

# CLIENT ALERTS

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## More Changes to Michigan's Minimum Wage Laws

12.20.2018

### Overview

The Michigan Legislature approved a ballot initiative on September 5, 2018, called the "Improved Workforce Opportunity Wage Act," which increased the minimum wage to \$10.00 per hour effective January 1, 2019, and over time, increasing the minimum wage to \$12.00 per hour by January 1, 2022. The new law also dramatically changed the minimum wage for tipped employees and created an "equal pay" cause of action.

On December 13, 2018, the Michigan Legislature amended the Improved Workforce Opportunity Wage Act. The amended Act substantially slows the increase to \$12.00 per hour over a longer period of time and largely negates the changes to calculating the minimum wage for tipped employees. The amendments to the Act will not be effective until March 2019.

### What is the minimum wage now?

The current minimum wage in Michigan is \$9.25 per hour. Beginning in late March 2019/early April (the exact date is not yet known and depends on when the current legislative session ends this year), the minimum wage will increase to \$9.45 per hour. The minimum wage will then increase every year through 2030 as set forth below. The minimum wage increase will be delayed in any year in which the Michigan unemployment rate is 8.5% or higher.

- Calendar year 2020 - \$9.65
- Calendar year 2021 - \$9.87
- Calendar year 2022 - \$10.10
- Calendar year 2023 - \$10.33
- Calendar year 2024 - \$10.56

### Related Services

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- Calendar year 2025 - \$10.80
- Calendar year 2026 - \$11.04
- Calendar year 2027 - \$11.29
- Calendar year 2027 - \$11.54
- Calendar year 2027 - \$11.79
- Calendar year 2027 - \$12.05

### **What about tipped employees?**

Under the amendments to the Act, the minimum wage for tipped employees is 38% of the minimum wage applicable to other employees. This is a significant change from the original version of the Improved Workforce Opportunity Wage Act, which would have eliminated the reduced minimum wage for tipped employees by January 1, 2024.

If an employee's tips and reduced minimum wage do not equal or exceed the minimum wage applicable to other employees, then the employer must pay the difference. The employer must advise the tipped employee of the provisions of the amended Act.

### **What about the "equal pay" cause of action?**

The Improved Workforce Opportunity Wage Act includes a cause of action for failing to pay employees an equal wage. Specifically, the Act prohibits employers from paying a lower wage to employees of the opposite sex "for equal work on jobs, the performance of which requires equal skill, effort, and responsibility and that is performed under similar working conditions. . . ." This provision does not apply, however, if the wages are determined according to a (i) seniority system, (2) merit system, (3) system that measures earnings by quantity or quality of production, or (4) differential based on a factor other than sex.

If an employee establishes a violation of the Act, the employer may be required to pay double the difference in wages paid to employees plus costs and attorney fees.

### **Is there anything else employers should know?**

The proponents of the original Improved Workforce Opportunity Wage Act contend that the amendments enacted by the Legislature on December 13, 2018, are unconstitutional. We anticipate that various groups may initiate legal challenges to the amendments. In the meantime, employers must take care to comply with all of the requirements set forth in the amended Act.

### **What should employers do now?**

Contact a Butzel Long attorney for assistance in ensuring your pay policies and practices comply with the new requirements set forth in the amended Improved Workforce Opportunity Wage Act.

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