

## Technical Assistance for Employers

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### Minimum Wage: Questions & Answers

#### Technical Assistance: FAQs

**Q. What is the minimum wage in Oregon?**

**A.** Effective January 1, 2008, the Oregon minimum wage increases by 15 cents to **\$7.95** per hour. ORS 653.025.

This increase is a result of the passage of Ballot Measure 25, approved by Oregon voters on November 5, 2002. The minimum wage had been at \$6.50 per hour since January 1, 1999, but Measure 25 raised the wage to \$6.90 effective January 1, 2003 and also provided for annual indexing for calendar year 2004 and beyond.

Measure 25 requires the Commissioner of the Bureau of Labor and Industries to calculate an annual adjustment to the minimum wage each September for the following calendar year. The annual adjustment is based on any increase during the previous 12 months in the U.S. City Average Consumer Price Index for All Urban Consumers for All Items.

Under the new law, the minimum wage is to be rounded to the nearest five cents and to take effect on January 1 of the year following each adjustment.

Last year's 1.97 percent increase in the consumer price index from August, 2006 to August, 2007 translates into a minimum wage increase of 15 cents for 2008.

**Q. What is the federal minimum wage?**

**A.** The current federal minimum wage is \$5.85 per hour.

**Q. So which minimum wage am I required to pay my employee -- the state or the federal?**

**A.** When federal and state employment laws conflict, employers must apply whichever standard is most beneficial to the employee. Therefore, Oregon employers must pay the higher state minimum wage.

**Q. How much has the minimum wage increased in recent years?**

**A.** A recent minimum wage history:

Federal		State	
01/01/81	\$3.35	01/01/81	\$3.10
----	----	01/01/86	\$3.35
----	----	09/01/89	\$3.85
04/01/90	\$3.80	01/01/90	\$4.25
04/01/91	\$4.25	01/01/91	\$4.75
10/01/96	\$4.75	----	----
09/01/97	\$5.15	01/01/97	\$5.50
----	----	01/01/98	\$6.00
----	----	01/01/99	\$6.50
----	----	01/01/03	\$6.90

Cited in Cumble v. Woody Woo, Inc. No. 08-35710 archived on March 30, 2010

----	----	01/01/04	\$7.05
----	----	01/01/05	\$7.25
----	----	01/01/06	\$7.50
07/24/07	\$5.85	01/01/07	\$7.80
07/24/08	\$6.55	01/01/08	\$7.95

**Q. Can I pay my new employees a training wage which is below the minimum wage?**

**A.** No. Unlike federal law, Oregon law requires that employees receive at least minimum wage during all stages of employment. This includes any period of on-the-job training.

**Q. Can I count an employee's tips against the minimum wage?**

**A.** No. Oregon law does not allow for tip credits. ORS 653.035(3).

**Q. If I hire minors, do I need to pay them minimum wage?**

**A.** Yes. The minimum wage laws apply to minors.

**Q. I provide meals and lodging for my employee. Can I count the fair market value of the meals and lodging towards the minimum wage obligation?**

**A.** Yes, if the meals and lodging are provided for the private benefit of the employee. However, if you require your employee to live on-site, or if you derive a mutual benefit from the employee living on the premises, you must pay minimum wage in addition to the value of meals and lodging. OAR 839-020-0025.

**Q. I paid my employee \$7.90 per hour in 2007 (10 cents above the minimum wage). He claims I am legally obligated to pay him at least \$8.05 per hour (again, 10 cents above the minimum wage) as of January 1, 2008. Is that right?**

**A.** No. The law only requires you to pay the minimum wage of \$7.95 per hour as of January 1, 2008, unless you have a contract or policy providing otherwise.

**Q. If my pay period cuts across December 2007 and January 2008, which minimum wage applies?**

**A.** The 2007 minimum wage of \$7.80 applies for all hours worked during December, and the 2008 minimum wage of \$7.95 applies for all hours worked during January -- without regard to your particular pay period or pay date.

**Q. If I pay my employee on a commission, does the minimum wage law still apply?**

**A.** Yes. Unless your employee falls into an exempt category, you must pay the employee at least minimum wage for all hours actually worked. This means that even with a commissioned employee, you must track all daily and weekly hours worked to determine whether the average hourly rate meets the minimum wage. If the average hourly rate is less than the minimum wage in any pay period, you must boost the employee's wages up to the minimum wage.

**Q. My employee, who normally earns \$9.00 per hour, travels as part of her job duties. Can I pay her at a lower hourly rate for the travel time?**

**A.** Yes, as long as you pay at least the minimum wage for each hour worked.

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*The Technical Assistance for Employers unit offers employer seminars, handbooks, and other materials covering a number of topics. For additional information, visit our website at [www.oregon.gov/boli/ta](http://www.oregon.gov/boli/ta) or call our Employer Assistance line.*

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*These materials were prepared as a general summary and teaching guide. The mission of the Technical Assistance for Employers Program is to promote compliance with civil rights and wage and hour laws through education. Technical Assistance does not provide legal advice. In order to determine the legality of any matter or to protect your legal rights, you should contact an attorney. Check the yellow pages of your telephone directory or*

Cited in *Cumby v. Woody Woo, Inc.*, No. 08-35718 archived on March 30, 2010

contact the Oregon State Bar Lawyer Referral Service at 1-503-620-0222 or 1-800-452-7636. THIS INFORMATION IS AVAILABLE IN AN ALTERNATE FORMAT.

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*Cited in Cumbie v. Woody Woo, Inc.,  
No. 08-35718 archived on March 30, 2010*