



## Employers Need To Be Prepared For New Wage Laws

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As the year winds down and the holiday season begins, local business owners turn their attention toward hiring seasonal employees, making budgets and planning for the coming year. For businesses with hourly employees, however, there are some major changes on the horizon that will require early preparations.

The minimum wage for employees working in Florida will rise to \$7.79 per hour on Jan. 1. This is an hourly increase of 12 cents and is due to the rate of inflation over the prior year. Businesses must also be aware that effective Jan. 1, Florida employees who receive tips and who otherwise meet eligibility requirements for the tip credit under the federal Fair Labor Standards Act (FLSA), will now have to be paid a direct cash wage of at least \$4.77 per hour. This amount was reached through a simple formula: it equals the new Florida minimum of \$7.79 per hour, minus the \$3.02 hourly tip credit permitted under Florida law.

Employers who take advantage of the FLSA's section 7(i) overtime exception for commission-paid employees of retail or service establishments should note that the FLSA defines the exception with reference to the federal minimum-wage rate — not state law.

With the rate rising in January, now is the time for Florida employers to review their pay practices and ensure compliance with both state law and the federal Fair Labor Standards Act. In Florida, wage-and-hour lawsuits are frequent and ever-increasing. In recent years, more federal wage-and-hour lawsuits have been filed in Florida than in all other states combined. Over the past five years alone, Florida has accounted for 34 percent of all such cases.

By proactively preparing for these changes, employers can minimize the potential for legal action. Preventing lawsuits is crucial not only because an employer found liable can expect to pay employees all back wages, but can also expect to pay an equal amount in liquidated damages and all costs and attorney fees. As a result, the amount that is ultimately paid often bears no relationship to the actual damages suffered.

Strict compliance is an important measure in preventing costly litigation. Fortunately, wage-and-hour lawsuits are, for the most part, avoidable. Employees have little incentive to seek legal counsel if they are paid properly. Consider an audit of your payroll practices by a labor and employment attorney or other professional knowledgeable in the wage and hour laws. This relatively simple process may reveal the existence of improper deductions or improperly classified employees. Once

identified, these errors can often be corrected, and litigation avoided. This is a significant savings in dollars, productivity and ill will. With Florida leading the nation in this litigation, the employer's maxim has become — and properly so — “It's better to be safe than sued.”

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