

January 4, 2012

As we reported in our October 24, 2011 *A/ert*, on October 9, 2011, California Governor Jerry Brown signed into law the Wage Theft Prevention Act of 2011 (AB 469). This law adds a new section to the California Labor Code (Section 2810.5) that requires employers to provide all newly hired non-exempt California employees with a written notice at the time of hire that contains all of the following:

- The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
- Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
- The regular payday designated by the employer in accordance with the requirements of the California Labor Code.
- The name of the employer, including any "doing business as" names used by the employer.
- The physical address of the employer's main office or principal place of business, and a mailing address, if different.
- The telephone number of the employer.
- The name, address, and telephone number of the employer's workers' compensation insurance carrier.
- Any other information the Labor Commissioner deems material and necessary.

Employers must notify employees in writing of any changes to the required information within seven calendar days of the time of the changes, unless the new information is already timely reflected on the employee's wage statement. The law does not apply to public employees or employees who are exempt from overtime under California's wage orders.

AB 469 tasks the California Labor Commissioner with preparing and making available a template form that employers can use to comply with the new law. The Labor Commissioner published its template form in late December. The form can be downloaded from the [California Department of Industrial Relations website](#).

The Labor Commissioner's template form requires the disclosure of several additional pieces of information beyond what is listed above, including but not limited to the following:

- The employee's name and hire date.
- The type of employer (*e.g.*, sole proprietor, corporation, LLC, general partnership, staffing agency, or other).
- Specified information about any other business or entity that the employer uses to hire employees or to administer wages or benefits.
- Whether the employee's employment agreement is oral or written.
- The employer's workers' compensation policy number.

Disclosure of the additional information contained in the Labor Commissioner's form is also required to comply with Section 2810.5, since the law gives the Labor Commissioner the discretion to add to the disclosure requirements.

Employers are not required to use the template published by the Labor Commissioner. They may opt instead to develop their own notice, so long as it contains all of the information required by Section 2810.5 (including all of the additional information included in the Labor Commissioner's form). The notice must be a separate document—employees cannot be required to piece together the information from several separate documents or sources.

Finally, while Section 2810.5 only explicitly requires a notice to be provided to employees at the time of hire and within 7 calendar days of any change to the relevant information, the California Labor Commissioner is taking the position that employers should provide an initial notice to *all* current nonexempt California employees once the law takes effect on January 1, 2012. (See www.dir.ca.gov/dlse/FAQs-NoticeToEmployee.html: "The notice should be given to all current employees and then to all new employees at the time of hire.") Accordingly, employers should strongly consider providing compliant forms to all existing nonexempt California employees as soon as possible.

If you have questions about AB 469 or about this *A/ert*, please contact one of the attorneys listed above.

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