

New York Wage Board Recommends Minimum Wage of \$15 per Hour for Fast Food Workers

July 23, 2015

New York Governor Andrew M. Cuomo recently appointed a Wage Board to make recommendations on increasing the minimum wage for New York State fast food employees. Throughout the recent public meeting process, fast food employers have roundly criticized any proposed minimum wage increase focused solely on one industry as unfair. Nonetheless, on July 22, 2015, the New York State Department of Labor's Fast Food Wage Board announced their widely-expected recommendation to increase the minimum wage in the fast food industry up to \$15.00 per hour.

As we [previously reported](#), New York Governor Andrew M. Cuomo recently appointed a Wage Board to make recommendations on increasing the minimum wage for New York State fast food employees. Throughout the recent public meeting process, fast food employers have roundly criticized any proposed minimum wage increase focused solely on one industry as unfair. Nonetheless, on July 22, 2015, the New York State Department of Labor's Fast Food Wage Board announced their widely-expected recommendation to increase the minimum wage in the fast food industry up to \$15.00 per hour. At a press conference, the Wage Board's three members justified their recommendation by finding that the wages of fast food workers were insufficient to provide for the maintenance, health, and lifestyle of such workers.

\$15 Per Hour for New York Fast Food Workers

The three-member Wage Board unanimously recommended that the minimum wage for fast food workers increase to \$15.00 per hour, to be "phased in" as follows:

New York City:

- \$10.50 per hour by December 31, 2015;
- \$12.00 per hour by December 31, 2016;
- \$13.50 per hour by December 31, 2017; and

- \$15.00 per hour by December 31, 2018.

New York State (excluding New York City):

- \$9.75 per hour by December 31, 2015;
- \$10.75 per hour by December 31, 2016;
- \$11.75 per hour by December 31, 2017;
- \$12.75 per hour by December 31, 2018;
- \$13.75 per hour by December 31, 2019;
- \$14.50 per hour by December 31, 2020; and
- \$15.00 per hour by July 1, 2021.

The Wage Board recommended that New York State's minimum wage increase at a slower rate because the fast food industry is expanding more rapidly than other industries are in New York City. Since December 31, 2014, the existing minimum wage in New York State has been \$8.75 per hour. This current rate will increase to \$9.00 per hour as of December 31, 2015. If adopted, the Wage Board's recommendations would therefore dramatically increase the minimum wage rate for fast food workers well beyond the wage rates of other employees in New York State.

Defining "Fast Food Employee" and "Fast Food Establishment"

The Wage Board further recommended that "Fast Food Employee" be defined as persons employed by a "Fast Food Establishment" whose duties include one of the following: "customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance."

Under the recommendations, "Fast Food Establishment" is defined as one:

1. "where patrons order or select items and pay before eating and such items may be consumed on the premises, taken out, or delivered to the customer's location";
2. "which offers limited service";
3. "which is part of a chain," meaning a set of establishments which share a common brand, or which are characterized by standardized options for décor, marketing, packaging, products, and services; and
4. which is one of 30 or more establishments nationally, including franchised locations.

The Wage Board's recommendations are subject to approval, modification, or rejection by the acting New York State Labor Commissioner Mario J. Musolino. However, given that Governor Cuomo appointed Commissioner Musolino and both have publicly supported an increase in the minimum wage for New York fast food workers, the recommendations are expected to be adopted. It is also worthwhile to note that, under New York law, the Wage Board's recommendations are not subject to legislative approval.

We will continue to monitor the recommendations as they are considered by Commissioner Musolino. Subject to a successful legal challenge, the fast food wage increase now appears to be inevitable. Accordingly, New York State fast food employers are strongly encouraged to begin reviewing their payroll and business practices to accommodate the new law. The recommendations are available on the Fast Food Wage Board's website.

Talya Scolnik is a law student, currently participating in the summer associate program in the New York City office of Ogletree Deakins.

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