

How The New Minimum Wage Affects Nevada Employers

June 12, 2007



On July 1, 2007, the Nevada minimum wage will increase to \$5.30 per hour or \$6.33 per hour (depending on whether the employer provides qualified health insurance benefits). On July 24, 2007, the federal minimum wage will increase to \$5.85 per hour.

This Alert addresses the legal and practical issues Nevada employers need to consider because of these upcoming increases, including whether you are paying the appropriate minimum wage and complying with Nevada's daily overtime law.

Nevada's Minimum Wage Requirements

Nevada's Constitution provides for a two-tier minimum wage system. Currently, Nevada employers must pay employees at least the tier-1 minimum wage of \$5.15 per hour if they provide qualified health insurance benefits to the employees. Employees must be paid at least the tier-2 minimum wage of \$6.15 per hour if the employer does not provide qualified benefits. If you need to determine whether your company is providing the proper level of 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, 2007, the Nevada Labor Commissioner published an announcement of this year's Nevada's minimum wage increases. Effective July 1, 2007 Nevada employers must pay (under State law) at least \$5.30 per hour for tier-1 employees, and at least \$6.33 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 \$5.15 per hour, but beginning on July 24, 2007, will increase to \$5.85 per hour. Under the new law, the federal minimum wage will increase again to \$6.55 per hour on July 24, 2008 and 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, 2007, Nevada employers should:

1. Pay at least \$5.85 per hour to employees who qualify for the tier-1 minimum wage. (In other words, pay the more generous federal minimum wage to tier-1 employees).
2. Pay at least \$6.33 per hour to employees who qualify for the tier-2 minimum wage. (In other words, 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 1 1/2 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.).

This new 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:

Effective Date	Pay daily overtime if employee receives qualified benefits, and earns less than:	Pay daily overtime if employee does not receive qualified benefits, and earns less than:
Current	\$7.73 per hour	\$9.23 per hour
July 1, 2007	\$7.95 per hour	\$9.50 per hour
July 24, 2007	\$8.78 per hour	\$9.50 per hour

What Nevada Employers Should Do

As seen from the recent explosion of litigation, employees (and their attorneys) 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 attorney in our Las Vegas office at 702.252.3131.