Legal Update Article

New California Law Hikes Worker Pay in Fast Casual Restaurants

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Effective April 1, 2024, a new California law will require employers in the state's fast casual restaurant industry to pay covered non-exempt employees a minimum wage of $20 an hour.

This article summarizes the steps employers can take to comply with AB 1228 and suggests related strategic considerations.

Key Provisions

Covered employers. The law applies to national fast-casual chains defined as "limited service" restaurants consisting of more than 60 establishments nationally that share a common brand and are primarily engaged in providing food and beverages for immediate consumption, on or off premises, with limited or no table services. Bakeries, grocery stores, restaurants in airports, hotels, event centers, theme parks, and museums are exempt from this definition and are not covered.

Establishment of the Fast Food Council.The Council has nine voting members responsible for establishing minimum wages and setting working hours and conditions, including on health and safety, workplace security, the right to take time off for protected leave, and anti-discrimination and anti-harassment.

Minimum wage. On April 1, the minimum wage will increase to $20 an hour. Then, the minimum wage will increase by the lesser of 3.5 percent or the average change in the CPI each January 1 from 2025 to 2029.

Minimize the Economic Effects

In preparation for April 1, employers should consider reviewing staffing levels, overtime rates, compression issues, and benefits.

Staffing Levels. Review staffing levels during the weekdays, weekends, and holidays. Determine the restaurant's baseline needs and establish skeleton crews to manage attrition and find the right staffing balance. Focus on employee workload, appropriate wait times, and overtime costs to avoid employee and customer dissatisfaction.

Overtime Rates. Track overtime use. The staff may welcome appropriate amounts of overtime, but overuse of overtime can lead to employee exhaustion and workplace injuries.

Compression Issues. Ensure a wage distance between new hires and tenured employees to show employee experience is appreciated without negatively impacting the budget. Similarly, create wage distance between managers and other employees, particularly where overtime is regularly incurred, to avoid managers earning less than those they supervise.

Benefits. To increase employee satisfaction, analyze the benefits restaurant employees receive to identify underutilized benefits that could be discontinued and remind employees of the benefits the restaurant can offer at little cost.

Communication

Communicate with employees before rolling out any changes to staffing levels, employees' wages, overtime rates, and benefits and address any questions. The following are examples of changes that should be communicated:

Staffing Levels. Notify employees of changes to staffing levels. Ensure they receive enough work hours and the restaurant meets its goal of maintaining a manageable balance.

Benefits. Provide employees an explanation if any benefits are reduced or cut and where resources are being redirected. Be sure to address related management and tenured employees' compression issues. Before cutting benefits, ensure the company is providing benefits that are required by law.

Please contact a Jackson Lewis attorney with any questions.