

REMINDER/IMPORTANT WARNING: July 1 Minimum Wage Increases in Illinois, Cook County and the City of Chicago...and Major Expansion of What Employers are Covered by Chicago's Minimum Wage and Paid Sick Leave Ordinance

Labor & Employment Law Update

By Sara Zorich on June 26, 2020

It's that time of year and even a pandemic will not stop Illinois, Cook County and the City of Chicago from increasing their minimum wages on July 1, 2020 as follows:

NON-TIPPED EMPLOYEES TIPPED EMPLOYEES
(CLAIMING THE TIP CREDIT) Illinois (all employers) \$10.00 per hour \$6.00 per hour
Cook County (employers in municipalities that did not opt-out) \$13.00 per hour \$6.00 per hour*

The July 1 change for the City of Chicago includes significant changes and new nuances that employers must be aware of, including different wage rates based on number and age of employees.

LARGE EMPLOYERS
(21 OR MORE EMPLOYEES) SMALL EMPLOYERS
(4 TO 21 EMPLOYEES; AND EMPLOYERS WITH 0 TO 21 DOMESTIC WORKERS)
YOUTH WORKERS
(UNDER 18, SUBSIDIZED TEMPORARY YOUTH EMPLOYMENT PROGRAM OR
TRANSITIONAL EMPLOYMENT PROGRAM) Chicago \$14.00 per hour \$13.50 per hour
\$10.00 per hour
(same as State Min Wage)

TIPPED WORKERS (CLAIMING THE TIP CREDIT): LARGE EMPLOYERS SMALL
EMPLOYERS YOUTH EMPLOYERS Chicago \$8.40 per hour \$8.10 \$6.00

WARNING MAJOR CHANGES

However, the biggest change that employers must take note of does NOT pertain to the wage rate, but WHO will be subject to the City of Chicago's Minimum Wage and Paid Sick Leave Ordinances. The Amendment to the Chicago Minimum Wage and Paid Sick Leave ordinance passed on November 11, 2019, redefines and expands what employers are covered. Currently, only employers who (1) maintain a business facility within the geographic boundaries of the city and/or (2) are subject to one or more of the City's license requirements in Title 4 of the Chicago Code are subject to Chicago's minimum wage and paid sick leave ordinances.

Chicago Minimum Wage

The City's revisions that go into effect July 1 delete the requirement that an employer must have a business facility within the geographic boundaries of the City and/or be subject to the City's license requirements to be covered. After July 1, the new definition for employer in the Chicago Minimum Wage and Paid Sick Leave ordinances will be **"a person who gainfully employees 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.

Chicago Paid Sick Leave

Furthermore, the Chicago Paid Sick Leave ordinance uses the SAME definition for "Employer" as the Chicago Minimum Wage ordinance. This means that ANY employer who has ANY employee perform at least two (2) hours of work within the geographic boundaries of the City, during any particular two-week period, must document 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 potentially drastic nature of this change is this scenario: a Texas 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 Texas 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.

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Any employer who has employees going into the City of Chicago, now MUST review and understand their obligations and whether they are subject to the Chicago Minimum Wage and Paid Sick leave ordinances after July 1.

Posters

For employers that are subject to the Cook County or Chicago minimum wage and paid sick leave ordinances, you will need to get the most up-to-date required poster, which can be found on the City of Chicago webpages for Minimum Wage and Paid Sick Leave in English or Spanish. Additionally, under Chicago's new rules, employers will have to provide written notice each year with the first paycheck after July 1, whether by paper or electronic means.

The Cook County website has posters for Minimum Wage and Sick Leave that are only in English. Illinois has not updated its minimum wage poster (yet).

Employers that are unsure whether they must comply, what they must do to comply or that fail to implement compliant policies, including tracking sick leave accrual or carryover, should discuss options with employment counsel to mitigate exposure and minimize risk.

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