

# Labor & Employment Law E-Alert

*Vorys, Sater, Seymour and Pease LLP*

## THE FEDERAL MINIMUM WAGE IS INCREASING

For the first time in 10 years, Congress has increased the federal minimum wage. The last federal minimum wage increase occurred in 1997, when the minimum wage was raised from \$4.75 to \$5.15 per hour. On May 24, 2007, as part of the Iraq war spending bill, Congress approved raising the hourly minimum wage to \$5.85, beginning two months after the bill becomes law. One year later, the hourly minimum wage will increase to \$6.55, and will increase to \$7.25 the next year. President Bush signed the measure into law on May 25. Accordingly, the minimum wage increase will take effect on July 24, 2007.

The federal minimum wage will be:

Effective July 24, 2007	\$5.85
Effective July 24, 2008	\$6.55
Effective July 24, 2009	\$7.25

Like many states, Ohio recently passed its own increase to its minimum wage in the form of a constitutional amendment last November. Ohio's minimum wage for most employees is now \$6.85 per hour, which will be adjusted annually for inflation.

For those employers who are covered by the federal minimum wage, Congress's action means that Ohio employers will pay the **higher** of the federal minimum wage or the Ohio minimum wage. Ohio law requires that employees under the age of 16 and employees of businesses with annual gross receipts of \$250,000 or less must be paid at least the federal minimum wage.

Employers in other states covered by both state and federal law must comply with the **higher** of the federal minimum wage or the state minimum wage. Additionally, some cities have enacted their own minimum wage laws with higher hourly wages than the new federal minimum; the **higher** must be paid.

For your reference, please find below our chart concerning the various minimum hourly wages in each state.

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## **STATE MINIMUM WAGES (AS OF JUNE 1, 2007)**

Pursuant to federal law, the vast majority of employers must pay their employees at an hourly rate not less than the federal minimum wage, which increases to \$5.85 on July 24, 2007 and to \$6.55 on July 24, 2008 and then to \$7.25 on July 24, 2009.

In addition, some states have their own minimum wage laws. Some of these state laws require employers to pay more than the federal minimum wage. Other states have established a minimum wage lower than the federal minimum wage. This lower minimum wage, however, applies only to a small percentage of employers or employees to whom the federal minimum wage does not apply. Further, many of these states limit the applicability of the lower minimum wage to employers with minimal annual gross sales, and to certain groups of employees such as students, minors, salespersons, individuals working in agriculture, trainees, learners, and employees in the first months of their employment.

The following chart does not include these subminimum wage rates. Additionally, the definition of who qualifies for these subminimum wage rates varies from state to state. Please call your Vorys lawyer if you have any questions about these subminimum wage rates.

The chart also identifies those city minimum wages of which we are currently aware, but of necessity cannot be all encompassing, as it is impossible to monitor all city minimum wages nationwide. For questions regarding minimum wages in particular cities not identified below, please contact your Vorys lawyer.

The following states either have no minimum wage law or follow the federal minimum wage law. Thus, employers in the following states must pay their employees at least the federal minimum wage:

ALABAMA  
GEORGIA  
IDAHO  
INDIANA  
KANSAS  
LOUISIANA  
MISSISSIPPI  
NEBRASKA

OKLAHOMA  
SOUTH CAROLINA  
TENNESSEE  
TEXAS  
UTAH  
VIRGINIA  
WEST VIRGINIA  
WYOMING

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## **ALASKA**

**\$7.15**

State minimum wage does not allow application of any credit for tipped employees. Students who work less than 30 hours per week must only be paid the federal minimum wage.

## **ARKANSAS**

**\$6.25**

Applies to all employers with four or more employees. Allowance for tip credit for tipped employees cannot exceed 58% of minimum wage. Full-time students of accredited educational institutions who work no more than 20 hours while school is in session and no more than 40 hours when school is not in session must be paid not less than 85% of the minimum wage.

## **ARIZONA**

**\$6.75**

Minimum wage will increase on January 1 of each year for cost of living increase in the Consumer Price Index through August of the previous year. Does not apply to employers that are exempt from paying the minimum wage under federal law and have less than \$500,000 in gross annual revenue. Tipped employees must be paid at least \$3.75 per hour.

## **CALIFORNIA**

**\$7.50**

Minimum wage will increase to \$8.00 on January 1, 2008.

## **COLORADO**

**\$6.85**

Adjusted annually for inflation as measured by the Consumer Price Index for Colorado. Minimum wage for tipped employees is \$3.83.

## **CONNECTICUT**

**\$7.65**

State statute says state minimum wage must always be at least 1/2 of 1% greater than Federal minimum wage. Learners, beginners, and employees under 18 years of age must be paid 85% of minimum wage for the first 200 hours of employment, then must be paid the minimum wage.

## **DELAWARE**

**\$6.65**

Minimum wage will increase to \$7.15 on January 1, 2008. Minimum wage for tipped employees follows federal law.

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## **DISTRICT OF COLUMBIA**

**\$7.00**

Or \$1.00 higher than the federal minimum wage, whichever is higher. Minimum wage for tipped employees is \$2.77.

## **FLORIDA**

**\$6.67**

Minimum wage for tipped employees is \$3.65. Minimum wage will be adjusted on January 1 of each year based on the rate of inflation for 12 months prior to September 1 of each year, using the CPI for Urban Wage Earners and Clerical Workers for the South Region.

## **HAWAII**

**\$7.25**

Minimum wage for tipped employees is \$7.00.

## **ILLINOIS**

**\$6.50**

Minimum wage will increase to \$7.50 on July 1, 2007. Minimum wage will increase to \$7.75 on July 1, 2008, then increase to \$8.00 on July 1, 2009, then increase to \$8.25 on July 1, 2010. Employees under 18 years of age cannot be paid less than \$0.50 below minimum wage. Tip credit may not exceed 40% of minimum wage.

## **IOWA**

**\$6.20**

Minimum wage will increase to \$7.25 effective January 1, 2008. Applies to all employers with at least \$300,000 in gross annual sales or business. Tip credit may not exceed 40% of minimum wage.

## **KENTUCKY**

**\$5.15**

Minimum wage will increase to \$5.85 effective July 1, 2007. Minimum wage will increase to \$6.55 effective July 1, 2008, and \$7.25 effective July 1, 2009. Minimum wage will automatically increase to federal minimum wage if federal minimum wage exceeds state minimum wage. Tip credit may not exceed the federal tip credit.

## **MAINE**

**\$6.75**

Minimum wage will increase to \$7.00 effective October 1, 2007. Tipped employees must be paid at least 50% of the minimum wage.

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## **MARYLAND**

**\$6.15**

Tipped employees must be paid at least 50% of the minimum wage.

## **MASSACHUSETTS**

**\$7.50**

Increases to \$8.00 effective January 1, 2008. Automatically increases to 10 cents above Federal if Federal becomes higher than state. Minimum wage for tipped employees is \$2.63.

## **MICHIGAN**

**\$6.95**

Increase to \$7.15 effective July 1, 2007;

Increase to \$7.40 effective July 1, 2008.

Employees under 18 years of age must be paid 85% of minimum wage. Minimum wage for tipped employees is \$2.65.

## **MINNESOTA**

**\$6.15**

\$5.25 for Small Employers whose annual gross volume of sales or business done is less than \$625,000. Tipped employees must be paid the minimum wage. No tip credit may be applied.

## **MISSOURI**

**\$6.50**

Annual adjustment to minimum wage beginning January 1, 2008 based on changes in Consumer Price Index for urban wage earners and clerical workers. Minimum wage will automatically increase to federal level if federal is set above state minimum wage. Tipped employees must be paid at least 50% of the minimum wage.

## **MONTANA**

**\$6.15**

For businesses with annual gross sales of more than \$110,000. Minimum wage will be adjusted on January 1 of each year based on changes in the Consumer Price Index through September 30<sup>th</sup>. Minimum wage will automatically increase to federal level if federal is set above state minimum wage.

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## **NEVADA**

**\$6.33**

For employers who do not provide health benefits. Employers may petition for \$1.00 reduction in minimum wage if the employer provides health benefits to employees and the premiums required from employees do not exceed 10% of the employee's gross taxable income. Minimum wage will increase each year based on increase in Consumer Price Index, capped at 3% each year, unless the federal minimum wage is increased. Tipped employees must be paid the minimum wage. No tip credit may be applied.

## **NEW HAMPSHIRE**

**\$5.15**

Minimum wage will increase to \$6.50 effective September 1, 2007. Minimum wage will increase to \$7.25 effective September 1, 2008. Tip credit may not exceed 45% of minimum wage.

## **NEW JERSEY**

**\$7.15**

Tips may be credited towards payment of the state minimum wage. Tipped employees must also be paid direct hourly compensation as required by federal law for tipped employees.

## **NEW MEXICO**

**\$5.15**

Minimum wage will increase to \$6.50 effective January 1, 2008. Minimum wage will increase to \$7.50 effective January 1, 2009. Tip credit may not exceed \$2.13.

## **NEW YORK**

**\$7.15**

Minimum wage will automatically increase if federal rises above state minimum wage. Tipped food service employees must be paid at least \$4.60, with an automatic increase if federal level for tipped employees rises above state level. Tip allowance for other service workers varies based on the size of the tip received.

## **NORTH CAROLINA**

**\$6.15**

Tipped employees must be paid at least \$3.13.

## **NORTH DAKOTA**

**\$5.15**

Minimum wage will increase to \$5.85 on the effective date of the anticipated 2007 increase in the federal minimum wage. Minimum wage will increase to \$6.55 twelve months after the effective date, and increase to \$7.25 twenty-four months after the effective date.

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## **OHIO \$6.85**

For employers with annual gross receipts of \$250,000 or more. Federal minimum wage applies to employers with less than \$250,000 in annual gross receipts and employees under the age of 16. Tipped employees must be paid at least 50% of the minimum wage. Minimum wage will increase on January 1 of each year by the rate of inflation for 12 months prior to September 30<sup>th</sup> based on the Consumer Price Index for all urban wage earners and clerical workers.

## **OREGON \$7.80**

The minimum wage will be adjusted yearly on January 1 for inflation by using the CPI for all urban consumers for all items rounded to the nearest five cents. Tipped employees must be paid the minimum wage. No tip credit may be applied.

## **PENNSYLVANIA \$6.25**

For employers with 10 or more full-time equivalent employees. Minimum wage will increase to \$7.15 beginning July 1, 2007. Minimum wage will automatically increase to federal level if federal passes state minimum wage. Tipped employees must be paid at least \$2.83 per hour. Employers with 10 or less full time equivalent employees must pay as follows: \$5.65 effective January 1, 2007; \$6.65 effective July 1, 2007; and \$7.15 effective July 1, 2008.

## **RHODE ISLAND \$7.40**

Tipped employees must be paid at least \$2.89.

## **SOUTH DAKOTA \$5.15**

Minimum wage will increase to \$5.85 on the July 24, 2007. Minimum wage will increase to \$6.55 twelve months after that date, and increase to \$7.25 twenty-four months after that date.

## **VERMONT \$7.53**

Increases on January 1 of each year by the lesser of 5% or the percentage increase in the Consumer Price Index, U.S. city average, for the 12 months prior to September 1<sup>st</sup>. Tipped employees must be paid at least \$3.65. If federal increases above state minimum wage, state minimum wage for that year will be the federal wage.

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## **WASHINGTON**

**\$7.93**

Minimum wage is adjusted yearly on January 1 for inflation by a calculation CPI for urban wage earners and clerical workers for the prior year. Tipped employees must be paid the minimum wage. No tip credit may be applied.

## **WISCONSIN**

**\$6.50**

Minors must be paid \$5.90. Tipped employees must be paid \$2.33.



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## **CITY MINIMUM WAGES**

### **Albuquerque, New Mexico (including Bernalillo County)**

\$6.75 (without health care and/or childcare benefits)

\$5.75 (with health care and/or childcare benefits)

### **Chicago, Illinois**

Effective July 1, 2007, Chicago will apply a minimum wage applicable to certain large retailers with stores of 90,000 square feet or more and a billion dollars or more in annual gross revenue. For questions regarding this minimum wage, please contact your Vorys lawyer.

### **Santa Fe, New Mexico**

**\$9.50**

Will increase to \$10.50 on January 1, 2008.

Applies to employers with 25 or more employees.

### **San Francisco, California**

**\$9.14**

Minimum wage is adjusted yearly on January 1 for inflation.

**If you have any questions about this or any other employment-related issue, please contact your Vorys lawyer.**

This alert contains information necessarily of such a general nature that it cannot be regarded as legal advice. Vorys, Sater, Seymour and Pease LLP is available to provide additional information and to discuss matters contained herein as they may apply to specific situations. ©2007, Vorys, Sater, Seymour and Pease LLP. For additional information, visit [www.vorys.com](http://www.vorys.com).

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