

## Hourly Employees Punch Out Times

State: Michigan

### **Question:**

For the employees that have punched in for the day, is it legal for our company to automatically (electronically) punch them out at the end of their scheduled shift? For those that work overtime, they would punch out manually when they leave.

The issue that we are having is that people are not punching out in a timely manner (non-business reasons) and our electronic system automatically pays them overtime.

### **Answer**

No, this is not an appropriate use of payroll software. Automatically clocking employees out does have an application, but only in settings where it is physically impossible for the employee to work past 5 pm. For example, if you had a production line that shut down at 5 pm, you could automatically clock out all 500 people on the line, at that time.

The federal Fair Labor Standards Act or FLSA requires that the employer keep accurate records of the hours that employees work. If an employee works until 5:10, and you automatically clock him or her out at 5:00, you are in violation of that law. If working an extra 10 minutes puts the employee into overtime, and you do not pay 10 minutes of overtime, you are in violation of federal overtime law, and in violation of Michigan minimum wage and employment laws as well. When you automatically punch an employee out, you have no way of knowing whether he or she actually left at 5:00, at 5:17 or at 7:00.

A prominent HR news site also reports that such wage violations may trigger immigration inspections or audits.

Automatically clocking employees out will also provide them with an incentive to go home after lunch, and still be paid for the entire day. Or, an unethical supervisor could use this policy to make sure that his employees work an extra 2 hours every day without being paid for it.

So the \*cure\* of automatically clocking employees out is much worse than the problem.

The solution is simple. For two generations, employees have been clocking themselves in and out at work. You simply need to implement a policy that employees who do not clock out on time will be disciplined. If the problem continues, they will be terminated. An employee who \*milks the clock\* by finishing work at 5:00 pm but not clocking out until 5:30 pm should also be disciplined or terminated. In this employment climate, it should not be hard to find employees who want a job badly enough to clock in and out.