

# Nevada Minimum Wage Increase Announced

## April 2008

The Nevada Labor Commissioner announced that on July 1, 2008, the Nevada minimum wage will increase to \$5.85 per hour or \$6.85 per hour (depending on whether the employer provides qualified health insurance benefits). On July 24, 2008, the federal minimum wage will increase to \$6.55 per hour.

We have assembled this e-mail alert to assist you with the legal and practical issues that you as Nevada employers will face in light of the upcoming implementation of these increases—including whether you are paying the appropriate minimum wage and complying with Nevada's daily overtime law.

### Nevada's Minimum Wage Requirements

As employers doing business in Nevada, you are probably well aware of the change to the Nevada Constitution which provides for a two-tier minimum wage system. Presently, Nevada employers must pay employees at least the tier-1 minimum wage of \$5.30 per hour if they provide qualified health insurance benefits to the employees. If the employer does not provide qualified health insurance benefits, employers must pay employees at least the tier-2 minimum wage of \$6.33 per hour. If you need to determine whether your company is providing the proper percentage of health benefits to qualify for tier-1, we can help answer that question.

Nevada's minimum wage automatically increases every July 1 by the greater of either the increase in the federal minimum wage or an increase in the cost of living. The amount of each year's increase is announced and published every April 1. If in a given calendar year there is no federal minimum wage increase, then Nevada's minimum wage increases based on the increase in the cost of living (but no more than 3% per year).

On April 1, 2008, the Nevada Labor Commissioner published an announcement of this year's Nevada's minimum wage increases. **Effective July 1, 2008 Nevada employers must pay (under Nevada State law) at least \$5.85 per hour for tier-1 employees, and at least \$6.85 per hour for tier-2 employees.** You must also provide written notification of this minimum wage increase to all of your employees.

### What Is The Impact Of The Federal Minimum Wage Increase?

Federal law also provides for a minimum wage. It is currently \$5.85 per hour, but beginning on July 24, 2008, will increase to \$6.55 per hour. Under the new law, the federal minimum wage will increase again to \$7.25 per hour on July 24, 2009.

When both federal and state law confer an employee benefit, the employer must grant the more generous benefit. Therefore, as of July 24, 2008, Nevada employers should:

1. Pay at least \$6.55 per hour to employees who qualify for the tier-1 minimum wage. (i.e., pay the more generous federal minimum wage to tier-1 employees).
2. Pay at least \$6.85 per hour to employees who qualify for the tier-2 minimum wage. (i.e., pay the more generous state minimum wage to tier-2 employees).

Employers may wish to provide notice of both increases in the minimum wage at the same time in order to reduce the confusion faced by some employees regarding their wages.

### Nevada's Daily Overtime Requirement

Nevada's daily overtime law is one of the critical issues Nevada employers must review. In Nevada, any employee who earns less than 1½ times the applicable minimum wage must receive overtime for any hours worked over 8 in a work day. (This does not apply to employees who agree to work four 10-hour days in a work week, and in certain other situations.).

The increase in Nevada’s minimum wage will expand the pool of employees who will qualify for daily overtime. You should pay close attention to those employees previously unaffected by the daily overtime requirements to ensure that each employee receives the proper premium pay, when required.

The following chart provides guidance on when Nevada employees must receive daily overtime:

<u>Effective date</u>	<b>Pay daily overtime if employee received qualified benefits, and earns less than:</b>	<b>Pay daily overtime if employee does not receive qualified benefits, and earns less than:</b>
Current	\$7.95 per hour	\$9.50 per hour
July 1, 2008	\$8.78 per hour	\$10.28 per hour
July 24, 2008	\$8.78 or \$9.83 pe hour	\$10.28 per hour

In the past, the Labor Commissioner has interpreted Nevada’s daily overtime law using the Nevada minimum wage. It is likely that the daily overtime minimum for employees in tier-1 will not be based upon the federal minimum wage. Therefore, employees in tier-1 would likely be entitled to daily overtime, after July 1, 2008, if they earned less than \$8.78 per hour. However, there has been a suggestion by the Labor Commissioner’s office that the Labor Commissioner may be moving away from this interpretation. After July 24, 2008, an employer may want to consider basing its calculations of daily overtime for employees in tier-1 on the federal minimum wage (i.e., employees in tier-1 would receive daily overtime if they earned less than \$9.83 per hour). When the Labor Commissioner makes his determination, we will issue another e-mail alert.

**What Nevada Employers Should Do**

Nevada employees are sensitive to wage-hour laws. To protect themselves, Nevada employers should comply with both federal and Nevada law. The coming increases in the federal and Nevada minimum wage provide an excellent opportunity to evaluate compliance with all wage-hour laws, and implement any necessary changes.

For more information on the items in this Alert, including analysis of qualified benefits for tier-1 versus tier-2 consideration, and daily overtime requirements, please contact any labor and employment attorney in our Las Vegas office at 702-949-8000 or visit our website at [www.lrrc.com](http://www.lrrc.com).

*This Client Alert has been prepared by Lewis and Roca LLP for informational purposes only and is not legal advice. Readers should seek professional legal advice on matters involving these issues.*

*View entire publication in PDF format [here](#).*