

CLIENT MEMORANDUM

DATE: February 14, 2019
TO: New Jersey Clients
FROM: Kane Kessler, P.C.
RE: New Jersey State Minimum Wage Increase

On February 4, 2019, New Jersey Governor Phil Murphy signed a bill into law that will gradually increase New Jersey's minimum wage to \$15 per hour for most workers by 2024.

New Jersey's current minimum wage for all non-exempt employees increased on January 1, 2019 to \$8.85 with no exceptions. The new law, however, implements different minimum wage rates depending on factors including the size of the employer, the status of the employee as a tipped or an agricultural worker, and whether employment is seasonal. Each minimum wage rate will gradually increase as illustrated in the table below. These minimum wages would then continue to increase in accordance with the consumer price index for urban wage earners and clerical workers (CPI-W), as calculated by the federal government.

Effective July 1, 2019, employers with six (6) or more employees will be required to pay a minimum wage of \$10.00 per hour which shall increase to \$15.00 by January 1, 2024. By contrast, small employers with five (5) or fewer employees are required to continue paying the current minimum wage of \$8.85 until January 1, 2020. On that date, the minimum wage will gradually increase each year until reaching \$15.00 on January 1, 2026.

The law establishes minimum wage rates for employees in "seasonal employment," which is defined by the law as employment by a "seasonal employer." A "seasonal employer" is one that provides its services in a continuous period of at most ten (10) weeks during the months of June, July, August, and September, or an employer for which, during the previous calendar year, at least 2/3 of its gross receipts were received in a continuous period of at most sixteen (16) weeks, or an employer which paid at least 75% of the wages it paid in the previous calendar year for work performed during a single calendar quarter.

This new legislation further establishes a “training wage” of not less than 90% of the effective minimum wage that may be paid to an employee who is enrolled in an established employer on-the-job or other training program which meets standards that will be set by the New Jersey Department of Labor and Workforce Development. The training wage may only be paid during the employee’s first 120 hours of work in an occupation in which the employee has no previous related experience. The employee who is being paid the “training wage” cannot be used to displace another employee. The law also prohibits employers from hiring employees at the “training wage” unless there is a “reasonable expectation” that there will be regular employment following the training period. The employer must make a “good faith effort” to continue the employee’s employment following the training period.

Agricultural workers who work at a piece or regular rate on a farm will continue to be paid a minimum wage of \$8.85 until January 1, 2020 when it will increase to \$10.30. This minimum wage will increase to \$12.50 by January 1, 2024.

This new also law allows employers to take a tip credit against their minimum wage obligations based on gratuities received by employees who “customarily and regularly receive gratuities or tips.” The New Jersey Department of Labor and Workforce Development currently follows the federal Fair Labor Standards Act (FLSA), which allows employers to pay tipped employees a minimum wage of \$2.13 per hour, so long as that amount plus the gratuities received by the employee meets or exceeds the applicable minimum wage. New Jersey’s new law will now deviate from federal law by increasing this minimum wage and the allowable tip credit (see below). Employers that take advantage of the tip credit must ensure that the cash minimum wage plus gratuities meets or exceeds the applicable minimum wage.

In summary, below is a chart itemizing the increases to the minimum wage rates, tip credit, and training wage under the new law:

Date	Employers with 6 or more Employees	Small Employers & Seasonal Workers	Agricultural Workers	Tipped Employees	Tip Credit	Training Wage
January 1, 2019	\$8.85	\$8.85	\$8.85	\$2.13	\$6.72	N/A
July 1, 2019	\$10.00	\$8.85	\$8.85	\$2.63	\$7.37	N/A
January 1, 2020	\$11.00	\$10.30	\$10.30	\$3.13	\$7.87	\$9.90
January 1, 2021	\$12.00	\$11.10	\$10.30	\$4.13	\$7.87	\$10.80

January 1, 2023	\$14.00	\$12.70	\$11.70	\$5.13	\$8.87	\$12.60
January 1, 2024	\$15.00	\$13.50	\$12.50	\$5.13	\$9.87	\$13.50
January 1, 2025	\$15.00 + CPI-W ¹	\$14.30	TBD	\$5.13 + CPI-W	\$9.87	\$13.50 + CPI-W
January 1, 2026	\$15.00 + CPI-W	\$15.00	TBD	\$5.13 + CPI-W	\$9.87	\$13.50 + CPI-W

Finally, please be mindful of the notice requirements still in effect pursuant to New Jersey’s Wage Payment Law. All employers must continue to notify employees at the time of hire of their rate of pay and of the regular payday or face penalties for failure to do so. Employers must also notify employees of any changes in their pay rates or pay days before those changes go into effect, such as the wage increases discussed in this memorandum.

At this time, the New Jersey Department of Labor and Workforce Development has not published guidance or regulations regarding this new minimum wage law. We will keep you apprised of any official release and additional information as it becomes available to us. If you have any questions or need assistance in complying with the new law please do not hesitate to contact David R. Rothfeld, Lois M. Traub, Alexander Soric, Robert L. Sacks, Michael Lydakakis, Jennifer Schmalz, Jaclyn Ruocco or Joseph Tangredi.

*This memo is provided for informational purposes only.
It is not intended as legal advice and readers should consult counsel to discuss how these matters relate to their individual circumstances.*

¹ The law provides that after 2024 the minimum wage will only increase in order to keep pace with any increase to the CPI-W or the federal minimum wage.