

Important Changes in Employment Laws in New York State

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The State of New York recently adopted two important changes in the law which will impact all employers.

Minimum Wage

First, the Legislature approved increases to the minimum wage. While the Federal minimum wage has been stuck at \$7.25 per hour since 2009, New York (like many other states) has increased the minimum wage. The most recent increase was to \$9.00 on December 31, 2015. The new law will increase the minimum wage to as much as \$15 per hour in some parts of the State. The law does away with the current uniform State-wide minimum hourly wage in favor of a schedule with three geographic areas and which distinguishes between large and small employers in New York City. Here's the breakdown:

- In the City of New York
 - Large employers (11 or more employees):
 - \$11.00 per hour on and after December 31, 2016
 - \$13.00 per hour on and after December 31, 2017
 - \$15.00 per hour on and after December 31, 2018
 - Small employers (10 or fewer employees)
 - \$10.50 per hour on and after December 31, 2016
 - \$12.00 per hour on and after December 31, 2017
 - \$13.50 per hour on and after December 31, 2018
 - \$15.00 per hour on and after December 31, 2019

- Downstate (Nassau, Suffolk, and Westchester Counties) (all employers)

- \$10.00 per hour on and after December 31, 2016
 - \$11.00 per hour on and after December 31, 2017
 - \$12.00 per hour on and after December 31, 2018
 - \$13.00 per hour on and after December 31, 2019
 - \$14.00 per hour on and after December 31, 2020
 - \$15.00 per hour on and after December 31, 2021
- All other areas of New York State
 - \$9.70 on and after December 31, 2016
 - \$10.40 on and after December 31, 2017
 - \$11.10 on and after December 31, 2018
 - \$11.80 on and after December 31, 2019
 - \$12.50 on and after December 31, 2020
 - Thereafter, a wage rate set by the Commissioner of Labor, based on economic conditions, up to \$15.00.

These changes will help workers at the lower end of the income scale, but will also increase costs for employers. The increases in the base hourly rate will carry over into overtime rates when employees work more than 40 hours in a work week. For example, an employee earning \$15.00 per hour will be entitled to \$22.50 per hour for all hours worked in excess of 40 in a work week.

Note that there are a number of exceptions to the State minimum wage laws, including but not limited to municipal employees, staff counselors in summer camps, and seasonal summer camp employees for not more than three months annually. The Federal minimum wage would still apply to these employees.

Paid Family Leave

The second major change is the creation of paid family leave. For over 20 years, the Federal Family and Medical Leave Act (“FMLA”) has required employers of 50 or more employees to allow employees to take up to 12 weeks of leave for the birth or adoption of a child, the employee’s own serious personal illness, the serious personal illness for an immediate family member, or certain military purposes. Only employees who had been employed for at least one year, and who had worked at least 1,250 hours during the previous year, were eligible for such leave. Significantly, this leave is unpaid, forcing employees to choose between income and family or personal health. The United States is one of the very few industrialized nations which has no mandatory paid leave law.

New York is one of the first states to change that. Under the new law, which takes effect on January 1, 2018, employees will be entitled to certain paid family leave benefits. The program is, essentially, an insurance plan funded by employees, not employers. Beginning January 1, 2018, all employees will contribute up to \$1 per week to fund the benefit. Starting on that date as well, employees who have been employed for six months will be eligible for up to 8 weeks of paid leave at 50% of their weekly pay (capped at 50% of the state-wide average pay). The benefit will increase yearly, and in 2021 employees will be eligible for 12 weeks of leave at up to 67% of

weekly pay (capped at 67% of the state-wide average pay). Eligibility for the leave is similar to what the FMLA provides.

While there will be no direct cost to employers, it is likely that more employees will find themselves able to utilize family leaves once they are entitled to receive some compensation. Employers will need to be prepared for the administrative burdens involved. There will be many technical issues involved in the implementation of this program which will need to be ironed out before January 1, 2018.

Please note that this is a general overview of developments in the law, and does not constitute legal advice. If you have questions regarding these provisions or any other aspect of employment law, please contact Thomas B. Wassel at 516-357-3868 or twassel@cullenanddykman.com or Gerard Fishberg at 516-357-3703 or gfishberg@cullenanddykman.com.

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