



LABOR AND EMPLOYMENT

ALERT

NEW YORK STATE RAISES ITS MINIMUM WAGE AND NEW YORK CITY WILL REQUIRE EMPLOYERS TO PROVIDE EMPLOYEES WITH PAID SICK DAYS

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Two recent political deals at both the state and municipal level will increase employer costs and burdens. At the state level, New York will increase the minimum wage from \$7.25 per hour to \$9.00 per hour. At the municipal level, New York City is set to require all New York City employers to provide time off to their employees to care for themselves or their family members.

New York State Raised Its Minimum Wage

On April 1, 2013, Governor Cuomo signed legislation that will increase New York's minimum wage over a three year period, eventually raising the minimum wage from \$7.25 per hour to \$9.00 per hour. Starting January 1, 2014, the minimum wage in New York will raise \$0.75 from \$7.25 per hour to \$8.00 per hour. In 2015, the minimum wage will raise another \$0.75 to \$8.75 per hour. Finally, in 2016, the minimum wage will increase to \$9.00 per hour. While the tipped minimum wage for food service workers remains unaffected, a new wage board will be convened in the coming months and the tip credit, meal credit, and other matters affected by the Hospitality Wage Order will again be up for grabs.

New York City Will Require Most Employers to Provide Paid Sick Days

The New York City Council recently reached an agreement to pass legislation that would require most New York City employers to provide paid sick leave to their employees. While Mayor Bloomberg is expected to veto

the legislation, there are more than enough votes in the City Council to override the Mayor's veto and the legislation is expect to become law.

Under the legislation, effective April 1, 2014, all New York City employers must provide up to five sick days to "covered employees" so that such individuals can care for themselves or a close family member. For employers with 20 or more employees, the five sick days must be paid. On October 15, 2015, the requirement to provide paid sick days to employees expands to employers with 15 or more employees. For those employees who receive most of their compensation in the form of "gratuities," it appears that the legislation only requires the employer to pay the employee his or her base wages.

A "covered employee" under the legislation includes all employees, whether part-time or full-time, who have worked for their employer for at least four months. However, seasonal employees and work study students are excluded from the definition of "covered employee." Employers who already meet these minimum requirements for providing time off as set forth in the legislation will not be required to offer additional time off to their employees. The legislation also prevents employers from retaliating against employees who exercise their right to take time off in a manner consistent with the legislation.

This legislation will be enforced by the New York City Department of Consumer Affairs. If an employer violates

the law, the Department of Consumer Affairs can impose a fine of up to \$2,500 as well as require employers to reimburse an employee any wages to which he or she may be entitled. However, the legislation does not create a private right of action for employees, which means that employees can not sue their employers who allegedly violate this law; their only recourse is to file a complaint with the Department of Consumer Affairs.

These changes will increase costs for all New York City employers. Further, the sick day legislation will impose additional burdens on employers beyond costs, such as covering employee shifts on short notice and tracking employee usage of sick days. These new laws

also can subject unwary employers to additional fines and penalties if they fail to properly comply. Accordingly, employers must be diligent in ensuring that they continue to comply with the New York law. Many specifics on the Sick Leave agreement remain unclear at the time of this writing. Fox Rothschild will continue to monitor this legislation and provide further details as they become available.

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