

Virginia to Gradually Raise Minimum Wage

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Wage and Hour

The General Assembly of Virginia has passed legislation to raise the minimum wage in stages to arrive at \$15.00 an hour by 2026. Once the General Assembly passes Governor Ralph Northam's amendments (pushing back the original enactment date), employers must start increasing employees' minimum wages beginning May 1, 2021.

Under the new law (amending Virginia Code §§ 40.1-28.9 and 40.1-28.10), the hourly minimum wage will increase as follows:

- \$9.50 effective May 1, 2021;
- \$11.00 effective January 1, 2022;
- \$12.00 effective January 1, 2023;
- \$13.50 effective January 1, 2025; and
- \$15.00 effective January 1, 2026.

Exemptions Eliminated

Significantly, the new law eliminates some historically recognized exemptions to minimum wage obligations and employers will be required to pay the workers the minimum wage.

For example, the new law removes minimum wage exemptions for the following categories of workers:

- Individuals employed in domestic service or in a private home, such as nannies and au pairs;
- Individuals who normally work and are paid according to the amount of work done or completed;
- Individuals whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability; and
- Individuals employed by small businesses (*i.e.*, less than four employees).

Worker Protections

In his efforts to create broad protections for Virginia workers, Governor Northam has signed a flurry of "employee-friendly" measures clamping down on wage theft, noncompete agreements, and employee misclassification.

On the minimum wage, the Governor stated, "Every Virginian deserves access to a safe and well-paying job." However, he said he amended the original minimum wage bills passed by the General Assembly to delay enactment in acknowledgment of the potential impact on Virginia's economy while the state grapples with the effects of the COVID-19 pandemic.

Changing Employment Law Landscape

Along with the nearly two dozen employee-friendly bills Governor Northam has signed into law since taking office in 2018, the new minimum wage provides another example of

how the landscape of employment law in Virginia is transforming. Employers, especially small businesses, should be prepared to comply with the new minimum wage obligations beginning May 1, 2021.

Please contact a Jackson Lewis attorney with any questions about these fundamental changes in Virginia or any other employment-related issues.

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