

California Employer Compliance

Did you know that the Wage Theft Prevention Act (WTPA) became law in the State of California (CA) on January 1, 2012? Do you know if you are compliant with this regulation? If you answered “NO” to either of those questions, we suggest you continue reading and take action immediately if you have employees in the State of California.

Do We Need to Comply?

According to Section 2810.5 of the WTPA Labor Code, the Act requires that all private sector employers provide each employee with a written notice containing specified information at the time of hire.

Employers' Compliance Obligations

Employers must provide the following notices and statements in English **and** the employee's primary language, and it must contain specific information at the time of hire such as:

- a) 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
- b) Any allowances taken as part of the minimum wage (*e.g.*, tips, meal and lodging deductions)
- c) The regular payday designated by the employer
- d) The name of the employer, including any DBA names used by the employer
- e) The physical address of the employer's main office or principal place of business, and a mailing address, if different
- f) The telephone number of the employer
- g) The name, address, and telephone number of the employer's workers' compensation insurance carrier
- h) Any other information the California Labor Commissioner deems material and necessary

It also requires that the employer notify the employee in writing of any changes to the information set forth in the Notice to Employee within seven (7) calendar days after the time of the changes, unless one of the following applies:

1. All changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226, or
2. Notice of all changes is provided in another writing required by law within seven days of the changes.

Exempt employees, including professionals, executives, or administrators are excluded from the notice requirements.

The above is a basic breakdown of the requirements under WTPA and not meant to be a fully list of every requirement. Details of this requirement can be obtained from the [California State Department of Labor](#).

Employee Acknowledgement

The employer must have the employee sign a statement acknowledging receipt of the written notice in English and the employee's primary language. Employees must also acknowledge that they have properly

identified their primary language to their employer. The employer must keep the signed and dated notice and acknowledgement for six years and provide a copy to the employee.

Template Forms

To ensure compliance with the law, it is recommended that employers use the DIR's form, rather than attempt to comply with this new law by amending form offer letters and employment agreements. Copies of signed notices should be retained in employee personnel files. The California State Department of Labor has provided model [Wage Theft Prevention Act Forms and acknowledge receipt](#).

Key Points and Next Steps for Employers

- Notices must be provided to new employees at the time of hire (before work is performed)
- Unlike New York's law, annual notices to employees are not required under California's wage theft protection law. California requires that changes to information initially provided in the notice shall be accomplished by issuing a new notice containing all changes within 7 calendar days after the change or in the manner described in Labor Code 2810.5(b)(1)-(2).
- Employers should utilize the link provide above to access California State DOL's templates to complete these notices and provide to each of their employees working in CA.
- Employers should collect and maintain the employee acknowledgements in each employee's personnel folder.

Other States with Similar Requirements

In addition to California, New York, Alaska, Connecticut, Delaware, Hawaii, Illinois, Iowa, Louisiana, Maryland, New Hampshire, North Carolina, Pennsylvania, South Carolina, Utah, and West Virginia have enacted similar legislation. Employers in those jurisdictions should review their offer letter and employment agreements to ensure compliance with all applicable requirements.

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