

July 1, 2021 Increase to Chicago Minimum Wage....But No Change to Cook County Minimum Wage Despite Written Notices

Labor & Employment Law Update

By Sara Zorich on June 25, 2021



It's that time of year (again) for increases in minimum wage. However, this year is slightly different! In spite of the Cook County written notices that some employers may have received, the Cook County Minimum Wage for non-tipped employees is **NOT** increasing, as the unemployment rate for Cook County during the prior year was greater than 8.5%. However, the Cook County Minimum wage for tipped

employees will increase on July 1st from \$6.00 to \$6.60 to match the increase under Illinois law. For City of Chicago employers, the minimum wage for both tipped and non-tipped employees will increase on July 1st. To provide a full picture, the following chart shows the minimum wage for Illinois employers as of July 1, 2021:

** Increases to match the State minimum wage for tipped employees of \$6.60.*

*** The employer size requirements are modified for small employers of Domestic Workers to \$14.00/hr for (0-20 employees) but large employers remain 21+. Thus, any employee working as a Domestic Worker is eligible for the Chicago minimum wage*

**** City of Chicago contracts and concessionaire agreements: \$14.15 for non-tipped employees and \$7.65 for tipped employees.*

As a reminder, many municipalities in Cook County opted-out of the Cook County Minimum Wage and/or Paid Sick Leave ordinances. If your business is in Cook County (but not the City of Chicago), you must check whether or not the municipality that you are in opted-out and whether they opted out of both or only one.

REMINDERS:

2020 Change to Definition of Covered "Employer" Under Chicago Minimum Wage and Paid Sick Leave -

On July 1, 2020, the 2019 Amendment to the Chicago Minimum Wage and Paid Sick Leave ordinance, went into effect expanding what employers are covered. The new definition deleted the requirement that an employer have a business facility within the geographic boundaries of the City and/or be subject to license requirements. After July 1, 2020, the Chicago Minimum Wage and Paid Sick Leave ordinances defined an employer as any **"person who gainfully employs at least one employee."**

Under this change, it can be interpreted that any employer who has an employee who performs at least two (2) hours of work within the geographic boundaries of the City, during any particular two-week period, must pay that employee the Chicago minimum wage for the time spent working within the City of Chicago and record the amount of paid sick leave accrued by that employee for the time spent working in the City!

As an example of the impact of this is the following scenario: a Colorado business sends its non-exempt employee to New York. The employee's flight has a 2 ½ hour layover at O'Hare (O'Hare and Midway are both within the geographic boundaries of the City of Chicago). Technically under Chicago's Paid Sick leave ordinance, the Colorado business would have to record the amount of paid sick leave that the employee accrued during the 2 ½ hours that the employee was "working" in Chicago and would be required to pay the Chicago minimum wage of \$15.00/hr for the hours the employee was "working" in Chicago.

Any employer who has employees going into the City of Chicago, MUST review and understand their obligations and whether they are currently subject to the Chicago Minimum Wage and Paid Sick leave ordinances.

Chicago Paid Sick Leave Covers Employees in Outside Sales, Members of Religious Organizations, Student Employees of Accredited Illinois Colleges and Universities subject to the FLSA and DOT covered Motor Carriers -

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The 2019 Amendment to the Chicago Paid Sick Leave Ordinance also made changes to the definition of covered employees. In particular, the amendment specifically states employees covered by the Chicago Paid Sick Leave ordinance (but not the Chicago Paid Minimum Wage) include employees who work in outside sales, for a religious corporation or organization, are a student-employee of an Illinois college or university covered by the Fair Labor Standards Act, or are an employee of a motor carrier covered by the Department of Transportation.

This means that employees who work in outside sales, for a religious corporation or organization, are a student-employee of an Illinois college or university covered by the Fair Labor Standard Act, or are an employee of a motor carrier covered by the Department of Transportation, should be eligible to accrue up to 40 hours of paid sick leave each year under the Chicago Paid Sick Leave ordinance. As the Chicago Paid Sick Leave ordinance has specific requirements regarding accrual rate, carryover, caps, permitted uses, restrictions on use, requesting supporting documentation from employees, and employee notice, it is recommended that you contact experienced employment counsel regarding drafting a policy or questions about compliance.

Remember to Update Your Posters AND Provide written notices to Employees –

Under the Chicago's rules, employers have to post the most up to date minimum wage and paid sick leave posters and provide written notices to covered employees each year with the first paycheck after July 1st, whether by paper or electronic means. The City of Chicago posters for Chicago minimum wage and paid sick leave can be found on the City of Chicago webpages for Minimum Wage and Paid Sick Leave in English, Spanish, Polish, Chinese, Filipino and Korean.

Additionally, the Cook County website has posters for Minimum Wage and Sick Leave, but only in English.

The State of Illinois also has its Minimum Wage poster on its website in English or Spanish.

Employers who are unsure whether they must comply, what they must do to comply or are concerned about their policies complying should contact experienced employment counsel to mitigate exposures and minimize risk.

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