

Practice Update

New York State Increases Minimum Wage and Enacts Paid Family Leave

April 14, 2016

New York State recently adopted the following two important changes in the law which will impact all employers in the state: (a) an incremental increase in the minimum wage, and (b) paid family leave.

Related Work

Labor and Employment

A. Minimum Wage Increase

While the Federal minimum wage has been \$7.25 per hour since 2009, New York has increased the minimum wage as recent as December 31, 2015 to \$9.00 per hour. The new law will continue to increase upward to as much as \$15.00 per hour in some parts of the state within only three years. The law replaces the uniform state-wide minimum hourly wage with a minimum wage based on geographic areas and size of the employer. The changes are as follow:

In the City of New York

Large employers (11 or more employees) []

- \$11.00 per hour on and after December 31, 2016
- \$13.00 per hour on and after December 31, 2017

- \$15.00 per hour on and after December 31, 2018
Small employers (10 or fewer employees)
- \$10.50 per hour on and after December 31, 2016
- \$12.00 per hour on and after December 31, 2017
- \$13.50 per hour on and after December 31, 2018
- \$15.00 per hour on and after December 31, 2019
*Downstate (Nassau, Suffolk, and Westchester Counties)
(all employers)*
- \$10.00 per hour on and after December 31, 2016
- \$11.00 per hour on and after December 31, 2017
- \$12.00 per hour on and after December 31, 2018

- \$13.00 per hour on and after December 31, 2019
 - \$14.00 per hour on and after December 31, 2020
 - \$15.00 per hour on and after December 31, 2021
- All other areas of New York State*

- \$9.70 on and after December 31, 2016
- \$10.40 on and after December 31, 2017
- \$11.10 on and after December 31, 2018
- \$11.80 on and after December 31, 2019
- \$12.50 on and after December 31, 2020
- Thereafter, a wage rate set by the Commissioner of Labor, based on economic conditions, up to \$15.00.

The increases in the base hourly rate will carry over into overtime rates when employees work more than 40 hours in a work week. An employee earning \$15.00 per hour will be entitled to \$22.50 per hour for all hours worked in excess of 40 in a work week.

The law also will adjust the minimum cash wage for tipped food service employees from the current \$7.50 to two-thirds of the minimum wage rates described above rounded to the nearest 5 cents or to \$7.50, whichever is higher.

B. Paid Family Leave Law

New York recently became the fourth state to offer paid family leave. In doing so, New York provides some of the most comprehensive paid family leave nationwide. Under the new law, employers will be required to provide eligible full-time and part-time employees up to 12 weeks paid time off to attend to medical and familial needs. The law will only apply to full-time and part-time employees who have worked for their employer for a minimum of six months. The law has no exception for small businesses. The law will be employee-funded and financed by employee payroll deductions of about \$1 per week per employee. It will be administered and paid for by the state's disability fund. Therefore, employers should not be responsible for paying for employees' family leave.

The law will be phased in gradually from 2018 through 2021 as follows:

January 1, 2018

Eligible employees can take 8 weeks of paid leave at 50 percent of their weekly pay (up to a maximum benefit cap of 50 percent of the statewide average weekly pay as computed by the N.Y.S. Department of Labor, which is approximately \$630 at this time).

January 1, 2019

Eligible employees can take 10 weeks of paid leave at 55 percent of their weekly pay (up to a maximum

benefit cap of 55 percent of the statewide average weekly pay as computed by the N.Y.S. Department of Labor).

January 1, 2020

Eligible employees can take 10 weeks of paid leave at 60 percent of their weekly pay (up to a maximum benefit cap of 60 percent of the statewide average weekly pay as computed by the N.Y.S. Department of Labor).

January 1, 2021

Eligible employees can take 12 weeks of paid leave at 67 percent of their weekly pay (up to a maximum benefit cap of 67 percent of the statewide average weekly pay as computed by the N.Y.S. Department of Labor).

An eligible employee may take paid family leave to care provide care for a the employee's own health condition, care for a family member with a serious health condition, and bond with a child during the first 12 months after the child's birth or placement for adoption or foster care.>

The law establishes non-retaliation provisions that protect employees from retaliation by employers because the employee filed for or received such benefits. The law also guarantees job protection for all employees who take the paid family leave, and will require the continuation of health care benefits during the leave period.

This Akerman Practice Update is intended to inform firm clients and friends about legal developments. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.