

Governor Cuomo Creates Unit To Enforce Increasing New York Minimum Wage

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To ring in the New Year, Governor Andrew Cuomo announced the creation of a 200-member multi-agency Minimum Wage Enforcement and Outreach Unit on January 2, 2017. The Unit's goal is to ensure that all minimum wage workers in the state of New York are paid the proper rate. Here's what in employers in New York need to know about this development.

Get To Know The Unit

The Unit will pull specially trained staff from a number of state agencies, including the Department of Labor, the Department of Taxation, the Workers Compensation Board, and the Department of State. The Unit will focus both on enforcing New York's minimum wage while also helping businesses understand their obligations under the law.

Enforcement

On the enforcement side, state investigators – led by those from the Department of Labor – will take a number of different actions, including responding to complaints by employees, conducting audits of an employer's entire workforce, and conducting proactive investigations into employers' pay practices. In addition to owing back wages, and up to 100% liquidated damages and up to 100% civil penalties, employers are subject to a fine of \$3 for every hour that they fail to pay the proper minimum wage to an employee.

The Unit will also work on creating worker protection tools, such as the new website www.ny.gov/mywage and the new hotline 1-888-4NYSDOL, to ensure that employees are properly educated

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about their rights. Moreover, the Unit will reach out to labor unions and worker advocacy groups to assist in its worker education efforts.

Business Assistance

To assist businesses, the Unit will provide training sessions and webinars to educate employers on their wage and hour obligations. In addition, it will work with regional chambers of commerce, business improvement districts, and industry groups to educate employers.

State To Step In Where Federal Government Doesn't

Governor Cuomo's announcement further demonstrates that, while the enforcement efforts by the U.S. Department of Labor in the upcoming Trump administration remain unclear, New York employers cannot rest easy. The New York state government will more than pick up the slack should the federal government take a more relaxed approach to wage and hour enforcement.

Schedule of Minimum Wage Increases in New York

As a reminder, New York's minimum wage will be as follows:

- For larger employers in New York City (11 or more employees):
 - December 31, 2016 (current): \$11/hour.
 - December 31, 2017: \$13/hour.
 - December 31, 2018: \$15/hour.

- For smaller employers in New York City (10 or fewer employees):
 - December 31, 2016 (current): \$10.50/hour
 - December 31, 2017: \$12/hour
 - December 31, 2018: \$13.50/hour
 - December 31, 2019: \$15/hour

- Employers in Nassau, Suffolk, and Westchester Counties:
 - December 31, 2016 (current): \$10/hour
 - December 31, 2017: \$11/hour
 - December 31, 2018: \$12/hour
 - December 31, 2019: \$13/hour
 - December 31, 2020: \$14/hour



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- December 31, 2021: \$15/hour
- Employers elsewhere in New York State:
 - December 31, 2016 (current): \$9.70/hour
 - December 31, 2017: \$10.40/hour
 - December 31, 2018: \$11.10/hour
 - December 31, 2019: \$11.80/hour
 - December 31, 2020: \$12.50/hour

In addition, New York's tip credit minimum wage requirements for "food service employees" and "service employees" in the hospitality industry are being adjusted. The requirements for "food service employees" in the hospitality industry are as follows:

- For larger employers in New York City (11 or more employees):
 - December 31, 2016 (current): \$7.50/hour Cash Wage, \$3.50/hour Tip Credit
 - December 31, 2017: \$8.65/hour Cash Wage, \$4.35/hour Tip Credit
 - December 31, 2018: \$10/hour Cash Wage, \$5/hour Tip Credit
- For smaller employers in New York City (10 or fewer employees):
 - December 31, 2016 (current): \$7.50/hour Cash Wage, \$3/hour Tip Credit
 - December 31, 2017: \$8/hour Cash Wage, \$4 Tip Credit/hour
 - December 31, 2018: \$9/hour Cash Wage, \$4.50/hour Tip Credit
 - December 31, 2019: \$10/hour Cash Wage, \$5/hour Tip Credit
- Employers in Nassau, Suffolk, and Westchester Counties:
 - December 31, 2016 (current): \$7.50/hour Cash Wage, \$2.50 Tip Credit
 - December 31, 2017: \$7.50/hour Cash Wage, \$3.50/hour Tip Credit
 - December 31, 2018: \$8/hour Cash Wage, \$4/hour Tip Credit
 - December 31, 2019: \$8.65/hour Cash Wage, \$4.35/hour Tip Credit
 - December 31, 2020: \$9.35/hour Cash Wage, \$4.65/hour Tip Credit
 - December 31, 2021: \$10/hour Cash Wage, \$5/hour Tip Credit
- Employers elsewhere in New York State:
 - December 31, 2016 (current): \$7.50/hour Cash Wage, \$2.20/hour Tip Credit
 - December 31, 2017: \$7.50/hour Cash Wage, \$2.90/hour Tip Credit



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- December 31, 2018: \$7.50/hour Cash Wage, \$3.60/hour Tip Credit
- December 31, 2019: \$7.85/hour Cash Wage, \$3.95/hour Tip Credit
- December 31, 2020: \$8.35/hour Cash Wage, \$4.15/hour Tip Credit

The requirements for “service employees” in the hospitality industry (except in resort hotels) are as follows (note - in addition to meeting the cash wage and tip credit requirements, “service employees” must now have a weekly average of tips of at least a certain “Tip Threshold”):

- For larger employers in New York City (11 or more employees):
 - December 31, 2016 (current): \$9.15/hour Cash Wage, \$1.85/hour Tip Credit, \$2.40 Tip Threshold
 - December 31, 2017: \$10.85/hour Cash Wage, \$2.15/hour Tip Credit, \$2.80/hour Tip Threshold
 - December 31, 2018: \$12.50/hour Cash Wage, \$2.50/hour Tip Credit, \$3.25/hour Tip Threshold
- For smaller employers in New York City (10 or fewer employees):
 - December 31, 2016 (current): \$8.75/hour Cash Wage, \$1.75/hour Tip Credit, \$2.30/hour Tip Threshold
 - December 31, 2017: \$10/hour Cash Wage, \$2 Tip Credit/hour, \$2.60/hour Tip Threshold
 - December 31, 2018: \$11.25/hour Cash Wage, \$2.25/hour Tip Credit, \$2.95/hour Tip Threshold
 - December 31, 2019: \$12.50/hour Cash Wage, \$2.50/hour Tip Credit, \$3.25/hour Tip Threshold
- Employers in Nassau, Suffolk, and Westchester Counties:
 - December 31, 2016 (current): \$8.35/hour Cash Wage, \$1.65 Tip Credit, \$2.15 Tip Threshold
 - December 31, 2017: \$9.15/hour Cash Wage, \$1.85/hour Tip Credit, \$2.40/hour Tip Threshold
 - December 31, 2018: \$10/hour Cash Wage, \$2/hour Tip Credit, \$2.60/hour Tip Threshold
 - December 31, 2019: \$10.85/hour Cash Wage, \$2.15/hour Tip Credit, \$2.80/hour Tip Threshold
 - December 31, 2020: \$11.65/hour Cash Wage, \$2.35/hour Tip Credit, \$3.05/hour Tip Threshold
 - December 31, 2021: \$12.50/hour Cash Wage, \$2.50/hour Tip Credit, \$3.25/hour Tip Threshold



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- Employers elsewhere in New York State:
 - December 31, 2016 (current): \$8.10/hour Cash Wage, \$1.60/hour Tip Credit, \$2.10/hour Tip Threshold
 - December 31, 2017: \$8.65/hour Cash Wage, \$1.75/hour Tip Credit, \$2.25/hour Tip Threshold
 - December 31, 2018: \$9.25/hour Cash Wage, \$1.85/hour Tip Credit, \$2.40 Tip Threshold
 - December 31, 2019: \$9.85/hour Cash Wage, \$1.95/hour Tip Credit, \$2.55/hour Tip Threshold
 - December 31, 2020: \$10.40/hour Cash Wage, \$2.10/hour Tip Credit, \$2.70/hour Tip Threshold

Finally, employers should also make sure they are aware of year-end updates to meal and lodging allowances, uniform allowance rules, allowances for tips outside of the hospitality industry, increases to the salary threshold for certain “white collar” employees, and other recent changes to New York’s wage and hour laws.

For more information about how these changes will affect your workplace, contact any attorney in our New York City office at 212.956.0897, or your regular Fisher Phillips attorney.

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