immediate family” does not include anyone living outside the employer’s household, except the employer’s parent, spouse, or child.
- C. “Child” means a natural child, adopted child, or stepchild but does not mean the spouse of that child.

### **.12 Mechanic.**

- A. “Mechanic” means an employee whose primary function is to put automobiles, trailers, trucks, or farm machinery in working order by making necessary repairs or adjustments.
- B. The following employees are not mechanics:
  - (1) An employee whose primary duty is to wash, clean, polish, lubricate packing wheel bearings, change oil or oil filters, change tires, paint, perform carpentry, dispatch, or install or repair seat covers;

- (2) An employee whose primary duty is to record a vehicle's condition or to write a report detailing necessary parts and mechanical work.

### **.13 Outside Salesman.**

"Outside salesman" has the meaning stated in 29 CFR § 541.500 et seq.

### **.14 Overtime Compensation.**

- A. An employee subject to the Minimum Wage Act of Maryland shall be paid overtime compensation for each hour worked in excess of 40 hours per workweek. This includes the following:
  - (1) All hours worked by an employee for an employer are included, even though the employee may perform work in two or more unrelated jobs;
  - (2) If the total workweek hours do not exceed 40, an employee is not entitled to overtime compensation for hours worked in excess of 8 on any day, including Saturday, Sunday, and holidays.
- B. Compensation for hours worked in excess of 40 hours per workweek is computed at 1-1/2 times the regular hourly rate at which the employee is employed. This includes the following:
  - (1) The regular hourly rate may not be less than the statutory minimum;
  - (2) If the employee's regular hourly rate is higher than the statutory minimum, overtime compensation is computed at 1-1/2 times the higher rate.

### **.15 Packing.**

"Packing" means the physical operation by which a product or commodity is placed in a container which is then closed and sealed.

### **.16 Partsman.**

- A. "Partsman" means an employee whose primary function is to:
  - (1) Sell or dispense parts for automobiles, trailers, trucks, or farm machinery; or
  - (2) Requisition, stock, or dispense those parts for an establishment's mechanical service department.
- B. A partsman's duties may include incidental clerical or cleaning work necessary to keep stockrooms, bins, and shelves in order.

**.17 Professional Capacity.**

“Professional capacity” has the meaning stated in 29 CFR § 541.300 et seq.

**.18 Reasonable Cost.**

- A. The reasonable cost of board, lodging, or other facilities may be included as part of an employee’s wage if the:
  - (1) Facilities are customarily and regularly available to all similarly situated employees;
  - (2) Employee’s acceptance of the facility is voluntary and uncoerced; and
  - (3) Employee receives the benefits of the facility for which he or she is charged.
- B. The reasonable cost of board, lodging, or other facilities included as part of the wage paid to an employee may not:
  - (1) Exceed the actual cost to the employer; and
  - (2) Include profit to the employer or to any person or establishment affiliated with the employer.
- C. The reasonable cost of furnishing board, lodging, or other facilities may include the cost of operation and maintenance.
- D. The employer shall demonstrate the actual cost of the board, lodging, or facilities furnished.
- E. In a food and drink establishment, if the actual cost of food consumed by an employee cannot be determined, the reasonable cost is half the price customarily and regularly charged a member of the general public.
- F. The cost of furnishing board, lodging, or other facilities primarily for the benefit or convenience of the employer may not be included as part of an employee’s wage.

**.19 Regular Hourly Rate.**

- A. “Regular hourly rate” means the usual hourly rate.
- B. The regular hourly rate is determined by dividing the total compensation for employment in any workweek by the total number of hours worked in that workweek.
- C. Any commission or bonus, if:
  - (1) Paid weekly, is added to the employee’s total compensation in order to determine the regular hourly rate;



- (2) Paid other than weekly, is allocated to the particular workweek in which it was earned; or
  - (3) Allocation is not practical, may be apportioned in equal amounts to each workweek during the period in which it was earned.
- D. Gratuities and Tips.
- (1) Compensation derived from tips in accordance with Labor and Employment Article, § 3-419, Annotated Code of Maryland, is allocated to the particular workweek in which the employee is a tipped employee.
  - (2) A compulsory monetary charge for service, even if retained by the employee, is not a tip.
  - (3) A tipped employees wages must equal at least the minimum wage when direct wages and tips are combined.
  - (4) A tipped employee who spends more than 20 percent of the employees work time performing non-tip producing duties directly related to their tipped occupation shall be paid by the employer at least the minimum wage for that time.
- E. The following amounts are not included in determining the regular hourly rate:
- (1) Sums paid as a gift or reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;
  - (2) Payments for occasional periods when no work is performed, such as vacation, sick leave, holidays, or jury duty;
  - (3) Payments for reimbursement purposes, such as travel, equipment, or meal expenses;
  - (4) Payments made in recognition of services if the payment is:
    - (a) Within the sole discretion of the employer and not pursuant to any agreement, or
    - (b) Made pursuant to a bona fide profit-sharing trust, savings, or thrift plan;
  - (5) Contributions irrevocably made by an employer to a trustee or third person under a bona fide retirement, insurance, or similar employee benefit plan;
  - (6) Extra compensation paid at a premium rate pursuant to a statutorily valid employer-employee agreement; and
  - (7) Tips received by the employee in excess of the tip credit.

## **.20 Restaurant Tip Credit Wage Statement.**

- A. Definitions.
- (1) In this regulation, the following terms have the meanings indicated.
  - (2) Terms Defined.
    - (a) “Reported tips” means tips retained by the employee and disclosed to the employer, tips distributed to the employee by the employer, or tips obtained through a valid tip pooling arrangement or tip sharing arrangement.
    - (b) “Restaurant” has the meaning stated in Regulation .07D of this chapter.
    - (c) “Tip credit wage statement” means a written or electronic statement that shows the employees effective hourly rate of pay, including employer paid cash wages plus all reported tips, for all tip credit hours worked for each workweek in the pay period.
- B. No later than 2 weeks following the end of the pay period, a restaurant employer shall provide each employee for whom the employer utilizes a tip credit with a tip credit wage statement for each pay period that reflects all reported tips for tip credit hours for each workweek of the pay period.
- C. A restaurant employer may satisfy the requirement in § B of this regulation by providing an online system through which an employee may obtain the employees tip credit wage statement.

## **.21 Salesman.**

- A. “Salesman” for purposes of Labor and Employment Article, § 3-415, Annotated Code of Maryland, means an employee whose primary duty is to sell or obtain orders or contracts for the sale of automobiles, trailers, trucks, or farm machinery.
- B. The sales work may be performed in the establishment or elsewhere.
- C. A salesman may perform work incidental to and in conjunction with the employee’s regular sales or solicitations, including incidental deliveries and collections.

## **.22 Work-Study Programs.**

- A. Definitions.
- (1) A “work-study program” is a program in which the period

of normal public or private school attendance is divided between school attendance and employment in industry or business.

- (2) A “work-study coordinator” is the individual assigned to supervise or administer a work-study program.
- B. Application.
- (1) Upon application by a work-study coordinator, the Commissioner may authorize payment to a student of an hourly rate less than the statutory minimum.
  - (2) The application shall state the:
    - (a) Title of the work-study coordinator;
    - (b) Name and address of the school attended by the student;
    - (c) Name and address of the student;
    - (d) Name and address of the employer;
    - (e) Type of work to be performed by the student;
    - (f) Hourly rate to be paid; and
    - (g) Duration of time that the student will be paid less than the statutory minimum.
  - (3) The employer and the work-study coordinator shall sign the application.
- C. The work-study coordinator shall:
- (1) Obtain, through his or her efforts, all work-study program employment opportunities;
  - (2) Supervise, on a continuing basis, the progress of each student in a work-study program; and
  - (3) Notify the Commissioner upon termination of a student’s employment in the job designated on the application.

### **.23 Workweek.**

“Workweek” means a fixed and regularly recurring period of 168 consecutive hours beginning on any hour of the day.

### **.24 Computer-Related Occupations: Exemptions from Minimum Wage and Overtime Compensation.**

A computer systems analyst, computer programmer, software engineer, or other similarly skilled professional employee in the computer field is eligible for classification as an employee in a professional capacity if the employee meets the standard set forth in 29 CFR § 541.400 et seq.