

## Seattle Minimum Wage Increases Go into Effect April 2015

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Employers with employees in **Seattle** will have to pay one of the highest minimum wages in the country to comply with new legislation beginning April 2015.

The new ordinance, signed by Seattle's Mayor on June 3, 2014, will increase the city's minimum wage to **\$15.00 per hour**, phased-in over the next three to seven years. Seattle Municipal Code §14.19 et seq. Once the new rate is reached, Seattle's minimum will be the highest of any big U.S. city and more than twice the \$7.25 federal minimum. Seattle's current minimum wage is that for Washington State, currently \$9.32 per hour. Washington's minimum is adjusted annually based on the U.S. Consumer Price Index and inflation and likely will increase in 2015. Seattle restaurants, hotels and other employers objected to the wage increases, saying they could raise prices, lead to job losses, and force smaller businesses operating on low profit-margins to close.

### Employer Size

The new law has different requirements based on the employer's total number of employees working anywhere in the U.S. For example, starting April 1, 2015, businesses that employ more than 500 employees, or "Schedule 1 employers," will be required to pay covered employees at least \$11.00 per hour, with incremental increases each January 1 thereafter. Employers with 500 or fewer employees, or "Schedule 2 employers," also must pay covered employees at least \$11.00 per hour beginning April 1, but may use a credit of \$1.00 per hour if they pay wages plus tips, medical insurance premiums, and certain other benefits itemized in the new law. The required minimum wage also will increase for Schedule 2 employers every January 1 thereafter.

By 2017 (2018, if they contribute towards a qualified employee medical plan), Schedule 1 employers will be required to pay their Seattle employees at least \$15.00 per hour. Schedule 2 employers must reach a minimum wage of \$15.00 per hour by 2021 and can combine wages, tips, bonuses, and health insurance benefits to meet this minimum only until 2019. After these phase-in periods, the wage increases will be tied to inflation.

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## Covered Employees

The law applies to each hour an employee works within Seattle's geographic boundaries. An employee who performs work on an "occasional basis" in Seattle is covered only if he or she performs more than two hours of work within Seattle during any two-week period. The law does not apply to time spent in Seattle solely for the purpose of travelling through Seattle from and to destinations outside the City, where there are no employment-related or commercial stops in Seattle except for refueling or the employee's personal meals or errands. However, an employee who is not covered is still counted in determining the employer's overall size.

## Legal Challenges

The International Franchise Association, along with several local business owners, has filed a lawsuit in federal court challenging the new legislation under federal trademark law and the U.S. and Washington State constitutions, among other bases. The lawsuit challenges the new law's treatment of independently owned franchises as Schedule 1 employers even if they employ fewer than 500 individuals, as the legislation requires that a local franchise combine its employees with employees of all other franchises of the same franchisor nationwide to determine its size. In addition to the challenge in federal court, local businesses and other groups are collecting signatures to challenge the law at the November ballot box. Whether any such initiatives will get on the ballot remains to be seen.

## Statewide Trend?

A bill for a statewide minimum wage increase to \$12.00 per hour, supported by Washington's Governor, did not pass in the last legislative session, but other Washington cities have or are likely to consider similar increases. For example, voters passed a similar measure for employees working in the City of SeaTac (where Western Washington's major airport is located) in November 2013. This measure is undergoing a legal challenge to be decided by Washington's highest court. Further, a Seattle councilwoman said citizens in Tacoma and Bellevue are interested in similar measures and the leadership of the Service Employees International Union has been quoted as saying the union is considering a plan to approach other cities, such as Bellevue, Bellingham, Olympia, and Spokane, to enact similar measures.

## Action Items

Employers with employees working within the City of Seattle should prepare for the April 2015 wage increase. Such efforts should include determining your schedule size, identifying covered employees, considering the impact this increase may have on the morale of employees working outside of Seattle, and accounting for the anticipated increases in any business forecasting. Employers also should continue to monitor whether other cities in the state adopt a similar law. Attorneys at our Seattle office are ready to provide appropriate legal counsel.

A copy of the Seattle ordinance, which includes notice requirements, enforcement procedures, and penalties for noncompliance, is available [here](#).

*Mei Fung So contributed to this article.*

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