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Michigan Legislature closes minimum wage loophole by limiting overtime eligibility

Author:

Andrea M. Johnson
Direct: (248) 594-6250

ajohnson@plunkettcooney.com

The loophole in Michigan's new Minimum Wage Law, which resulted in the potential for expanded employee overtime eligibility, was corrected by the Michigan Legislature on Aug. 30 with the passage of House Bill 6213.

The confusion began on March 28 when the legislature passed a bill to increase the state's minimum wage to \$6.95 per hour, effective Oct. 1. The law also provided for increases in the minimum wage, over the next three years, to \$7.40 per hour.

This change marked the first time in Michigan's history when the state's minimum wage would exceed the federal minimum wage, which had been set at \$5.15 per hour. While these changes appeared fairly straightforward, the overall cost and effect on Michigan employers could have been substantial due to the potential impact of the changes on the status of overtime-exempt employees.

Potential Impact of Minimum Wage Law on Overtime Exemptions

In the labor and employment realm, when a difference exists between federal and state law, the law that is more beneficial to the employee controls. Since Michigan's minimum wage bill did not include many of the exemptions from overtime pay provided in the Federal Fair Labor Standards Act (FLSA), the state's employers dodged a substantial financial bullet.

Employers could have been required to pay overtime to many employees who were traditionally considered "exempt" from such pay under the FLSA. Therefore, the change could have meant overtime eligibility for a variety of employees, including auto and boat dealership salespeople and mechanics, truck drivers, IT professionals, movie theater employees, fishermen, taxi drivers, some tipped employees, administrative workers depending on whether they are paid by the hour and many more.

Legislature Clarifies Statute and Narrows Law

At the time the bill was originally passed in March, it was believed that the effects on overtime pay were an unintended byproduct of the legislature's intent to increase the minimum wage. This belief was confirmed when

House Bill 6213 was passed.

Under the new bill, employers, who became subject to Michigan's minimum wage and overtime laws due to the new state minimum wage, would not be subject to the state's overtime rules. Further, employees of those employers who are exempt from the federal minimum wage will continue to be exempt from the state minimum wage as well. One important change, however, is that certain home healthcare workers and day care workers will become eligible for the minimum wage and overtime pay under Michigan law, notwithstanding their federal exemptions.

Notably, the passage of these wage requirements were tied to the passage of Senate Bill 453 providing an earned income tax credit to low-income workers, and Senate Bill 1364, which created a "youth minimum wage."

On Sept. 22, the governor signed these bills into effect.

Plunkett & Cooney will continue to keep you advised of developments in this area and will notify you as soon as possible if any changes occur. If you should have any questions or need assistance reviewing the exempt status of your employees, please contact your Plunkett & Cooney attorney or Theresa Smith Lloyd, the Labor and Employment Practice Group Leader.

Click here to review [House Bill 6213](#).

Click here to review [Senate Bill 453](#).

Click here to review [House Bill 1364](#).

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