

Avoiding the Impact of Illinois Wage and Hour Damages

Labor & Employment Law Update

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As we previously noted in our February 12, 2019 blog, increases to the minimum wage in Illinois are on their way. And as we also noted, drastic increases in the damages for which Illinois employers may be liable in cases of minimum wage and overtime violations are now in effect.

That said, there are a number of steps employers can take to minimize the risks of wage and hour lawsuits and liability, and they include the following:

- Train front line supervisors not to allow any off-the-clock work. Along with this training, employers must also make clear to all employees that they cannot work off the clock—and that if their paychecks do not include all hours worked, employees must contact human resources (or whatever level of management handles payroll).
- Do not automatically deduct for meal breaks...or any other breaks. Instead, have employees clock-in and clock-out for all breaks (meal or otherwise), and if employees submit written time sheets, have them write down the exact times when meal breaks begin and end each workday. (The same procedure should also be followed for start and end-times each day, no matter what an employee's "scheduled" hours are.) And keep in mind that breaks should only be unpaid if they are for 30 uninterrupted minutes or more.
- Do not withhold or make deductions from pay pending the return of uniforms, tools, cell phones, laptops or any other employer owned equipment. Do not make deductions from pay for tools, equipment, cash advances, cash register shortages or damage to employer's equipment or property, unless the employee signs an express written agreement allowing the deduction at the time the deduction is made. State laws may vary on this.
- Do not discipline employees by refusing to compensate them for hours they actually worked. If employees are late, penalizing them through pay deductions is unlawful. If discipline is necessary, it should come in the form of warnings, suspension, terminations, and the like.
- If your time clock or payroll systems rounds employee work time, make sure the rounding is done in small increments—5 or 6 minutes, as opposed to 15—as that will help reduce liability in the event of a finding that the rounding was improper. Also, rounding should not be manipulated such that the rounding

always benefits the employer.

- Finally, employers should implement—and seriously enforce—policies that notify employees that they must properly record all hours worked, and notify management when paychecks do not include compensation for all hours worked. These policies should be included in employee handbooks, and posted near the time-clock, on written employee time-sheets, and as a notification that pops-up whenever employees enter their work time by computer or app. And the employer must take these policies seriously, by undertaking investigations when employees raise concerns, and issuing corrected paychecks when circumstances warrant doing so.

Implementing policies and procedures that address these issues will help guard against potential wage and hour litigation, and help to minimize liability in the event litigation ensues. For assistance in implementing these policies or questions regarding these issues, we recommend securing advice from experienced employment law counsel.

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