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New Employment Laws Enacted in West Hollywood

Employers in West Hollywood, California, who employ any individual for two or more hours per week should be prepared for significant changes that became effective as of July 1, 2022.

On November 15, 2021, the West Hollywood City Council approved an [ordinance](#) establishing a citywide minimum wage and guaranteed leave provisions. On May 16, 2022, the city amended the [ordinance](#), clarifying numerous provisions.

Paid Time Off

West Hollywood employers must provide at least 96 paid hours each year for sick leave, vacation, or personal necessity to full-time employees and at least an additional 80 hours of unpaid sick time. A part-time employee accrues paid time off in increments proportional to a full-time employee.

Eligibility for Use

An employee must be eligible to use accrued paid time off after the first six months of employment or consistent with company policies, whichever is sooner.

Unpaid Sick Time

The 80 hours of unpaid time off for sick leave may be used for the illness of the employee or a member of their immediate family when the employee has exhausted their paid time off for that year.

Carryover

Unused accrued paid time off will carry over until the paid time off reaches a maximum of 192 hours. Unused accrued unpaid time off will carry over until the time off reaches a maximum of 80 hours.

Civil Remedies

The ordinance permits an aggrieved employee to file a civil action.

Additional Information

Employers may not unreasonably deny an employee's request to use the accrued unpaid time off. Further, employers may not implement any employment policy to count unpaid time off as an absence that may result in discipline, discharge, suspension, or any other adverse action.

Increased Minimum Wage

The city of West Hollywood's minimum wage rates are phased, depending on the type of establishment and worker or the number of employees a business employs within the city. The ordinance took effect on January 1, 2022, for hotel employers. For all other employers, the ordinance took effect on July 1, 2022. "Hotel employer" means any person who owns, controls, or operates a hotel in the city of West Hollywood and includes any

person or contractor who, in a managerial, supervisory, or confidential capacity, employs hotel workers.

Employers With 50 Employees or More

January 1, 2022: Employers must pay employees no less than \$15.50 per hour.

July 1, 2022: Employers must pay employees no less than \$16.50 per hour.

January 1, 2023: Employers must pay employees no less than \$17.50 per hour.

July 1, 2023: Employers must pay employees no less than \$17.64 per hour.

Employers With Fewer Than 50 Employees

January 1, 2022: Employers must pay employees no less than \$15.00 per hour.

July 1, 2022: Employers must pay employees no less than \$16.00 per hour.

January 1, 2023: Employers must pay employees no less than \$17.00 per hour.

July 1, 2023: Employers must pay employees no less than \$17.64 per hour.

Schedule of Annual Minimum Wage Increase

On July 1, 2022, and annually thereafter, the minimum wage rates will increase based on the applicable location index determined and adopted by the West Hollywood City Council. The city will announce the adjusted rates annually on or before each April 1 and publish a bulletin announcing the adjusted rates, which shall also take effect on July 1 of each year.

Posting of Minimum Wage Rates

Every employer must post, at any workplace or job site where any covered employee works, the bulletin published each year by the city informing employees of the current minimum wage rate and of their workers' rights. Every employer shall post notices in [English](#), [Spanish](#), and any other language spoken by at least 5% of the employees (for example, [Russian](#)). Every employer shall also provide to each employee, at the time of hire, the employer's name, address, and telephone number in writing. Finally, employers must also inform employees of their possible right to the earned income tax credit under federal and state laws.

Payroll Record Retention

West Hollywood employers must retain payroll records for no less than three years.

Service Charges

The ordinance defines a "service charge" as any separately designated amount that is charged and collected by an employer from customers and is for service by employees, including those charges designated on receipts, invoices, or billing statements under the term "service charge," "table charge," "porterage charge," "automatic gratuity charge," "healthcare surcharge," "benefits surcharge," or similar language. A service charge does not include a tip or gratuity as defined under state or federal law.

Under the new ordinance, West Hollywood employers are required to distribute the revenue from all service charges to the employee(s) who performed services. However, no part of these amounts may be paid to an employee whose primary role is supervisory or managerial. Further, all service charges must be disclosed to consumers with clear and conspicuous notice.

Service charges must be paid to the employees no later than the next payroll following collection of the amounts from customers, except that any amounts collected in cash must be paid at the close of business on the day the amounts are collected.

Takeaways

Businesses with employees in West Hollywood, California, should update their policies to provide both paid and unpaid time off in accordance with the ordinance. They should also ensure they comply with the minimum wage rate schedule. Employers should seek the advice of counsel if they have any questions about the ordinance or need assistance updating or preparing policies.

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