

**SEATTLE OFFICE FOR CIVIL RIGHTS
OFFICE OF LABOR STANDARDS**

MINIMUM WAGE & WAGE THEFT

APRIL 1, 2015



OFFICE OF LABOR STANDARDS

Removing Barriers to Workplace Equity

- **Minimum Wage**
- **Administrative Wage Theft**
- **Paid Sick and Safe Time**
- **Job Assistance Ordinance**

MINIMUM WAGE BASICS



500,000 employees
working in Seattle

100,000 employees
earn less than \$15/hour

Race/Ethnicity	% low wage workers	% workers in Seattle
Hispanic	49%	7%
Am. Indian/ Alaskan Native	70%	1%
Asian/ Pacific Islander	41%	13%
Black	43%	8%
Other	26%	not calculated
White	25%	72%

30,000 employers
with employees
working in Seattle

600 franchisees

1,700 franchise locations

19,000 franchise workers

April 1, 2015

\$11.00 per hour

LARGE EMPLOYERS (501+ EMPLOYEES)

MINIMUM WAGE

\$11.00 per hour

Beginning 2016, employers can pay a reduced hourly rate if they pay toward an employee's medical benefits

LARGE EMPLOYERS (501+ EMPLOYEES)

Year	Minimum Wage	Minimum Wage plus payment towards medical benefits
2015	\$11.00	\$11.00
2016	\$13.00	\$12.50
2017	15.00	\$13.50
2018	\$15.36	\$15.00

**SMALL EMPLOYERS
(500 OR FEWER EMPLOYEES)**

MINIMUM COMPENSATION

\$11.00 per hour

— or —

\$10.00 per hour

plus \$1 tips & payment toward medical benefits

SMALL EMPLOYERS

(500 OR FEWER EMPLOYEES)

Year	Minimum Compensation	Minimum Wage plus tips and/or payments toward medical benefits
2015	\$11.00	\$10.00
2016	\$12.00	\$10.50
2017	\$13.00	\$11.00
2018	\$14.00	\$11.50
2019	\$15.00	\$12.00
2020	\$15.75	\$13.50
2021	\$16.49	\$15.00

MINIMUM WAGE DETAILS



EMPLOYER SIZE

✦ **Large Employers - Schedule 1**

501+ employees in United States

✦ **Small Employers - Schedule 2**

500 or fewer employees in United States

COUNTING EMPLOYEES

✦ **Schedule size**

- **Individual employees in United States (not FTEs)**
- **All franchise employees**
- **Jointly employed employees (e.g. temps)**
- **Average number of employees employed per calendar week during preceding calendar year or first 90 days of business**

SEPARATE BUSINESSES THAT ARE RELATED

✦ Integrated Enterprise Test = Single Employer

- Degree of interrelation between the operations;
- Degree to which the entities share common management;
- Centralized control of labor relations; and/or
- Degree of common ownership or financial control over the entities.

✦ Exception

- Employers share some degree of interrelated operations and common management with one another, but
- Separate legal entities operate substantially in separate physical locations
- Each separate legal entity has partially different ultimate ownership.

EMPLOYEE LIMITATIONS

✦ Occasional Basis Employees (un-scheduled)

- Must work in Seattle 2 hours within 2 week period
- Once threshold is met, all Seattle hours are covered by ordinance

✦ Exclusions

- Work Study
- SMC 12A.28.200

MINORS

- ✦ **16-17 years old**
 - **100% of Seattle minimum wage**
- ✦ **14-15 years old**
 - **85% of Seattle minimum wage**

MEDICAL BENEFITS

- ◆ **Affordable Care Act, Silver Level**
- ◆ **Equivalent plan (70 percent of benefits)**
- ◆ **Employer must actually make payments toward the plan**

WAGES

✦ Wage

- **Commissions, piece-rate and non-discretionary bonuses**
- **Not tips**
- **Not employer payments toward medical benefits plans**

TWO OR MORE POSITIONS FOR SAME EMPLOYER

- ◆ **Employee performs work in tipped and non-tipped position for same employer**
- ◆ **Tips count toward hourly minimum compensation only for hours worked in tipped position**

SERVICE CHARGES

✦ **Not tips**

✦ **Commissions**

- If paid to employee, service charges can be commissions, but only for Seattle min wage (not state min wage)

✦ **Disclosure**

- Service charge % paid to employee must be disclosed on menu and itemized receipt

JOINT EMPLOYERS

- ◆ **Two or more employers may both employ the same employee**
- ◆ **Determination = Economic Realities Test**
- ◆ **Schedule Size**
 - Count all jointly employed employees
- ◆ **Payment Rate**
 - Joint employer with the most employees determines the hourly rate
- ◆ **Joint & Several Liability**

WAGE THEFT



WAGE THEFT

Failure to pay all wages and tips owed to an employee

- **Not being paid minimum wage**
- **Not being paid for overtime**
- **Working off the clock**
- **Not being paid at all, or**
- **Not being paid the amount promised**

WAGE THEFT ORDINANCE

- ✦ **Pay all wages and tips owed to an employee, and**
- ✦ **Provide written notice**
 - **Upon Hire/Change of Employment**
 - **Every Pay Day**

NOTICE & RECORD KEEPING



NOTICE UPON HIRE

(AND CHANGE OF EMPLOYMENT)

- 1. Employer name**
- 2. Employer address**
- 3. Employer Telephone number**
- 4. Employee's rate or rates of pay**
- 5. Tip policy**
- 6. Pay basis**
 - Hour, shift, day, week, commission
- 7. Established pay day**

NOTICE EVERY PAY DAY

- 1. Rate or rates of pay**
- 2. Tip payment**
- 3. Pay basis**
 - Hour, shift, day, week, commission
- 4. Gross wages**
- 5. All deductions for that pay period**

WORKPLACE POSTER

✦ Notice of Rights

- Right to minimum wage and minimum compensation
- Protection against retaliation
- Right to file complaint with OLS for possible violation

✦ Language

- English and Spanish
- Any other language commonly spoken by employees at the particular workplace.

RECORD KEEPING

- ◆ **Three Years**
- ◆ **State Payroll Records**
- ◆ **Minimum wages paid to each employee**
 - **Commissions**
 - **Bonuses**
 - **Tips**
 - **Payments toward medical benefits**

RETALIATION



RETALIATION IS PROHIBITED

- ◆ **Protected Activity = Employee's Assertion of rights to Seattle minimum wage**
- ◆ **No Adverse Actions or Discrimination**
- ◆ **No Threats to Report Employee's Immigration Status**

ENFORCEMENT



ENFORCEMENT

- ✦ **First Year = Outreach & Education**
- ✦ **Full remedy for workers**
- ✦ **No employer penalties unless repeat or egregious conduct**

ENFORCEMENT OPTIONS

- ✦ **Compliance Letter**
- ✦ **Individual Charge**
- ✦ **Director's Charge**
- ✦ **Directed Investigation**

REMEDY & PENALTIES

VIOLATION	REMEDY OR PENALTY
All Violations	Back Wages + Interest
First Violation	Warning and up to \$500 per employee
Second Violation	Up to \$1000 per employee or 10% of unpaid wages, whichever is greater
Third Violation	Up to \$5,000 per employee or 10% of unpaid wages, whichever is greater
Subsequent Violation	Up to \$20,000 per employee
(Willful) Notice – First Violation	\$125
(Willful) Notice – Subsequent Violation	\$250
(Willful) Interference	\$1000 to \$5000

seattle.gov/laborstandards
206-684-4500

