

## Michigan's New Minimum Wage Law Challenges Already Stressed Economy

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Michigan legislature has approved an increase in the state's minimum wage come October 1, thereby affecting the longstanding overtime rules that Michigan employers and employees are used to. In an already challenged Michigan economy, this has serious implications especially for companies trying to grow or survive, such as those in the auto industry, as well as many municipalities throughout the state.

With Michigan's minimum wage jumping to \$6.95 – more than the federal standard of \$5.15 – most Michigan organizations must comply with state overtime rules, which were written in 1975 and last amended almost 10 years ago – not the Fair Labor Standards Act (FLSA), last updated in 2004. Seventeen other states have increased their minimum wage to above the federal standard of \$5.15 per hour.

"The light switch turns on October 1. State law will rule and the state courts are responsible for interpreting the law, which is less detailed, yet arguably more stringent than federal rules," said Michael Alaimo, attorney at Miller Canfield and a 15-year veteran in wage and hour investigations and litigation.

State law, like the FLSA, requires employers to pay employees time and a half for all hours worked in excess of the 40-hour work week, unless those employees are "exempt." However, the shift to state law may alter the exemption test for professionals, executives, and administrative workers and, in addition, opens overtime eligibility to many additional classes of workers. Truck drivers, loaders, mechanics, IT professionals, some engineers, outside sales, car, and boat sales people may be eligible for overtime – an expense employers didn't have to pay before when they were covered solely by the FLSA. "In fact, under the state overtime rules, a company's CEO might qualify for overtime," he pointed out.

But paying higher hourly minimum wages and overtime is just one part of the cost equation.

"The overall cost to comply with the law could influence growth strategies – whether or not a company hires new people or worse yet, stays in Michigan," Alaimo said. "A major employment law change such as this requires educating staff and increases paperwork, costing time. It causes a company's accounting, legal and human resource departments – already stretched in this current economic climate – to shift their focus."

Is there any turning back? "It is highly unlikely that the state legislature would rescind the new minimum wage rates; however, lawmakers may review the state's overtime rules in the near future in an effort to make them similar to the Fair Labor Standards Act," he said. In the meantime, employers should take a proactive approach to make sure their company is in compliance by the deadline in order to avoid expensive litigation or an audit.

The 350-attorney law firm of Miller, Canfield, Paddock and Stone, P.L.C. was established in Detroit in 1852 and has offices in Ann Arbor, Detroit, Grand Rapids, Howell, Kalamazoo, Lansing, Monroe, Saginaw, and Troy, Michigan. Other offices are located in New York City, Naples and Pensacola, Florida, Windsor, Ontario, and in Gdynia, Warsaw, and Wroclaw, Poland.