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EMPLOYMENT LAW DEVELOPMENTS

Effective July 1st: New Fair Workweek, Minimum Wage and Paid Sick Leave Laws in the City of Chicago

As employers everywhere work to resume business operations following the COVID-19 pandemic, employers who have employees that work in the city of Chicago need to be aware of new labor laws concerning scheduling, the guaranteed minimum wage and paid sick leave that went into effect on July 1, 2020.

Fair Workweek Ordinance

Effective July 1, 2020, the Fair Workweek Ordinance requires employers to provide advance work schedules, the right to decline previously unscheduled hours and payment for certain last minute schedule changes. Employees covered by the ordinance include individuals who work a majority of the time in Chicago in a covered industry and temporary workers on assignment for 420 hours within an 18-month period. Employees are covered by the ordinance if they work in one of seven "covered" industries (Building Services, Healthcare, Hotels, Manufacturing, Restaurants, Retail, and Warehouse Services), they make less than \$26/hour or \$50,000/year, and the employer has at least 100 employees globally (250 employees and 30 locations for a restaurant).

Provisions for covered employees under the amended Ordinance rules include but are not limited to:

- At least 10 days advance notice of work schedule
- Right to decline previously unscheduled hours
- 1 hour of "Predictability Pay" for any shift change that occurs within 10 days
- Right to rest by declining work hours less than 10 hours after the end of previous day's shift.

In the event that an employer makes changes to a shift less than 24 hours before the shift starts, then covered employees must receive:

- 50% of their pay for the hours lost, when the employer reduces the number of hours the employee was scheduled to work,
- 1.25 times their base pay for any shift that begins less than 10 hours after the end of the previous day's shift.

Significantly, there is an exception to the obligation to pay predictability pay for work schedule changes caused by certain situations, including a "pandemic." Thus, predictability pay will not be required if COVID-19 causes a business to materially change its operating hours, operating plans or the goods or services provided by the business. A supplemental COVID-related rule to

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the Fair Workweek Ordinance, which was issued by the BACP, explains how this pandemic exception applies to COVID-19.

Minimum Wage Ordinance

Chicago's Minimum Wage Ordinance covers employees who perform work for at least 2 hours in any 2-week period in the city of Chicago.

The minimum wage in Chicago was \$13 an hour. Effective July 1, 2020, the minimum wage increased to \$13.50 for workers at businesses with four to 20 employees, and \$14.00 per hour for employers with more than 20 employees. Domestic workers, no matter the number of workers their employer has, must receive at least the minimum wage.

The minimum wage for workers such as restaurant servers, who receive tips as part of their wage, is \$6.40 an hour. Beginning July 1, 2020, the minimum wage for tipped workers at businesses with four to 20 employees increases to \$8.10 an hour, and \$8.40 an hour at businesses with more than 20 employees. Note that if a tipped worker's wages plus tips do not equal at least the full minimum wage, the employer must make up the difference.

Paid Sick Leave Ordinance

Beginning on July 1, 2020, all employers with at least one covered employee are subject to the terms of Chicago's Paid Sick Leave Ordinance (the "PSLO"), regardless of whether the employer has a worksite in Chicago or is subject to business license requirements. Effective July 1, 2020, the amended PSLO covers the following employees:

- An outside salesperson,
- A member of a religious corporation or organization,
- A student at, and employed by, an accredited Illinois college or university, and
- Motor carriers regulated by the U.S. Secretary of Transportation or the State of Illinois.

There are additional considerations for Paid Sick Leave where FMLA applies. Please contact Williams, Bax & Saltzman for more details or assistance.

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