

LABOR & EMPLOYMENT ADVISORY

COMPS #37 to Take Effect January 1, 2021



The Colorado Department of Labor and Employment Division of Labor Standards and Statistics recently issued the final version of the [Colorado Overtime and Minimum Pay Standards Order #37](#) (COMPS #37). COMPS #37 governs minimum wage, overtime, rest and meal breaks, and other aspects of Colorado wage and hour law. COMPS #37 also incorporates some regulations pursuant to the Healthy Families and Workplaces Act (HFWA), which establishes a paid sick leave benefit for most employees in Colorado. COMPS #37 takes effect January 1, 2021.

COMPS #37 only includes a few changes under the Colorado Wage Act. COMPS #37 includes a new creative professional exemption that more closely tracks the Fair Labor Standards Act, although there are some notable differences between the two exemptions. The exemption for interstate transportation workers was eliminated, and a new, partial exemption tracking the Federal Motor Carrier Act was adopted. COMPS #37 increases a few salary/rate pay guidelines for seasonal staff of outdoor education programs and employees in highly technical computer-related occupations. As expected each year, the minimum wage and tipped wage will also increase. The minimum wage is set at \$12.32 per hour, and the cash wages of tipped employees must equal at least \$9.30 per hour.

COMPS #37 incorporates several regulations with respect to the HFWA, a state statute mandating certain employers provide paid sick leave and enhanced sick leave benefits during a public health emergency. Sherman & Howard has previously presented guidance on the HFWA.

(READ MORE: [Paid Sick Leave](#) | [Wage Protection Rules](#))

COMPS #37 includes new definitions of “employer” and “employee” with respect to its HFWA provisions. Notably, this definition of employer includes the state and its agencies. COMPS #37 also includes paid sick leave under the HFWA, within its definition of wages or compensation.



Brooke Colaizzi
Member
Denver
303.299.8471
[Email](#)



Carissa Davis
Associate
Denver
303.299.8327
[Email](#)

While COMPS #37 includes only a few modifications from COMPS #36, COMPS #36 took effect earlier this year in mid-March, a time when virtually all employers were rocked by COVID-related challenges. The transition from Wage Order #35 to COMPS Order #36 effectuated substantial changes to Colorado's wage and hour law, most notably a significant expansion of coverage. Sherman & Howard has previously presented guidance on the COMPS Order, providing an overview of its mandates.

(READ MORE: [COMPS Order #36 \(January Update\)](#) | [COMPS Order #36 \(March Update\)](#))

Employers are advised to revisit their policies and procedures to ensure they are COMPS-compliant. Contact a Sherman & Howard attorney to better understand what is required under the COMPS Order.

©2020 Sherman & Howard L.L.C. has prepared this newsletter to provide general information on recent legal developments that may be of interest. This advisory does not provide legal advice for any specific situation and does not create an attorney-client relationship between any reader and the firm.

Click [HERE](#) to receive S&H Advisories and invitations to events.