

New City of Seattle Minimum Wage and Wage Theft Ordinances go into Effect

By Bryan P. O'Connor

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Two new Seattle ordinances imposing significant workplace changes on employers with employees in the City took effect on April 1, 2015.

The highly anticipated and much-discussed Seattle Minimum Wage Ordinance (SMC Ch. 14.19) increases the minimum wage for all employees who perform work within Seattle's geographic boundaries. The equally significant, but less-publicized, Seattle Wage Theft Ordinance (Ch. 14.20 SMC) addresses employee complaints of nonpayment of wages and tips.

Washington State already has the highest state minimum wage rate in the country at \$9.47 per hour. Seattle's new Minimum Wage Ordinance elevates the minimum wage of all employees who perform work within Seattle's geographic boundaries depending on the employer's overall size. Employees of "Schedule 1 employers," or those with 501 or more total employees across the country, must receive a minimum wage of \$11.00 per hour.

Employees of smaller "Schedule 2 employers" must receive a minimum wage of \$10.00 per hour, with a total "minimum compensation" of at least \$11.00 per hour. "Minimum compensation" is determined by adding the employee's Schedule 2 minimum wage, any tips, and the employer's cost of the employee's medical benefits. Only an employer's payments towards a plan that is equivalent to a "Silver" level or higher under the federal Affordable Care Act may be considered.

The scheduled minimum wage increases will phase in over several years to \$15.00 an hour. For Schedule 1 employers, the minimum wage must reach \$15.00 per hour no later than January 1, 2017 or 2018, with the rate of phase-in depending on whether the employer makes payments towards a medical plan that is equivalent or higher than Silver level. Smaller Schedule 2 employers will not have to pay \$15.00 per hour minimum wage (\$16.49 per hour minimum compensation) until January 1, 2021.

After reaching \$15.00 per hour, the required minimum wage will rise annually on a percentage basis to reflect the rate of inflation. For additional information, see the dedicated page from the Seattle Office for Civil Rights (<http://www.seattle.gov/civilrights/labor-standards/minimum-wage>) and our article, [Seattle Employers Must Prepare for April 1 Minimum Wage Increase](#).

Seattle's Wage Theft Ordinance intends to address the wrongful withholding of wages or denial of benefits owed an employee. The Ordinance sets out an administrative process for addressing employee complaints of nonpayment of wages and tips, in addition to the civil and criminal liability already imposed by existing state-wide statutes.

The Ordinance also requires employers to pay wages and tips on a regular pay day and imposes specific notice requirements. The notice requirements include a written notice at the time of hire that explains, for example, the applicable pay rate and pay day, a written notice each pay day of the employee's gross wages and tips, pay rate, pay basis, and all deductions, and a written notice of pay rate and tip policies at each change in employment status. Further, a required poster must be provided in English, Spanish, and other languages commonly spoken at the worksite. For more information, see the dedicated page from the Seattle Office for Civil Rights (<http://www.seattle.gov/civilrights/labor-standards/wage-theft>).

An employer found in violation of either of the two new ordinances may be liable for unpaid earnings and civil penalties that would escalate for repeated violations. If an employer fails to comply promptly with the remedy defined in a final order, the City may refuse to issue, refuse to renew, or revoke a business license. Any successor to the business of the employer also becomes liable for the full amount of the final order, including payment of unpaid wages and tips and civil penalties. Charges can be filed up to three years after an alleged violation.

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The newly established Office of Labor Standards of the Seattle Office of Civil Rights will enforce both new ordinances. The Office also will enforce Seattle's existing mandatory Paid Sick and Safe Leave ordinance.

Jackson Lewis attorneys are available to answer inquiries regarding these and other workplace developments.

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