

OREGON'S MINIMUM WAGE GOES UP ANOTHER NOTCH

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Effective January 1, 2014, the minimum wage in Oregon is \$9.10 per hour. Oregon is one of 13 states to raise minimum wages at the first of the year, and one of 10 states to tie its minimum wage in some way to inflation. Oregon now calculates an adjustment to the minimum wage each year. The 15-cent increase reflects an increase in the Consumer Price Index. Washington's minimum wage increase keeps it as the highest state in the nation at \$9.32 per hour.

Of the annual adjustment, BOLI Commissioner Brad Avakian said, "Oregon can build a stronger economy by making sure that workers have the purchasing power to keep pace with the rising cost of everyday goods. With this increase in Oregon's wage floor, nearly 100,000 Oregonians will earn more money for groceries, school supplies, gas and other household essentials. That's not just good for individual workers, but for our state's economy."

Oregon voters passed Ballot Measure 25 in 2002, amending the state's minimum wage law to require the Commissioner to compute an adjustment to the minimum wage each year by no later than September 30. The adjustment reflects any increase to the US City Average Consumer Price Index for All Urban Consumers for All Items from August of the preceding year to August of the current year, rounded to the nearest nickel.

Here are a few of the frequently asked questions fielded by BOLI's Technical Assistance for Employers program on the minimum wage:

Q. I know the federal minimum wage is lower-how does that relate to the Oregon minimum wage?

A. The current federal minimum wage remains \$7.25 per hour. However, when federal and state employment laws conflict, employers must apply whichever standard is most beneficial to the employee. In this case, Oregon employers must pay the Oregon minimum wage because it is the more beneficial of the two for the employee. There are some exemptions to the requirement to pay the minimum wage rate in state and federal law that apply to some workers. See OAR 839-020-0150 for state minimum wage exemptions.

Q. May I pay my new employees a training wage that is less than minimum wage?

A. No. Unlike federal law, Oregon law requires that employees receive at least minimum wage during all stages of employment. This includes any period of on-the-job training.

Q. May I count an employee's tips against the minimum wage?

A. No. Oregon law does not allow for tip credits. ORS 653.035(3).

Q. If I hire minors, do I need to pay them minimum wage?

A. Yes. The minimum wage laws apply to minors.

Q. I provide meals and lodging for my employee. May I count the fair market value of the meals and lodging toward my minimum wage obligation?

A. Yes. Employers may make an authorized deduction for meals and lodging so long as they are provided for the "private benefit" of the employee. However, if you require your employee to live on-site, for example, or if you derive a mutual benefit from the employee living on the premises, you must pay minimum wage in addition to the value of any meals and lodging. OAR 839-020-0025.

Q. I paid my employee \$9.00 per hour in 2013 (5 cents above the minimum wage). He claims that now I'm legally obligated to pay him at least \$9.15 per hour (5 cents above the new minimum wage) as of January 1, 2014. Is that right?

A. No. The law only requires that you pay the minimum wage of \$9.10 per hour as of January 1, 2014, unless you have a contract or policy providing for a wage rate that exceeds the minimum wage rate.

Q. Our last pay period of 2013 extends several days into 2014. Are we required to pay the new minimum wage (\$9.10 per hour) for hours worked in December 2013?

A. No. You need only pay the 2014 minimum wage for hours worked beginning January 1, 2014. Although the January paycheck will cover hours which will have been worked in December, the hours from 2013 may still be paid at the 2013 minimum wage.

Q. I hired my newest employee in August-before the new rate went into effect-will I be able to continue paying him at \$8.95 in 2014?

A. No. Employers cannot "grandfather" an employee's previous minimum wage; all non-exempt employees will need to receive at least \$9.10 for all hours worked starting in 2014.

Q. If I pay my employee on a commission, do the minimum wage laws still apply?

A. Yes. Unless your employee falls plainly and unmistakably into an exemption, you'll need to pay at least minimum wage for all hours actually worked. This means that even with the commission employee, you must track all daily and weekly hours worked to determine whether the average hourly rate meets the minimum wage. If the average hourly rate is less than the minimum wage in any pay period, you'll need to boost the employee's wages up to the minimum wage.

For a detailed look at the criteria that separate exempt workers from all other employees, check out TA's handbook *Employee Classification & Wage and Hour Exemptions*. You'll find additional information on this and other topics of interest to Oregon employers online at www.Oregon.gov/boli/ta. TA is also available by phone at 971-673-0824.