

**Order of Acting Commissioner of Labor Mario J, Musolino on the
Report and Recommendations of the 2015 Fast Food Wage Board**

September 10, 2015

The 2015 Fast Food Wage Board has fulfilled its charge. After more than 10 weeks of study and deliberations informed by a large amount of public input from employees, employers, industry representatives, many of whose livelihoods come from the fast food industry, as well as academics, advocates, elected officials and others, the Wage Board has recommended phased increases in the minimum wage that would reach \$15 per hour by December 31, 2018, in New York City, and December 31, 2021, for the rest of the state, and recommended that the scope of covered occupations and establishments be determined according to proposed definitions of terms including “fast food worker,” “fast food establishment,” and several related terms.

Section 656 of the Labor Law authorizes the Commissioner of Labor to accept, reject, or modify the report and recommendations of the Wage Board or to remand matters for further consideration. I have reviewed and considered the Wage Board’s report and recommendations, the record of testimony, documents, and deliberations before the Wage Board, the objections and comments to the report and recommendations filed with me, and the provisions of Article 19 of the Labor Law.

Now, in accordance with the requirements of Article 19 of the Labor Law, and my authority under that Article, I hereby accept the Wage Board’s report and recommendations in all respects, including, but not limited to, the following matters. I accept the factual findings of the Wage Board in Parts I through IV of the report, adopt them as my own, and incorporate them by reference as if fully set forth herein in this order. I accept the analysis and consideration of basic factors and other considerations articulated by the Wage Board in Parts III and IV of the report, adopt them as my own, and incorporate them by reference as if fully set forth herein in this order.

I accept each of the Wage Board’s three recommendations, as further set forth below.

1. Increasing the Minimum Wage Rate to \$15 for fast food employees in fast food establishments

I accept the Wage Board’s recommendation that the minimum wage be raised to \$15 for fast food employees in fast food establishments.

2. Phase-in Schedules for New York City and the Rest of the State

I accept the Wage Board's recommendation that the new \$15 minimum wage rate be phased in to take effect by December 31, 2018, for New York City, and by July 1, 2021, for the rest of the state, on the following schedules:

- For New York City, the minimum wage should be increased to
 - \$10.50 on December 31, 2015,
 - \$12.00 on December 31, 2016,
 - \$13.50 on December 31, 2017, and
 - \$15.00 on December 31, 2018.
- For the rest of the state, the minimum wage should be increased to
 - \$9.75 on December 31, 2015,
 - \$10.75 on December 31, 2016,
 - \$11.75 on December 31, 2017,
 - \$12.75 on December 31, 2018,
 - \$13.75 on December 31, 2019,
 - \$14.50 on December 31, 2020, and
 - \$15.00 on July 1, 2021.

3. Definitions establishing the scope of covered employees and establishments

I accept the Wage Board's recommendation that the scope of covered employees and establishments be determined according to the following definitions:

"Fast Food Employee" shall mean any person employed or permitted to work at or for a Fast Food Establishment by any employer where such person's job duties include at least one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.

"Fast Food Establishment" shall mean any establishment in the state of New York: (a) which has as its primary purpose serving food or drink items; (b) where patrons order or select items and pay before eating and such items may be consumed on the premises, taken out, or delivered to the customer's location; (c) which offers limited service; (d) which is part of a chain; and (e) which is one of thirty (30) or more establishments nationally, including: (i) an integrated enterprise which owns or operates thirty (30) or more such establishments in the aggregate nationally; or (ii) an establishment operated pursuant to a Franchise where the Franchisor and the Franchisee(s) of such Franchisor owns or operate thirty (30) or more such establishments in the aggregate nationally. "Fast Food Establishment" shall include such establishments located within non-Fast Food Establishments.

“Chain” shall mean a set of establishments which share a common brand, or which are characterized by standardized options for décor, marketing, packaging, products, and services.

“Franchisee” shall mean a person or entity to whom a franchise is granted.

“Franchisor” shall mean a person or entity who grants a franchise to another person or entity.

“Franchise” shall have the same definition as set forth in General Business Law Section 681.

“Integrated enterprise” shall mean two or more entities sufficiently integrated so as to be considered a single employer as determined by application of the following factors: (i) degree of interrelation between the operations of multiple entities; (ii) degree to which the entities share common management; (iii) centralized control of labor relations; and (iv) degree of common ownership or financial control.

I would like to thank the members of the 2015 Fast Food Wage Board for all their hard work, their deep commitment to advancing the well being of fast food workers and businesses in the hospitality industry and their vision of change. I would also like to thank everyone who took the time to submit testimony to the Wage Board and objections and comments to the Commissioner.

CONCLUSION

This Order is hereby filed with the Secretary of the Department of Labor, to be effective thirty days after publication of a notice of such order in at least ten newspapers of general circulation in the state.



MARIO J. MUSOLINO
Acting Commissioner of Labor

Dated: September 10, 2015
New York, New York