

Oregon Minimum Wage Will Increase on January 1, 2009

By Bureau of Labor and Industries Technical Assistance for Employers Program

In November of 2002, Oregon voters passed Ballot Measure 25, which requires the Commissioner of the Bureau of Labor and Industries to annually adjust the minimum wage based on changes in inflation, as measured by the Consumer Price Index (CPI). Oregon's minimum wage is now adjusted annually based on the U.S. City Average Consumer Price Index for All Urban Consumers for All Items and rounded to the nearest five cents, pursuant to ORS 653.025(2). The adjustment is calculated every September based on the changes in the CPI between August of the preceding year and August of the current year, and the new wage becomes effective the following January.

On September 16, 2008 Commissioner Brad Avakian announced that Oregon's minimum wage would increase by \$0.45 per hour in 2009. The 5.37% increase in the cost of living (since August 2007) will bring the state's minimum hourly wage to \$8.40, effective Jan. 1, 2009.

Here are some of the most common questions employers may have about the new minimum wage:

Q: My employees all make minimum wage, so their hourly wage will increase to the new minimum wage on January 1. However, I will be making out checks in January that cover the last two weeks of December. Because I will be writing the checks in 2009, do I automatically have to pay the 2009 minimum wage?

A: No. Only hours worked after midnight on December 31, 2008, must be paid at the new minimum wage rate. Employers will need to adjust pay for employees earning minimum wage from \$7.95 on December 31, 2008, to \$8.40 on January 1, 2009. Hours worked in December may be paid at the old minimum wage rate. Since January 1 falls on a Thursday this year, some employees may have two different wage rates on one paycheck.

Q: Isn't the federal minimum wage different from the Oregon minimum wage? Which wage do Oregon employers have to pay?

A: The current federal minimum wage is \$6.55 per hour and will increase to \$7.25 per hour on July 24, 2009. When federal and state employment laws differ, employers must apply the more stringent standard. Since the Oregon minimum wage is higher than the federal minimum wage, employers must pay the higher state rate unless the employee is exempt from minimum wage.

Also, unlike the federal law, Oregon's wage statutes don't allow for a "tip credit," so servers and other tipped employees must receive minimum wage in addition to any tips they earn.

Q: One of my employees makes more than the 2009 minimum wage. He told me that his wage needs to be increased by \$0.45 on January 1 as well in order to treat all my employees fairly. Is this true?

A: Employers are not required to increase wages for all employees. As long as your employee will earn at least \$8.40 per hour as of January 1, 2009, the hourly salary will not need to be increased.

Q: Does the Oregon minimum wage apply to workers paid on commission or on a piece-rate basis?

A: Generally, yes. Regardless of the method of compensation, employers must track the daily and weekly hours of non exempt employees and must make sure the wages they receive, even if the compensation is calculated on a commission or piece-rate basis, come out to at least minimum wage for all hours worked during an employer's designated workweek

Q: Is there a new minimum wage poster coming out?

A: Yes. The 2009 minimum wage poster was mailed to Oregon businesses in December. If you haven't received a poster or need additional copies, please visit the BOLI website to download a copy. Employers may also purchase an "8-in-1" poster with the commonly required posters in English or Spanish. For more information, visit the website at www.oregon.gov/BOLI/TA and click on the Poster link.

Join Technical Assistance for Employers at an upcoming seminar on Wage and Hour Laws on January 13 or February 18 in Portland, January 21 in Salem, or February 2 in Eugene. Visit the website at www.oregon.gov/BOLI/TA for registration information or call 971-673-0824.