

Legal Update

July 10, 2020

A REMINDER ABOUT SOME KEY EMPLOYMENT LAW CHANGES: MINIMUM WAGES, WORK SCHEDULES, & HARASSMENT

By Jon Vegosen

In our [January 2020](#) newsletter, we discussed amendments to the Illinois Minimum Wage Law, as well as looming minimum wage increases for Cook County and the City of Chicago. Those increases became effective on July 1, 2020. In addition, we foreshadowed the Chicago Fair Workweek Scheduling Ordinance and its requirements for employers, which became effective July 1, 2020. In our [August 2019](#), and [November 2019](#) newsletters, we summarized some sweeping mandates with respect to sexual harassment, some of which went into effect in January of 2020, and some of which became effective July 1, 2020. This newsletter is to remind employers to bear in mind and abide by these legal requirements.

Minimum Wage

The state minimum wage increased from \$9.25 per hour to \$10.00 per hour on July 1, 2020. It will further increase by an additional \$1.00 per hour every year until it reaches \$15.00 per hour in 2025. The Illinois Department of Labor has published a yearly state minimum wage chart, which is [available here](#). Below are some of the highlights about the Illinois Minimum Wage Law:

- With some exceptions, the law applies to employers with four or more employees.
- Small employers may be eligible for a new minimum wage tax credit to offset some of the cost of the wage increases.
- New employees (first 90 days of employment) over the age of 18 may be paid up to 50 cents per hour less than the minimum wage.
- While the minimum wage is applicable to all workers 18 years of age and older, starting this year, if a worker under 18 works more than 650 hours for the employer during any calendar year, then that worker must be paid the regular over 18 wage.
- Where gratuities are paid to employee, an employer may pay 60% of the minimum wage to its employees.
- Employers may apply for licenses to pay sub-minimum rates to learners and certain workers with physical and mental limitations. Most employees must be paid overtime, at time and one-half of the regular rate, after 40 hours of work in a workweek.

Notably, effective July 1, 2020, the minimum wage in Cook County is \$13.00 per hour, and the minimum wage in the City of Chicago is \$14.00 per hour. If your organization is subject to more than one of the minimum wage laws, then it should pay employees no less than the highest applicable rate. It should be noted, however, that Cook County's ordinance is not applicable to many Cook County suburbs. This is because several of them opted out of the ordinance. Especially in light of COVID-19, there are many employees working remotely. As a consequence, an employer may fall under the minimum wage laws of

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a number of jurisdictions. The reason is that the law where an employee performs work usually controls rather than where an employer is located.

Employers are required to provide employees with notice of the wage increase. Illinois and Cook County do not mandate a particular form of the notice. Employers that are covered by Chicago's Minimum Wage Ordinance, however, need to provide written notice of the wage increases in connection with the first paycheck issued after July 1, 2020. Moreover, they must do so using a specific form. Both [English](#) and [Spanish](#) versions of the notice are available online.

Chicago Fair Workweek Scheduling Ordinance

Effective July 1, 2020, large employers (i.e., those with more than a total of 100 employees and at least 50 "covered employees") in the building services, healthcare, hotel, manufacturing, restaurant, retail and warehouse services industries need to comply with new work schedule requirements. Employees who work in Chicago and earn less than \$26 per hour (\$50,000 per year) are generally considered "covered employees." With certain exceptions, employers covered by this ordinance must provide these "covered employees" with ten days' advance written notice of work schedules, predictability pay for shift changes, and a good faith written estimate of the projected work for new employees, among other requirements. Employers are required to post a conspicuous notice about employees' rights under the ordinance. Because many businesses are still not open or are not functioning at full steam, the Chicago City Council amended the Ordinance to postpone until January 1, 2021 the ability to of employees to file lawsuits for violation of the Ordinance. The amendment, however, does not affect the effective date of the Ordinance. Moreover, employers may still be fined for violations. For more information, see [Chicago's FAQ](#) about the Ordinance.

Harassment

For many years, the Illinois Human Rights Act (the "IHRA") applied to employers with 15 or more employees. Effective July 1, 2020, the IHRA has been amended to apply to all employers with one or more Illinois employee, in order to protect all employees from unlawful harassment and discrimination. In addition, under penalty of fine for noncompliance, employers must submit annual reports to the Illinois Department of Human Rights (the "IDHR") disclosing, among other things, adverse judgments or administrative rulings against the employer for sexual harassment or unlawful discrimination. When investigating a claim under the IHRA, the IDHR also now has the authority to require an employer to disclose the number of settlements that the employer entered into during the preceding five years, or less at the IDHR's request, relating to any alleged act of sexual harassment. Finally, while the requirement became effective on January 1, 2020, all Illinois employers with Illinois employees must conduct annual sexual harassment training that equals or exceeds Illinois' requirements. At this time, employers now only have about six months left to comply with the harassment training requirement for 2020.

Conclusion

This newsletter does not discuss all of the provisions and ramifications of the foregoing laws. Nevertheless, it is important that employers keep the requirements top of mind. It would be advisable for employers to consult with legal counsel should they have any questions or concerns about any of these laws or need anti-harassment training.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Jon Vegosen 312.701.6860, jvegosen@fvldlaw.com, or your regular FVLD contact.

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