



## Legal Alert: Florida Employers Must Comply with Increased Federal Minimum Wage Rate

7/20/2009

As most employers are aware, the federal minimum wage rate will increase to \$7.25 per hour on July 24, 2009. Currently, the state minimum wage rate in Florida is \$7.21 per hour. However, because federal law requires that businesses comply with the higher of state or federal minimum wage rates, on July 24, Florida employers will be required to comply with the higher federal rate of \$7.25 per hour.

When the minimum wage rate increases, Florida employers will be required to increase the direct wages paid to tipped employees as well. Under federal law, employers who use the tip credit are permitted to pay tipped employees a cash wage of \$2.13 per hour, under the assumption that these employees will make enough in tips to earn the required minimum wage. As the federal minimum wage increases, the amount of the tip credit increases and the direct wage payment remains the same.

However, under Florida law, the amount of the tip credit remains the same as the minimum wage increases. Thus, as the minimum wage rate increases, the direct wage paid to tipped employees must increase to ensure that the total compensation they receive equals at least the required minimum wage. The 2003 tip credit is \$3.02 per hour, thus tipped employees in Florida currently must be paid \$4.19 per hour in direct wages. This results because the Florida Constitution provides that employers may credit the amount of the allowable FLSA tip credit in 2003. When the minimum wage increases to \$7.25 per hour on July 24, tipped employees must receive at least \$4.23 per hour in direct wages.

If you have any questions regarding the minimum wage rate or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work or Edmund McKenna, a partner in our Tampa office at [emckenna@fordharrison.com](mailto:emckenna@fordharrison.com) or 813-261-7821.