



## Legal Alert: Pay for “Tipped Employees” Under the Florida Minimum Wage Act

1/11/2008

Most Florida employers are aware that the Florida Minimum Wage Act imposes a higher minimum wage than is required by the federal Fair Labor Standards Act. As discussed in our January 3, 2008 Legal Alert, the state minimum wage increased on January 1 to \$6.79 per hour (up from \$6.67 per hour in 2007). This rate is higher than the current federal minimum wage rate of \$5.85 per hour.

The Florida Minimum Wage Act incorporates many of the definitions and exemptions of the FLSA, including the provision for tipped employees. Under the FLSA and the Florida Minimum Wage Act, employers of tipped employees (who meet the eligibility requirements under the FLSA) may count as wages tips the employee actually receives. However, the employer must pay “tipped employees” a direct wage in addition to the tips received. Employers of tipped employees are permitted to take a tip credit of \$3.02 per hour. This means they must pay a direct wage of \$3.77 per hour as of January 1, 2008 in order to meet the Florida minimum wage requirement. (Minimum wage of \$6.79 – tip credit of \$3.02 = direct wage of \$3.77). The direct wage for tipped employees in Florida is higher than that required by the FLSA because the Florida minimum wage rate is higher than the federal rate.

If you have any questions regarding the Florida minimum wage law or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.