



Meltzer, Lippe, Goldstein & Breitstone, LLP

June 14, 2023

LABOR & EMPLOYMENT PRACTICE GROUP

Meltzer Lippe is home to a large, experienced Labor and Employment Law Practice Group.

We are an integral component to the human resource chain and the first stop before taking action that impacts the employee – employer relationship.

Exclusively representing management, our attorneys are indispensable advisors to senior executives and the HR team. While some business owners and companies rely on our experience and depth to supplement in-house general counsel expertise, others lean on us to resolve their labor disruptions or employ our tenacity in collective bargaining.

LOCATIONS

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New York City Sets Minimum Pay-Rate for App Food Delivery Workers

On June 12, 2023, the New York City Department of Consumer and Worker Protection issued a Final Rule (“Rule”) establishing a minimum pay rate for app-based food delivery workers (“Delivery Workers”).

- Because Delivery Workers are classified as independent contractors and not employees, they are not currently entitled to a minimum wage.
- However, commencing on July 12, 2023, Delivery Workers in New York City will earn at least \$17.96 per hour.
- The hourly rate will increase again to \$19.96 per hour by April 1, 2025 and will be adjusted annually for inflation.
- It should be noted, the Rule does not affect the minimum wage rate for delivery drivers employed directly by restaurants.
- The Rule gives delivery apps (“Apps”) two options on how to pay Delivery Workers, either hourly or on a per-trip basis:
 - **Hourly:** Apps that pay for all the time a worker is connected to the app (*i.e.*, time waiting for trip offers and trip time) must pay at least \$17.96 per hour, which is approximately \$0.30 per minute, not including tips.
 - **Per Trip:** Apps that pay for trip time (*i.e.*, time from accepting a delivery offer to dropping off the delivery) must pay at least approximately \$0.50 per minute of trip time, not including tips.
- Apps must pay Delivery Workers at least once a week and cannot charge a fee to process payments, unless the Delivery Worker requests an expedited payment.
- Apps must allow Delivery Workers to set their maximum trip distance and select limitations on which bridges or tunnels they will use. Apps cannot offer Delivery Workers a trip that does not comply with the limitations set by the Delivery Workers.

Restaurants in New York City should confirm the Apps they do business with will comply with the Rule. Failure to do so may result in a lawsuit by Delivery Workers alleging unpaid wages and joint employment with the Apps. Meltzer Lippe is well versed in legislative developments related to wage and hour laws, rules, and regulations. Employers with questions relative to the foregoing are encouraged to reach out to your Meltzer Lippe advisor or contact Daniel F. Carrascal or Nicholas P. Melito at Meltzer, Lippe, Goldstein & Breitstone, LLP.

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