

Labor and Employment Alert

Update to DLSE Form for Compliance with California Wage Theft Prevention Act

April 23, 2012

[DLSE Template](#)

In January, we sent an alert notifying employers about California's Wage Theft Prevention Act, which went into effect on January 1, 2012. The Act amends the California Labor Code to impose new wage notice requirements that employers must provide to employees. To aid in your compliance efforts, below is a summary of updates the Division of Labor Standards Enforcement (DLSE) has recently made to the notice template it has provided for use by employers.

Amendment to DLSE Notice Form

Shortly before the Act took effect in January 2012, the DLSE issued a template for employers to use to provide the required information. The DLSE has now updated the template, simplifying and clarifying several aspects of it.

Most notably, the new template does not include a check box which employers were previously required to use to indicate whether the employment agreement is oral or written. In response to employer concerns that this may implicate the at-will status of employees, the DLSE amended this portion of the template, and now only requires that employers indicate whether a written agreement exists providing the rate of pay.

The new template also simplifies the portion of the form in which employers were previously required to indicate whether any other business or entity – such as a staffing agency – is also considered to be an employer and that entity's contact information.

The new template also makes the employee's signature and acknowledgment of receipt of the notice optional.

Finally, the new template eliminates portions of boilerplate disclaimers or moves them into different sections. These changes likely have little impact on the import of the notice itself, but make for a simpler and cleaner form.

Employers are not required to use the DLSE template, but any notice used must include all the information included in the DLSE template. Employers should keep a record of notices provided to employees. The DLSE template is available in English and a variety of other languages on the DLSE website at www.dir.ca.gov/DLSE. A copy of the new template is included with this alert as well.

Wage Theft Prevention Act Notice Requirements

As a reminder, the Wage Theft Prevention Act applies to all private sector employers. However, employers are not required to provide the notice to exempt employees or employees covered by a valid collective bargaining agreement.



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Nonetheless, employers may want to consider providing the notice to exempt employees as well, to protect against claims of being denied the notice in the event of a misclassification lawsuit. For non-exempt employees, employers must provide a notice containing the following information at the time of hire (on or before the first day of work):

1. The employee's rate or rates of pay (including the overtime rate, as applicable);
2. Whether the employee is paid on an hourly, daily, weekly or other basis;
3. Allowances claimed as part of the minimum wage (e.g., for meals or lodging), if applicable;
4. The regular payday designated by the employer;
5. The name of the employer, including any "doing business as" names the employer uses;
6. The address of the employer's main office or principal place of business (and a mailing address, if different);
7. The employer's telephone number;
8. The name, address, and telephone number of the employer's workers' compensation insurance carrier; and
9. Any other information the Labor Commissioner deems material and necessary.

Based on the DLSE template, the Labor Commissioner has deemed the following information "material and necessary" as well: the identity of any co-employer (e.g., staffing agency); whether there is any written agreement identifying the rate of pay; and the workers' compensation policy number.

An employer must further notify employees of any changes to the information within seven calendar days after the changes, unless the changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226 or another writing required by law.

CONTACT INFORMATION

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