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Three Retail Wage-and-Hour Traps the FLSA Won't Catch

Retail employers: wage-and-hour risk does not begin and end with overtime.

State and local laws also regulate rest days, reporting pay, split shifts, and Sunday work. These less familiar rules often generate demand letters and agency claims.

And the consequences can exceed the federal baseline. The FLSA generally reaches back two years—or three for willful violations—and allows an equal amount in liquidated damages. An Illinois Wage Payment and Collection Act claim can reach back 10 years and accrue damages equal to 5% of the underpayment for each month it remains unpaid. New Jersey generally permits six years of wage recovery and can add up to 200% in liquidated damages.

A technical state-law violation can become expensive quickly.

Here are three comparisons worth knowing:

1. One day of rest: Illinois vs. New York

Both states generally require 24 consecutive hours of rest each week, but they count differently.

Illinois' One Day Rest in Seven Act generally looks at each consecutive seven-day period. New York's law operates by calendar week. Depending on how rest days fall, a New York employee may therefore work as many as 12 consecutive days across two calendar weeks—a schedule that could violate Illinois law.

2. Reporting pay: Connecticut vs. New Jersey

An employee reports for a scheduled shift, but the employer has little or no work available.

In Connecticut, covered retail employers generally must pay at least four hours. A narrower guarantee may apply only under a qualifying written arrangement for regularly scheduled shifts of fewer than four hours, with Department of Labor approval.

In New Jersey, an employee who reports as required generally must receive at least one hour of pay. An employer may satisfy the rule by making an agreed-upon minimum number of hours available—not merely reaching an advance agreement.

Same scenario. Significantly different exposure.

3. Premium pay without overtime: New York vs. Rhode Island

New York's "spread of hours" rule may require an additional hour of minimum-wage pay when the interval between the beginning and end of the workday exceeds 10 hours or the employee works a split shift.

Rhode Island generally requires premium pay for covered retail work on Sundays and certain holidays, subject to statutory exceptions.

Neither rule depends on the employee working more than 40 hours. An employee can be paid correctly under the FLSA and still be owed additional compensation under state law.

The common thread: multi-state employers that benchmark compliance solely against the FLSA are likely to miss state-law requirements—and state-law remedies—that create real financial exposure.

I help employers identify and correct these gaps before they become demand letters, agency charges, or litigation.

Next up: unusual state overtime thresholds and new meal-and-rest-break rules.

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