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## California's Recent Wage Theft Prevention Act Creates New Obligations for Employers

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The California Wage Theft Prevention Act (the Act) is a new California law that imposes wage-related obligations upon employers with California employees. The Act, which took effect January 1, 2012, requires private sector employers to give *certain new hires* a detailed notice containing information regarding an employee's wages and an employer's pay practices at the time of hiring. Unlike New York's recent and similar Wage Theft Prevention Act, the California law does not currently require an annual notice to all current employees. Notices must also be given to employees within seven days following either a reduction in their wages or a change in any of the information required by the notice. Employers must provide the following information in the notice:

- the employee's regular and overtime rates of pay;
- the basis of the employee's rate of pay (e.g., salary, commission or hourly);
- the regular payday designated by the employer in accordance with the Labor Code;
- the employer's name and any "doing business as" names;
- the employer's telephone number and the address of its main office or principal place of business (and, if different, mailing address);
- the name, address and telephone number of the employer's workers' compensation insurance carrier; and
- any allowances the employer intends to claim as part of the minimum wage (e.g., meal or lodging allowances).

When the notice requirement is triggered, employers must provide these notices to all California employees who do not meet specific exemptions. Notices are not required to be given to employees who are exempt from California and federal overtime provisions or to public employees. Further, employees covered by a valid Collective Bargaining Agreement (CBA) do not need to be provided notices so long as the applicable CBA details employees' wages and hours and also provides for both premium overtime rates and regular wages which are at least thirty percent higher than the state's minimum wage.

The Act and the Frequently Asked Questions issued by the California Division of Labor Standards Enforcement (DLSE) contain several requirements regarding the transmission of the required

notice. Employers may provide this notice by hard copy or electronically, provided that employees are able to print out a copy of the notice. Employers must also obtain an acknowledgement from employees confirming that they have received the notice.

Additionally, employers must provide the notice in the language in which the employer normally communicates job-related information to the employee. The DLSE plans to provide templates on its website for English, Spanish, Chinese, Korean, Vietnamese and Tagalog. Although these templates will be available, employers can develop their own notice forms, provided that the forms contain all of the legally required information described above.

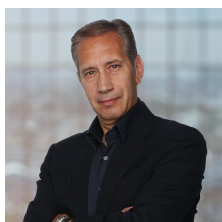
Employers should be aware that the notice must be a separate form. As such, new hires should receive a separate, stand-alone notice form in addition to (or attached to) any offer letter or employment agreement they may receive. If an employer is providing information in response to a change in the above-referenced information, the employer is allowed to simply provide the necessary information in an employee's wage statement. However, it would be insufficient to inform an employee of a wage decrease through a pay stub for work already performed given that decreases in wage rates can only be made prospectively.

Employers who violate the Act for the first time may be subject to a penalty of \$100 for each employee aggrieved per pay period. This penalty is doubled for subsequent violations. Employers are also advised that, in addition to the new stringent notice requirements, the recently enacted Act also contains increased penalties for other wage-related violations, allows employees to recover attorneys' fees in suits for unpaid wages, and expands the DLSE statute of limitations to three years.

For assistance in complying with the Act's new requirements and/or drafting compliant notices, please contact our [Labor and Employment Group](#).

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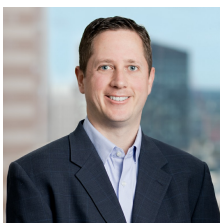


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