

Electronic Alert

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BOLI Issues Final Rule on Oregon's New Minimum Wage Law **By Amy Angel and Nicole Elgin**

Oregon's new tiered minimum wage law is poised to go into effect on July 1. The new scheme divides the state into [three wage regions](#) (Portland Metro, "nonurban" counties, and everywhere else) and requires employers to pay employees minimum wages based on the employer's location. Oregon's Bureau of Labor and Industry (BOLI) was tasked with defining the "employer's location" for purposes of determining the applicable region and minimum wage rate. BOLI's [Final Rule](#) deviates significantly from its Proposed Rule but generally still requires employers to pay employees based on where work is performed.

The Final Rule provides that the applicable region and minimum wage rate is determined as follows:

For employers with a fixed location and workers who report to that fixed location, the determination is pretty simple as the rule provides that if an employee performs more than 50% of his or her work in a pay period at the employer's permanent fixed business location in Oregon, then the minimum wage rate is determined by the region in which that permanent fixed business location is located.

The same is true for an employee who makes deliveries as part of his or her job, so long as the employee begins and ends work at the employer's permanent fixed business location. That is, the minimum wage rate is still determined by the region in which the business is located.

However, if an employee performs 50% or less of the work duties at the employer's permanent fixed business location, then the employer must pay the minimum wage rate of the region in which the employee performs work. This might be the case for a landscaping or construction crew or other workers who are mostly at the job site and not at the employer's permanent fixed business location.

But what about employees who perform work in more than one region? If an employee performs work in more than one region in a pay period, then the employer must either:

- (1) Pay the applicable minimum wage rate for each hour worked in each region the employee worked AND maintain records of the locations in which the employee worked; or
- (2) Pay the highest minimum wage rate for any region in which the employee worked for all hours in the pay period.

As the July 1 effective date for Oregon's unique minimum wage system is just two weeks away, employers should hurry and review their pay practices to ensure compliance with the new minimum wage rates and the new rule that determines what rate must be paid.