



Nevada Constitution Provides Exclusive Exemptions from Minimum Wage, Nevada High Court Rules

Date: 7.2.2014

The Nevada Constitution's categories of individuals who are exempted from the payment of minimum wage supersede the exemptions previously provided by statute, the Nevada Supreme Court has ruled, clarifying a question that has troubled employers in Nevada. *Thomas v. Nevada Yellow Cab*, 130 Nev. Adv. Op. 52 (June 26, 2014). Accordingly, the Court held that the plaintiffs, taxicab drivers (as well as others identified as exempt from minimum wage under NRS 608.250(2)), are not exempt from minimum wage.

The Nevada Supreme Court found that Nevada voters approved and ratified an amendment to the Nevada Constitution in 2004 and 2006 that created a minimum wage system that also identified those individuals are exempt from minimum wage. These exceptions include only "an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summary employment or as a trainee for a period not longer than ninety (90) days."

Prior to the amendment, Nevada law (NRS 608.250) exempted six categories of individuals from minimum wage:

- (1) casual babysitters;
- (2) domestic service employees who reside in the household;
- (3) outside salespersons whose earnings are based on commissions;
- (4) certain agricultural employees;
- (5) taxicab and limousine drivers; and
- (6) certain persons with severe disabilities.

Rejecting the lower court's finding that the constitutional amendment allowed the Legislature to provide for additional exceptions to the minimum wage, the Court stated, "In this case, the principle of constitutional supremacy prevents the Nevada Legislature from creating exceptions to the rights and privileges protected by Nevada's Constitution."

Implications

Nevada employers can no longer rely on the statutory exemptions to the payment of minimum wage. Any worker not in one of the three categories of individuals specifically listed as exempted from minimum wage in the Nevada Constitution must be paid the minimum wage. This is a substantial change in Nevada law and one that has implications for many employers. If you have any questions about this decision or other workplace developments, please contact Elayna J. Youchah, at YouchahE@jacksonlewis.com, in Las Vegas office, or the Jackson Lewis attorney with whom you regularly work.

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