

## Wage Board Recommends an Increase in the Minimum Wage for Fast Food Workers to \$15.00 Per Hour

On July 22, 2015, the Fast Food Wage Board (which was empaneled at the direction of Governor Cuomo to investigate and make recommendations regarding an increase in the minimum wage for employees in the fast food industry) passed a [resolution](#) recommending that the minimum wage for employees in the fast food industry be raised to \$15.00 per hour. The recommended increase will be phased in to take effect by December 31, 2018, in New York City, and by July 1, 2021, for the rest of the state. Governor Cuomo has publicly applauded the Wage Board's recommendation, which will almost certainly be accepted and adopted by the Commissioner of Labor.

Assuming the Commissioner of Labor issues an order accepting the Wage Board's recommendation, the fast food hourly minimum wage in New York City will increase to \$10.50 on December 31, 2015, \$12.00 on December 31, 2016, \$13.50 on December 31, 2017, and \$15.00 on December 31, 2018. The fast food hourly minimum wage in the rest of the state will increase to \$9.75 on December 31, 2015, \$10.75 on December 31, 2016, \$11.75 on December 31, 2017, \$12.75 on December 31, 2018, \$13.75 on December 31, 2019, \$14.50 on December 31, 2020, and \$15.00 on July 1, 2021. At this point, the minimum wage for all employees is \$8.75 per hour. On December 31, 2015, the minimum wage will go up to \$9.00 per hour for all employees except fast food employees, who will be entitled to the higher minimum wage recommended by the Wage Board.

In the Wage Board's resolution, "fast food employee" is defined as any person employed or permitted to work at or for a fast food establishment where the person's job duties include at least one the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance. The Wage Board's resolution does not contain any exemption for high school or college students, who often seek part-time jobs in the fast food industry and who generally are not trying to support themselves or their families on their income.

The term "fast food establishment" is defined as any establishment in New York serving food or drinks: (1) where customers order and pay for their items before eating, and the items may be consumed on the premises, taken out, or delivered; (2) which offers limited service; (3) which is part of a chain; and (4) which is one of 30 or more establishments nationally. The definition includes a franchisee who owns and operates only one fast food restaurant in New York State, if the franchisor and all other franchisees of the franchisor own and operate at least 30 such restaurants nationwide.

If the Commissioner of Labor adopts the Wage Board's recommendation as expected, the Commissioner's order could be subject to legal challenges based on its selective targeting of the fast food industry and potentially other grounds. It remains to be seen whether this minimum wage increase for employees in the fast food industry will withstand judicial scrutiny.

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