



Dear RAM Member:

The Maryland General Assembly recently overrode the Governor's veto of legislation to increase Maryland's minimum wage. That means that Maryland's new minimum wage will be \$6.15, effective February 16, 2006.

After it was clear that the business community was unable to stop this legislation, RAM successfully got lawmakers to accept a tip credit of 50 percent, in an effort to lessen the impact of the increase on employers with tipped employees. As a result, the new cash wage for tipped employees will increase from the current \$2.38 to \$3.08. Without RAM's efforts, the cash wage for tipped employees would have increased a full dollar as well.

The Federal training wage remains unchanged at \$4.25. This training wage may be paid to employees under age 20 for their first 90 days of employment.

For employers who take advantage of the FICA Income Tax Tip Credit (IRS Form 8846), this partial tax credit may be taken against the portion of tips that exceed the new state minimum wage of \$6.15 (as opposed to the old \$5.15 federal minimum wage).

At this time, the Maryland Department of Labor, Licensing & Regulation (DLLR) is working to establish a minimum wage office and hire staff to enforce it. New labor law posters will be available at a later date (not yet determined).

RAM has worked hard to interpret this legislation and explain it to our membership. This information should be shared with your accountant and/or payroll processor.

If you have additional questions, please contact Melvin Thompson at the RAM office at 800-874-1313.

www.marylandrestaurants.com

This information is intended for advice only, and is NOT a substitution for an attorney. Consult with your attorney for guidance on complying with Federal, State and Local laws.

Maryland Department of Labor, Licensing & Regulation

Division of Labor and Industry

Wage and Hour Fact Sheet

Maryland Minimum Wage
\$6.15 per hour
Beginning February 16, 2006

The minimum wage that must be paid to covered employees is \$6.15 per hour as of February 16, 2006. With certain exceptions, time and a half the usual hourly rate must be paid for all hours worked in excess of 40 in a workweek.

Certain employees and establishments are exempt from both the minimum wage and overtime provisions. Exemptions include certain agricultural workers, executives, administrative and professional employees; employees of educational, charitable, religious and other non-profit organizations where the employee is working as a volunteer; employees of restaurants, cafes, drive-ins and drug stores which sell food and drink for consumption on the premises where the annual gross is less than \$250,000, employees of motion picture and drive-in theaters; employees under 16 years of age working less than 20 hours per week; outside salesmen and individuals compensated on a commission basis; individuals 62 years of age and working not more than 25 hours a week; employees of establishments engaged in the first canning, packing or freezing of fruits, vegetables, poultry and seafood; the immediate family of the employer; those employees enrolled in a special educational program and non-administrative employees of organized camps.

Certain employees and establishments are exempt from the overtime provisions, but must be paid minimum wage. Exemptions include employees of amusement or recreational establishments, including swimming pools, employees covered by the Federal Motor Carrier Act and the Interstate Commerce Act; employees of hotels, motels or restaurants; those employed as salesmen, partsmen, or mechanics or auto or farm machinery retailers; gasoline service stations; taxi drivers; the employees of bona fide country clubs; employees of a non-profit employer who furnishes part-time at home care services for the sick, the aged, the mentally ill, the handicapped or disabled.

Employees of bowling alleys and institutions primarily engaged in the care of the sick, and aged, the mentally ill or defective who reside on the premises (other than hospitals) shall be paid time and one half after 48 hours.

Theater craft or trade employees must be paid time and a half after 40 hours.

Covered agricultural workers must be paid time and a half after working 60 hours in any one workweek.

Following recent amendments to the State minimum wage laws, employers are allowed to pay tipped employees (defined as employees regularly earning more than \$30 per month in tips) not less than \$3.08 per hour, provided each worker earns enough tips to bring their average hourly wage to at least the state minimum (\$6.15 on and after February 16, 2006). Deficiencies must be supplemented by the employer to the minimum wage level.

Employers covered by the federal Fair Labor Standards Act may pay an opportunity wage of \$4.25 per hour to employees under 20 years of age during their first 90 consecutive calendar days of employment with an employer. Employers are prohibited from displacing employees in order to hire youth at the opportunity wage rate. Also prohibited are partial displacements such as reducing

employees' hours, wages, or employment benefits.

- Employers must keep records for 3 years in or about the premises where the employee is employed consisting of the name, address, and occupation of each employee, the rate of pay, amount paid each pay period, and the daily and weekly hours worked by each employee.
- Penalties are prescribed for violations of the law.

EMPLOYERS ARE REQUIRED TO POST THIS INFORMATION PURSUANT TO LABOR AND EMPLOYMENT ARTICLE, TITLE 3, SUBTITLE 4, ANNOTATED CODE OF MARYLAND (2/2006)

For additional information, contact:
Division of Labor and Industry
1100 North Eutaw Street, Room 607
Baltimore, Maryland 21201
(410) 767-2357

How to Determine Overtime Rate for Tipped Employee Under Maryland's New Minimum Wage Law

Determining overtime for a tipped employee

Example 1: Brendan is a waiter earning \$3.08/hour plus tips. This week, he worked overtime.

- Applicable minimum wage is \$6.15/hour
- Regular wages:
 $\$3.08/\text{hour} \times 40 \text{ hours} = \123.20
- Calculate overtime rate:
 $\$6.15/\text{hour} \text{ (minimum wage)} \times 1.5 = \$9.23/\text{hour}$
 $\$9.23$
 $- \$3.07 \text{ tip credit}$
 $= \$6.16 \text{ (overtime rate)}$

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