

Seattle Employers Must Prepare for April 1 Minimum Wage Increase

By Bryan P. O'Connor

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Employers with employees in Seattle will have to pay one of the highest minimum wages in the country beginning April 1, 2015.

Under an ordinance signed by Seattle's Mayor on June 3, 2014, the City's minimum wage will climb to \$15.00 per hour, phased-in over the next three to seven years. How quickly the \$15.00-per-hour rate will be reached depends on the size of the employer's workforce. The new legislation is codified at Seattle Municipal Code §14.19 et seq.

Different Rules for Different Employers

Starting April 1, 2015, businesses that employ more than 500 employees in the United States ("Schedule 1 employers") must pay their Seattle employees at least \$11.00 per hour.

Employers with 500 or fewer employees ("Schedule 2 employers") also will be required to compensate their Seattle employees at least \$11.00 per hour beginning April 1, but these employers can use a credit of \$1.00 per hour for those employees who receive tips, or of money paid by the employer towards the employee's qualifying medical insurance plan.

After April 1, 2015, annual increases in the minimum wage will go into effect every January 1 for all employers. Larger businesses will ratchet up their pay scales more quickly than smaller businesses.

Covered Employees

The law applies to every hour worked by employees within Seattle's geographic boundaries, subject to a few limitations. Employees who work in Seattle occasionally are covered only if they perform more than two hours of work within the City during a two-week period.

Employees are not covered if their time in Seattle is solely for travelling through the City from a point of origin to a destination, both of which are outside Seattle, and they make no employment-related or commercial stops in Seattle, except for refueling or for personal meals or errands. However, an employee who is not covered is still counted in determining the size of the employer.

Challenge to the Law

Shortly after passage of the law, the International Franchise Association and several local business owners filed a lawsuit on behalf of affected franchises. The lawsuit challenges the law under several theories, the primary one based on its treatment of independently owned franchises as Schedule 1 employers even if they employ fewer than 500 individuals. The legislation requires that a local franchise combine its employees with all other franchises of the same franchisor nationwide — regardless of actual ownership — to determine its size. This pending lawsuit does not appear to have affected the City's plans to implement the law.

Rules Expected

Seattle intends to publish final rules interpreting the law toward the end of February or the beginning of March, after draft rules have been provided for public comments. These rules should address what constitutes working in Seattle on an "occasional basis" and joint employer liability issues, among other things.

Next Steps

Affected business owners should review the minimum wage law and its draft rules with legal counsel to ensure compliance. Assessing the legal obligation to pay higher wages starting April 1, 2015, the impact this increase may have on other job positions (e.g., will other employees expect a similar wage increase), and how to pay for these new obligations are issues employers need to consider.

If you have any questions about this or other workplace issues, please contact a Jackson Lewis attorney in our Seattle office.

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