
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

October 2021

Hochul Administration Announces Increase in Upstate Minimum Wage - Governor Hochul's Labor Department announced at the end of last month that it has determined that the upstate minimum wage for general occupations should rise 70 cents on December 31, 2021, to a new rate of \$13.20 an hour.

That is consistent with the increases each of the last six years. The upstate minimum has risen 70 cents annually — from \$9.00 to \$9.70 to \$10.40 to \$11.10 to \$11.80 and currently \$12.50.

The original law establishing a multi-year schedule of minimum wage hikes topped out at \$12.50 upstate, with the caveat that it should continue to rise to \$15 an hour eventually. How fast that should occur, was left up to the Labor Department, with analysis from the Budget Division, to determine.

The original law specified that the minimum wage for Nassau, Suffolk and Westchester counties shall rise from \$14 an hour to \$15 on December 31, 2021 so wages will increase to \$15 per hour at the end of the year. New York City has already reached \$15 per hour for all employers.

The increase in the Upstate minimum wage from \$12.50 to \$13.20 at the end of the year will result in a proportional increase in the cash wage for tipped foodservice workers. The cash wage for tipped foodservice workers outside of New York City, Long Island, and Westchester will increase from \$8.25 per hour to \$8.71 (subject to confirmation from the Labor Department). The cash wage for tipped workers on Long Island and in Westchester County will increase to \$10 per hour matching the wage in New York City.

Applications Open for Restaurant Resiliency Program - New York State has launched the Restaurant Resiliency Program to provide relief to the restaurant industry. The program provides funding to New York's network of food banks and emergency food providers to purchase prepared meals from New York restaurants and deliver them to families in need. Restaurants will need to show capacity to create meals aligning with MyPlate.gov standards, be up to date with licensing requirements, and have passed all health inspections. Additional information and an application for the program can be found on the Department of Agriculture & Markets' website - <https://agriculture.ny.gov>.

SLA Commits to Greater Transparency - Governor Hochul has pledged to usher in a new era of greater transparency and accountability. As part of that commitment, she has required all of the State agencies under her control to submit plans to accomplish this goal. The Liquor Authority's submission to the Governor's senior staff was comprised of a summary of their current efforts – including engaging with groups like ours – and their plans going forward.

The Authority is nearing completion of a multi-year, wholesale redesign of their back-end licensing and compliance systems. Once complete in mid-2022, they'll have significantly more digitized information that can be shared with the public. Prior to that, the SLA has determined that they can make this information available soon:

- General application processing time ranges provided on application receipt
- Estimated date of determination for application provided as additional data in the status query
- Full Board meeting minutes posted to the website
- Posting of declaratory rulings requests prior to Full Board consideration
- List of Full Board actions on licensing matters to be posted subsequent to each bi-weekly meeting

The continued integration of technology into the Liquor Authority's operation has improved service for licensees and the public. Let's hope this next phase of changes stays on course and we realize these benefits over the next few months.

HERO Act Implementation Continues - The Joint Employer-Employee Workplace Safety Committee provision of the recently enacted HERO Act takes effect on November 1st. Under this part of the Health and Essential Rights Act, employers with at least 10 employees shall permit employees to establish and administer a joint labor-management workplace safety committee.

The law does not require employers to create these committees, but they must allow employees to establish these committees if they choose. Two-thirds of the committee are to be non-supervisory employees selected by and from non-supervisory employees. Employers may not interfere with the selection of employees who shall serve on the committee. Committee members shall not be subject to retaliation.

Workplace safety committees shall be authorized to perform the following tasks (including but not limited to): raise health and safety concerns to which the employer must respond; review the adoption of any policy in the workplace regarding employee safety; participate in any site visit by any governmental entity responsible for enforcing safety and health standards; and review any report filed by the employer related to health and safety in the workplace.

Workplace safety committees should hold regularly scheduled meetings during work hours at least once a quarter not to exceed two hours. Members may attend committee training, without loss of pay, for up to four hours. We're awaiting further guidance from the NYS Department of Labor on these committees and will share once available.