
LEGAL ALERT

“Wage Theft Prevention Act” Takes Effect January 1, 2012

A recently-passed piece of California legislation that will impact employers is the Wage Theft Prevention Act of 2011 (WTPA), which takes effect January 1, 2012. This law adds a new section to the Labor Code and is similar to a law passed in New York this year.

The WTPA requires that employers provide *written notice* to employees at the time of hiring regarding: 1) rates of pay and the basis for compensation, including whether the rates involve payment per hour, per shift, per day, per week, or by salary, piece, commission, “or otherwise”; 2) any credits or “allowances” taken against the minimum wage (including meal or lodging); 3) the regular pay day; 4) the name of the employer (including “doing business as” names); 5) physical address of main office or principle place of business, and a mailing address, if different; 6) the telephone number of the employer; 7) the name, address, and telephone number of the employer’s workers’ compensation carrier; and 8) “any other information the Labor Commissioner deems material and necessary.”

The last category makes clear that the Labor Commissioner will further regulate in this area. The notice does not apply to state government employees, salaried exempt employees under California state law, or employees covered by a valid collective bargaining agreement. The statute further mandates that the Labor Commissioner prepare a template form for the above categories and requires all changes to be adapted in a further notice or reflected on a “timely” wage statement.

The WTPA also requires that an employer notify its employees in writing of any changes to the above information within seven calendar days after the time of the changes unless the changes are reflected in a timely wage statement furnished to employees with their regular wages or



if another written document required by law has been timely furnished to the employees containing the changes. Despite these written notice requirements, to avoid retroactivity challenges, we continue to recommend that employees be notified in advance (generally in writing) of all changes to their rates of pay before the performance of labor under such modified conditions.

Please contact your Fisher & Phillips attorney regarding the requirements of the WTPA. Our firm periodically presents seminars providing California legislative updates in a variety of areas impacting employers, including wage-hour regulations and we’ll continue to monitor when the template has issued and what further action the Labor Commissioner requires for compliance with this new law.

This Legal Alert provides information about a specific new state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.