

To: Our Clients and Friends

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Significant Changes To California Employment Law Effective January 1, 2012

Employers Required to Provide Detailed Wage Information to New Hires

Effective January 1, 2012, California employers will be required to comply with the California Wage Theft Prevention Act of 2011 (WTPA), which includes significant new burdens on employers to provide written notice of various types of information to employees at the time of hire. Employers with operations in New York are subject to a very similar law passed this year. Although the new California law amends several sections of the Labor Code, the most profound and immediate impact is set forth in Labor Code §2810.5, which mandates that the following list of information must be provided in a written notice given to certain new hires in the language the employer normally uses to communicate employment-related information to the employee:

- 1) 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.
- 2) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
- 3) The regular payday designated by the employer in accordance with the requirements of this code.
- 4) The name of the employer, including any "doing business as" names used by the employer.
- 5) The physical address of the employer's main office or principal 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 insurance carrier.
- 8) Any other information the Labor Commissioner deems material and necessary.

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This last category opens the door for the State Labor Commissioner to expand the requirements and further regulate in this area. The law requires that the Labor Commissioner provide a template form for the new hire notice and the Labor Commissioner has indicated the intention to post the form notice and a list of Frequently Asked Questions, on the Department of Industrial Relations' website. To date no template is published, but the law still takes effect on January 1, 2012.

One bit of relief for employers is that the new hire written notice is not required to be given to public employees, employees who are exempt from overtime wages or employees covered by most valid collective bargaining agreements. These employees are excluded from coverage under Labor Code §2810.5. If, however, an employee treated as exempt is later deemed misclassified, then an employer may be subject to penalties for failure to provide the requisite notice.

The law also mandates the employer provide covered employees notice in writing if it makes changes to any of the categories listed above within seven (7) days. This must be in the form of a new written notice or amendment unless the changes are clearly outlined in the employees' timely pay stubs.

Failure to provide the new notice referenced above or notice of any changes carries penalties, and the new law increases the statute of limitations for the Division of Labor Standards Enforcement to commence an action to collect them from one to three years. There is no change in the statute of limitations, however, for private actions by employees under this law.

It is important to note that although these new provisions impact an employer's obligation to notify employees of various wage-related information, they do not alter or impact employer posting requirements applicable to wages. Employers are still required to follow those requirements in addition to these new notice requirements.

In addition to the notice requirements, the WTPA makes it a misdemeanor to willfully violate certain wage-related statutes and fail to pay wages within 90 days after a judgment is rendered on a wage claim.

In light of these changes in the law, employers should carefully consider to what extent the documents they already provide their new employees will need to be modified and consider whether a new document should be added to their new hire packets for the new year. Please contact any member of Bryan Cave's [Labor and Employment Client Service Group](#) with any questions or if you need assistance.