



## Legal Alert: Florida Minimum Wage Increases to \$7.31 Effective June 1, 2011

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Effective June 1, 2011, Florida's minimum wage will increase to \$7.31 per hour. Because this is higher than the current federal minimum wage rate, covered employers will be required to comply with the higher state minimum wage.

The increase is the result of a lawsuit filed earlier this year, which challenged the way the Florida Agency for Workforce Innovation (AWI) calculated adjustments to the state minimum wage rate in 2010 and 2011. See *Cadet v. Fla. Agency for Workforce Innovation*. Florida law requires the AWI to adjust the minimum wage rate each year for inflation based on the consumer price index for certain workers. The lawsuit claimed the AWI erroneously decreased the state minimum wage rate in 2010 and used this rate to calculate the 2011 rate. The court agreed with the plaintiffs, holding that the method the AWI used to calculate the state minimum wage rate violated state law. Accordingly, the court ordered the agency to issue a notice stating that the state minimum wage will increase to \$7.31 per hour effective June 1, 2011.

Florida's minimum wage law applies to all employees in the state of Florida who are covered by the federal minimum wage law. Employers of "tipped employees" who meet eligibility requirements for the tip credit under the Fair Labor Standards Act (FLSA) may count tips actually received as wages under the Florida minimum wage. However, the employer must pay "tipped employees" a direct wage. The direct wage is calculated as equal to the minimum wage (\$7.31) minus the 2003 tip credit (\$3.02), or a direct hourly wage of \$4.29 as of June 1, 2011.

Employers who must pay their employees the Florida minimum wage must post a notice of the state minimum wage requirement (in addition to posting a notice as required by the FLSA). A Florida law poster can be downloaded from the AWI web site at: <http://www.floridajobs.org/workforce/posters.html>.

If you have any questions regarding this issue, please contact the Ford & Harrison attorney with whom you usually work.