



New Year, New Laws In New York

Insights

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The New Year will bring a number of new employment laws to the Empire State and Big Apple. All employers with operations in New York should take note of these new laws — as well as significant laws that went into effect in late 2017— to ensure compliance with changing obligations.

Minimum Wage Increase

Effective **December 31, 2017**, New York employers will see an increase in the state's minimum wage. It will rise to \$12.00 per hour for employers with 10 or fewer employees, and \$13.00 per hour for large NYC employers (11 or more employees). Outside of the city, the minimum wage will increase to \$11.00 per hour in Long Island and Westchester, and \$10.40 per hour in the remainder of the state.

Fast food workers, who are subject to a higher minimum wage, will also see a pay increase. In New York City, the minimum wage for fast food workers rises to \$13.50 per hour; fast food workers in the rest of the state will see an increase to \$11.75 per hour.

Tip Credit Increase

Starting **December 31, 2017**, hospitality employers with service employees or food server workers will see an increase in the tip credit that can be taken against an employees' minimum hourly wage, provided that the weekly average of tips is at least a specified hourly tip threshold (for service employees only) and the total of tips received plus wages equals or exceeds the basic minimum wage, as follows:

	Service employees (other than those at resort hotels)	Service employees at resort hotels	Food service workers
New York City large employer (11 or more employees)	\$2.15 tip credit/ \$2.80 tip threshold	\$2.15 tip credit/ \$7.30 tip threshold	\$4.35 tip credit
New York City small employer (10 or fewer employees)	\$2.00 tip credit/ \$2.60 tip threshold	\$2.00 tip credit/ \$6.75 tip threshold	\$4.00 tip credit
Long Island/ Westchester employers	\$1.85 tip credit/ \$2.40 tip threshold	\$1.85 tip credit/ \$6.15 tip threshold	\$3.50 tip credit
Remainder of New York State	\$1.75 tip credit/ \$2.25 tip threshold	\$1.75 tip credit /\$5.85 tip threshold	\$2.90 tip credit

Salary Threshold Increase

Also effective **December 31, 2017**, the salary basis threshold for executive and administrative employees to be classified as exempt will increase to \$900 per week (\$46,800 annually) for NYC employers with 10 or fewer employees and \$975 per week (\$50,700 annually) for large NYC employers. Outside of the city, it will increase to \$825 per week (\$42,900 annually) in Long Island and Westchester, and \$780 per week (\$40,560 annually) for the remainder of the state.

New York's Paid Family Leave Act

Starting **January 1, 2018**, New York will begin phasing in, over a four-year period, what stands to be the longest and most comprehensive paid family leave law in the country. In 2018, eligible employees can take up to eight weeks of paid, job-protected leave to care for a family member with a serious health condition, to bond with a child during the first year after the child's birth, adoption or foster care placement, or for any qualified exigency arising from a family member's call to active military service.

When fully implemented, the maximum duration of leave will be up to 12 weeks. Paid leave benefits are funded through employee payroll deductions used by the employer to purchase a paid family leave insurance policy or to self-insure. Further details about Paid Family Leave are available [here](#).

Amendments To New York City Sick Time Law

Effective **May 5, 2018**, per recent amendments to New York City's Earned Sick Time Act, New York City employers will be required to provide protected time off to employees who are the victims of domestic violence, sexual assault, stalking, or human trafficking. The law – which will now be dubbed the NYC Earned Safe and Sick Time Act – will also see an expansion to the definition of a covered family member, increasing the scope of leave employers need to provide. Additional details are available [here](#).

Employee Scheduling

New York City's Fair Workweek Law took effect November 26, 2017, limiting the scheduling practices and flexibility of retail and fast food employers in the Big Apple. Specifically, under the recently implemented law, fast food employers are required to (1) provide employees with two weeks' notice of schedules; (2) pay premiums to employees for changes made to their schedules; (3) offer open shifts to existing employees; and (4) ban "clopenings." Retail employers are required to ban on-call scheduling, and provide employees with 72 hours advance notice of schedules. Additional details are available [here](#) and [here](#).

Not to be outdone, the state of New York recently announced new proposed regulations targeting "on-call" scheduling practices. Under the proposed regime, employers would be required to give their workforce a 14-day advance notice of their schedules. Employees would need to be paid two hours of call-in pay if required to work hours that were not scheduled at least 14 days in advance.

Additionally, employees would need to be paid at least four hours of call-in pay any time they are on call to report to work, or when a shift is canceled less than 72 hours before the beginning of the shift. The proposed state regulations are currently open to public comment. Additional information about the proposed regulations can be found [here](#).

Salary History Ban

As of **October 31, 2017**, New York City employers can no longer ask job applicants about the salary history of a job applicant, or rely on the salary history of an applicant in determining compensation, during the hiring process. The ban extends not only to questions or statements put directly to job applicants, but also to any such inquiries made to their current or former employer or any search of publicly available records for the purpose of obtaining information about salary history. If a job applicant voluntarily and without prompting discloses their salary history to prospective employers, that information may be considered when determining salary. Further information about this new legislation is available [here](#) and [here](#).

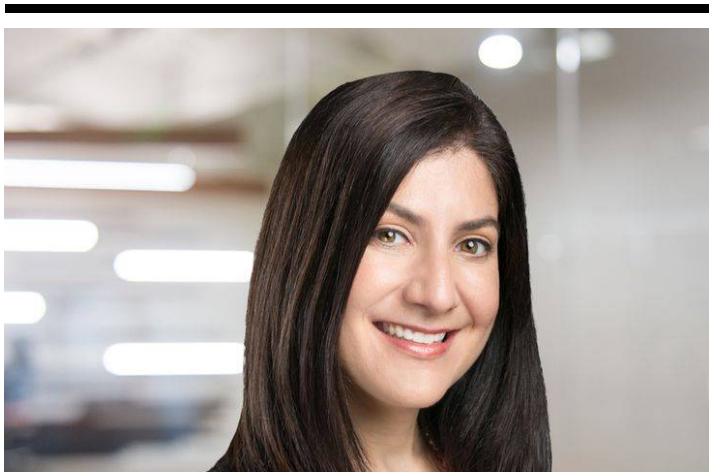
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As we say goodbye to 2017, employers should carefully review their practices and policies to ensure compliance with each of these laws and make sure to take steps to prepare for what is to come in 2018. The past year proved to be a busy year for new state and local laws impacting employers, and 2018 is likely to bring even more changes. Employers should stay tuned for future updates.

If you have questions about how these changes will affect your workplace, contact any attorney in our [New York City office](#) at 212.899.9960, or your regular Fisher Phillips attorney.

This Legal Alert provides information about specific new and proposed state and local laws. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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