

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

Chapter 1 : Wage and Hour Administration, Alaska Department of Labor

The wage and hour law handbook for the lodging and foodservice industry: A practical guide to wage and hour law for hotels, motels, and restaurants Paperback -

As used in this act: The commissioner may, by regulation, establish the average value of gratuities received by an employee in any occupation and the fair value of food and lodging provided to employees in any occupation which average values shall be acceptable for the purposes of determining compliance with this act in the absence of evidence of the actual value of such items. Back to top Bureau for administration of act; director and assistants The commissioner shall maintain a bureau in the department to which the administration of this act, and of any minimum wage orders or regulations promulgated hereunder, shall be assigned, said bureau to consist of a director in charge and such assistants and employees as the commissioner may deem desirable. Employment at unreasonable wage declared contrary to public policy; contract or agreement void The employment of an employee in any occupation in this State at an oppressive and unreasonable wage is hereby declared to be contrary to public policy and any contract, agreement or understanding for or in relation to such employment shall be void. The wage rates fixed in this section shall not be applicable to part-time employees primarily engaged in the care and tending of children in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of P. Employees engaged on a piece-rate or regular hourly rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked. Notwithstanding the provisions of this section to the contrary, every trucking industry employer shall pay to all drivers, helpers, loaders and mechanics for whom the Secretary of Transportation may prescribe maximum hours of work for the safe operation of vehicles, pursuant to section b of the federal Motor Carrier Act, 49 U. Employees engaged in the trucking industry shall be paid no less than the minimum wage rate as provided in this section and N. As used in this section, "trucking industry employer" means any business or establishment primarily operating for the purpose of conveying property from one place to another by road or highway, including the storage and warehousing of goods and property. Such an employer shall also be subject to the jurisdiction of the Secretary of Transportation pursuant to the federal Motor Carrier Act, 49 U. Summer camps, conferences and retreats; exception The provisions of the act to which this act is a supplement in respect to minimum wages and compensation for overtime work shall not be applicable during the months of June, July, August or September of the year to summer camps, conferences and retreats operated by any nonprofit or religious corporation or association. Application of act to wages under wage orders The provisions of this act shall be applicable to wages covered by wage orders issued pursuant to section 17 of P. Date of application of act The provisions of this act shall be applicable to wages covered by wage orders issued pursuant to section 17 of P. Date of application of L. There is created a commission to be known as the "New Jersey Minimum Wage Advisory Commission," which shall be a permanent, independent body in but not of the Department of Labor and Workforce Development. The commission shall consist of five members as follows: Members shall be appointed not later than December 31, Members shall be appointed for four-year terms and may be re-appointed for any number of terms. Any member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member shall continue to serve upon the expiration of his term until a successor is appointed and qualified, unless the member is removed by the Governor. Action may be taken by the commission by an affirmative vote of a majority of its members and a majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. Members of the commission shall serve without compensation, but may be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

within the limits of funds appropriated or otherwise made available for that purpose. Annual evaluation of adequacy of minimum wage. The commission shall annually evaluate the adequacy of the minimum wage relative to the following factors: In furtherance of its evaluation, the commission may hold public meetings or hearings within the State on any matter or matters related to the provisions of this act, and call to its assistance and avail itself of the services of the John J. Heldrich Center for Workforce Development and the employees of any other State department, board, commission or agency which the commission determines possesses relevant data, analytical and professional expertise or other resources which may assist the commission in discharging its duties under this act. Each department, board, commission or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the commission and to furnish such information and assistance as is necessary to accomplish the purposes of this act. The commission shall submit a written report of its findings regarding the adequacy of the minimum wage and its recommendations as to whether, or how much, to increase the minimum wage to the Governor and to the Legislature, who shall immediately review the commission report upon its receipt. Each House of the Legislature shall consider the commission report within days of the receipt of the report. The first report shall be submitted to the Legislature no sooner than October 1, and no later than December 31, , and subsequent reports shall be submitted in one year intervals thereafter. Administrative regulations; publication; duration For any occupation for which no wage order issued pursuant to section 17 of this act is in effect, the commissioner shall, within 6 months after the rate provided in section 5 is in effect, make such administrative regulations as he shall deem appropriate to carry out the purposes of this act or necessary to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates hereby established. Such regulations may include regulations defining and governing outside salesmen; learners and apprentices, their number, proportion and length of service; part-time pay; bonuses, overtime pay; special pay for special or extra work; or permitted charges to employees or allowances for board, lodging, apparel or other facilities or services customarily furnished by employers to employees; or allowances for such other special conditions or circumstances. The commissioner shall publish such regulations as he proposes to issue and such regulations may be issued pursuant to this section only after a public hearing, subsequent to publication of notice of the hearing, at which any person may be heard. Such administrative regulations shall remain in effect only until such time as a wage order governing the occupation or occupations concerned, and to the extent inconsistent therewith, has been promulgated and becomes effective as provided in this act. Authority of commissioner and director The commissioner, the director and their authorized representatives shall have the authority to: Investigation of occupation The commissioner shall have the power, on his own motion, and it shall be his duty upon the petition of 50 or more residents of the State, to cause the director to investigate any occupation to ascertain whether a substantial number of employees are receiving less than a fair wage. Appointment of wage board; report upon establishment of minimum fair wage rates If the commissioner is of the opinion that a substantial number of employees in any occupation or occupations are receiving less than a fair wage, he shall appoint a wage board as provided in section 10 of this act to report upon the establishment of minimum fair wage rates for employees in such occupation or occupations. Wage board; membership; quorum; rules and regulations; compensation A wage board shall be composed of not more than 3 representatives of the employers in any occupation, an equal number of representatives of the employees in such occupations and not more than 3 disinterested persons representing the public, one of whom shall be designated by the commissioner as chairman. The commissioner after conferring with the director shall appoint the members of the wage board, the representatives of the employers and employees to be selected so far as practicable from nominations submitted by the employers and employees. Two-thirds of the members shall constitute a quorum and the recommendations or report of the wage board shall require a vote of not less than a majority of all its members. The commissioner after conferring with the director shall make and establish from time to time rules and regulations governing the selection of a wage board and its mode of procedure not inconsistent with this act. The members of a wage board shall serve without pay but may be reimbursed for all necessary

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

expenses. Powers of wage board A wage board shall have power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of all books, records, and other evidence relative to matters under investigation. Such subpoena shall be signed and issued by the chairman of the wage board and shall be served and have the same effect as if issued out of the Superior Court. A wage board shall have power to cause depositions of witnesses residing within or without the State to be taken in the manner prescribed for like dispositions in civil actions in the Superior Court. Presentation of evidence and information to wage board; witnesses The commissioner or the director shall present to a wage board promptly upon its organization all the evidence and information in the possession of the commissioner or director relating to the wages of employees in the occupations for which the wage board was appointed and all other information which the commissioner or the director deems relevant to the establishment of a minimum fair wage, and shall cause to be brought before the committee any witnesses whom the commissioner or the director deems material. A wage board may summon other witnesses or call upon the commissioner or the director to furnish additional information to aid it in its deliberations. Rules of evidence and procedure The commissioner and the wage board in establishing a minimum fair wage, shall not be bound by technical rules of evidence or procedure, but may consider all relevant circumstances affecting the value of the service or class of service rendered; may consider the wages paid in the State for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards; and may be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered at the request of the employer without agreement as to amount of wages to be paid. Recommendations of wage board The report of the wage board shall recommend minimum fair wage rates, on an hourly, daily or weekly basis for the employees in the occupation or occupations for which the wage board was appointed. The wage board may recommend establishment or modification of the number of hours per week after which the overtime rate established in section 5 shall apply and may recommend the establishment or modification of said overtime rate. The board may also recommend permitted charges to the employees or allowances for board, lodging, apparel, or other facilities or services customarily furnished by the employer to the employee; or allowances for such other special conditions or circumstances excluding gratuities which may be usual in a particular employer-employee relationship. A wage board may differentiate and classify employments in any occupation according to the nature of the service rendered and recommend appropriate minimum fair wage rates for different employments. It may recommend minimum fair wage rates varying with localities if in the judgment of the wage board conditions make such local differentiation proper. A wage board may recommend a suitable scale of rates for learners and apprentices or students in any occupation which may be less than the regular minimum fair wage rates recommended for experienced employees. Submission of report of wage board Within 60 days of its organization a wage board shall submit to the commissioner a report including its recommendations as to minimum fair wage standards for the employees in the occupation or occupations the wage standards of which the wage board was appointed to investigate. If its report is not submitted within such time the commissioner may constitute a new wage board. Acceptance or rejection of report by commissioner On submission of the report of a wage board the commissioner shall within 10 days confer with the director and accept or reject the report. If he rejects the report, he shall resubmit the matter to the same wage board or to a new wage board with a statement of his reasons for the rejection. If he accepts the report, it shall be published within 30 days together with such proposed administrative regulations as the commissioner after conferring with the director may deem appropriate to supplement the report of the wage board and to safeguard the minimum fair wage standards to be established. At the same time notice shall be given of a public hearing before the commissioner or the director, not sooner than 15 nor more than 30 days after such publication, at which all persons favoring or opposing the recommendations contained in the report or the proposed regulations may be heard. Approval or disapproval of report following public hearing; effective date of wage order Within 10 days after the hearing the commissioner shall confer with the director and approve or disapprove the report of the wage board. If the report is disapproved the commissioner may resubmit the

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

matter to the same wage board or to a new wage board. If the report is approved, the commissioner shall make a wage order which shall define minimum fair wage rates in the occupation or occupations as recommended in the report of the wage board and which shall include such proposed administrative regulations as the commissioner may deem appropriate to supplement the report of the wage board and to safeguard the minimum fair wage standards established. Such administrative regulations may include among other things, regulations defining and governing learners and apprentices, their rates, number, proportion or length of service; piece rates or their relations to time rates; overtime or part-time rates, bonuses or special pay for special or extra work; deductions for board, lodging, apparel or other items or services supplied by the employer; and other special conditions or circumstances excluding gratuities; and in view of the diversities and complexities of different occupations and the dangers of evasion and nullification, the commissioner may provide in such regulations without departing from the basic minimum rates recommended by the wage board such modifications or reductions of or addition to such rates in or for such special cases or classes of cases as those herein enumerated as the commissioner may find appropriate to safeguard the basic minimum rates established. Said wage order shall take effect upon expiration of days from the date of the issuance of the order. Special certificates or licenses for employment at wages less than minimum a The commissioner, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation provide for the employment of learners, apprentices and students, under special certificates issued pursuant to regulations of the commissioner, at such wages lower than the minimum wage applicable under the provisions of this act and subject to such limitations as to time, number, proportion and length of service as the commissioner shall prescribe. Modification of wage order At any time after a minimum fair wage order has been in effect for 1 year or more, the commissioner may, on his own motion, after conferring with the director, and shall, on petition of 50 or more residents of the State, reconsider the minimum fair wage rates set therein and reconvene the same wage board or appoint a new board to recommend whether or not the rate, or rates, contained in such order, shall be modified. The report of such wage board shall be dealt with in the manner prescribed in sections 15, 16 and 17 of this act. Additions or modifications to administrative regulations; hearing; notice The commissioner may, from time to time after conference with the director and without reference to a wage board, propose such modifications of or additions to any administrative regulations issued pursuant to sections 6 and 17 of this act as he may deem appropriate to effectuate the purposes of this article; provided, such proposed modifications or additions could legally have been included in the original regulation. Notice shall be given of a public hearing to be held by the commissioner or director not less than 15 days after such notice, at which all persons in favor of or opposed to the proposed modifications or additions may be heard. After the hearing the commissioner may make an order putting into effect the proposed modifications of or additions to the administrative regulations as he deems appropriate. Record by employer of hours worked and wages; inspection; exceptions Every employer of employees subject to this act shall keep a true and accurate record of the hours worked by each and the wages paid by him to each and shall furnish to the commissioner or the director or their authorized representative upon demand a sworn statement of the same. Such records shall be open to inspection by the commissioner or the director or their authorized representative at any reasonable time. No employer shall be found guilty of violating this provision for failure to keep a true and accurate record of the hours worked by outside salesmen, buyers of poultry, eggs, cream, milk or other perishable commodities in their natural or raw state, homeworkers legally employed in accordance with the laws of this State or any person employed in a bona fide executive, administrative or professional capacity, except that no exemption from record keeping pursuant to this section in regard to any person employed in a bona fide executive, administrative or professional capacity shall be construed to permit an employer to pay wages at a rate which violates the provisions of section 5 of P. Summary of act, orders, and regulations; posting Every employer subject to any provision of this act or of any regulations or orders issued under this act shall keep a summary of this act, approved by the commissioner, and copies of any applicable wage orders and regulations issued under this act, or a summary of such wage orders and regulations, posted in a

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

conspicuous and accessible place in or about the premises wherein any person subject thereto is employed. Employers shall be furnished copies of such summaries, orders, and regulations by the State on request without charge. Each week, in any day of which an employee is paid less than the rate applicable to him under this act or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense. As an alternative to or in addition to any other sanctions provided by law for violations of the "New Jersey State Wage and Hour Law," P. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to "the penalty enforcement law" N. Any sum collected as a fine or penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor. Supervision by commissioner of payments of amounts due employees As an alternative to any other sanctions or in addition thereto, herein or otherwise provided by law for violation of this act or of any rule or regulation duly issued hereunder, the Commissioner of Labor is authorized to supervise the payment of amounts due to employees under this act, and the employer may be required to make these payments to the commissioner to be held in a special account in trust for the employee, and paid on order of the commissioner directly to the employee or employees affected. The amount of the administrative fee shall be specified in a schedule of fees to be promulgated by rule or regulation of the commissioner in accordance with the "Administrative Procedure Act," P. The fee shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor. Such employer shall be required, as a condition of such judgment of conviction, to offer reinstatement in employment to any such discharged employee and to correct any such discriminatory action, and also to pay to any such employee in full, all wages lost as a result of such discharge or discriminatory action, under penalty of contempt proceedings for failure to comply with such requirement. As an alternative to or in addition to any other sanctions provided by law for violations of P. An employee shall be entitled to maintain such action for and on behalf of himself or other employees similarly situated, and such employee and employees may designate an agent or representative to maintain such action for and on behalf of all employees similarly situated. Limitations; commencement of action No claim for unpaid minimum wages, unpaid overtime compensation, or other damages under this act shall be valid with respect to any such claim which has arisen more than 2 years prior to the commencement of an action for the recovery thereof. In determining when an action is commenced, the action shall be considered to be commenced on the date when a complaint is filed with the Commissioner of the Department of Labor and Industry or the Director of the Wage and Hour Bureau, and notice of such complaint is served upon the employer; or, where an audit by the Department of Labor and Industry discloses a probable cause of action for unpaid minimum wages, unpaid overtime compensation, or other damages, and notice of such probable cause of action is served upon the employer by the Director of the Wage and Hour Bureau; or where a cause of action is commenced in a court of appropriate jurisdiction. Defense to action In any action or proceeding commenced prior to or on or after the date of the enactment of this act based on any act or omission prior to or on or after the date of the enactment of this act, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under this act, if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval or interpretation by the Commissioner of the Department of Labor and Industry or the Director of the Wage and Hour Bureau, or any administrative practice or enforcement policy of such department or bureau with respect to the class of employers to which

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

he belonged. Such a defense, if established, shall be a complete bar to the action or proceeding, notwithstanding, that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect. Protection of right to collective bargaining Nothing in this act shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages in excess of the applicable minima under this act. Partial invalidity If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act and the application thereof, to other persons or circumstances shall not be affected thereby. Supplementation of provisions of Minimum Wage Standards Act This act shall supplement the provisions of article 2 of chapter 11 of Title 34 of the Revised Statutes.

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

Chapter 2 : New York Minimum Wage Laws - Hospitality Industry - Employment Law Handbook

The wage and hour law handbook for the lodging and foodservice industry: a practical guide to wage and hour law for hotels, motels, and restaurants Author: Branch and Swann.

Wage and Hour rules define four basic categories of employee travel: No, unless the employer has created a policy or contract promising pay for such travel. Both the federal Portal-to-Portal Act of and Oregon law state that normal home-to-work and work-to-home travel need not be compensated. Travel Between Worksites A second category of employee travel is travel within a single day between multiple work sites. Examples include landscape maintenance employees or appliance repair persons who travel from site to site during the day. If an employer allows an employee to take a company vehicle home, does the employer have to pay for travel time from home to the job site and vice versa? No, as long as the employee performs no work duties until reaching the first work site. If I require my employee to stop at one location at the beginning of the work day to receive instructions or to pick up tools or a company vehicle before reporting to the actual work site, do I have to pay any of the travel time? But once the employee arrives at the first required location, the employee is "on the clock" and the subsequent travel time is compensable. Special, One-Day Assignments The "special one-day assignment" rule applies when an employer requires an employee who usually works at one location to report for a day to an alternate work site in a city over 30 miles away. I sent an employee from my Portland office to train new-hires at our Salem branch. The employee did not stay overnight in Salem and returned home the same day. Must I pay for the travel time? Do I have to pay her time when she travels more than 30 miles to a worksite? The "special one-day assignment" rule applies only when an employee has a fixed official work location. Overnight Travel The "overnight travel" category applies whenever travel keeps an employee away from the home community overnight. When is travel on an overnight trip considered work time that must be compensated? On overnight trips, all the time an employee spends traveling during normal work hours must be compensated -- even on weekends. His employer requires him to attend a two-day business conference in Boise, Idaho. Chet travels by bus on Wednesday, from Chet returns home by bus on Saturday, traveling from 2: The employer must pay for the three hours between 2: This is required even though Chet does not normally work on Saturdays. Her employer sends her from Portland to a work-related weekend convention in Chicago on a Friday night "red-eye" flight from midnight to 5: Peter, whose regular work schedule is 8: The air travel takes place from At the airport, Peter is required to pick up a rental car and drive an additional five hours to reach the remote city where the meeting will take place. Donna normally works the graveyard shift, from The supervisor offers Donna a bus ticket for travel from 6: In this case, since Donna was offered transportation as a passenger and was not required to drive, the employer may choose to pay Donna for all of the hours she spends driving her car, but is only legally obligated to pay for the two hours of travel from 6:

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

Chapter 3 : Library Resource Finder: User Reviews for: The wage and hour law handbook for the I

The wage and hour law handbook for the lodging and foodservice industry: a practical guide to wage and hour law for hotels, motels, and restaurants 1. by Branch and Swann (Firme); Georgia Hospitality & Travel Association.

Investigators found that Gill violated the minimum-wage, overtime and record-keeping requirements of the FLSA. Failed to pay some employees overtime when they worked more than 40 hours in a work week, including one who regularly worked more than 70 hours a week. Failed to pay some employees for all the hours that they worked, including time spent in training and in performing work before and after their scheduled shifts. Required employees to pay for cash register shortages and damaged or missing merchandise, such as stolen gas, errors in printing lottery tickets and missing merchandise. Making deductions from wages for these items resulted in minimum wage and overtime violations. Failed to combine the hours worked by one employee at two locations of the business when determining when overtime was due. Falsified time records to create the appearance that employees did not work overtime even though some employees regularly worked more than 40 hours per week. The consent judgment includes the following gas stations: Angola Food Mart Inc. Mobil , Angola, N. Lake Shore Mini Mart Inc. Mobil , Hamburg, N. The judgment also requires the employer to verbally inform all of their employees in English, and in any other language spoken by the workers, of their rights under the FLSA, the terms of the judgment and their rights to cooperate with an investigation without fear of retaliation. California Six convenience stores, all under common ownership, doing business as Arco ampm in the Sacramento, Calif. Department of Labor investigation: The Arco ampm franchisee provided investigators with falsified payroll records to create the appearance of compliance. In addition to paying straight time for overtime hours, the employer also failed to pay workers for travel time between locations when they worked at multiple sites, resulting in unpaid hours and further overtime violations. The suit names Rinky Sharma and Bobby Singh, the co-owners of the various companies operating the travel plazas and gas stations: SkyExpress Travel Plaza Inc. Failing to pay overtime at time and one-half for all hours employees worked beyond 40 in a workweek. Investigators determined the employer paid one worker a set salary per week, regardless of the numbers of hours worked. The employee did not meet the criteria to be considered exempt from overtime requirements. Failing to combine the hours of employees who worked as both a server and cashier in the same workweek when determining if overtime was due, instead paying for each task separately, at straight time. Failing to maintain accurate payroll records including hours worked and rates of pay. As a general rule, the FLSA provides that employers who violate the law are liable to employees for their back wages and an equal amount in liquidated damages. Liquidated damages are paid directly to the affected employees. Additionally, the law requires employers to maintain accurate time and payroll records and prohibits retaliation against employees who exercise their rights under the law.

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

Chapter 4 : C-Store Employee Was Living in Walk-In Cooler in Lieu of Pay

The DOL Wage and Hour Division administers the wage, hour, and child labor provisions of the Fair Labor Standards Act, and programs covering government contracts, farm labor, family and medical leave, immigration, and polygraph testing.

This information is provided free of charge by the Department of Industrial Relations from its web site at www.dir.ca.gov. These regulations are for the convenience of the user and no representation or warranty is made that the information is current or accurate. See full disclaimer at <http://www.dir.ca.gov/IndustrialWelfareCommissionGroup2.htm>. Industry and Occupation Orders Article 4. This order shall apply to all persons employed in professional, technical, clerical, mechanical, and similar occupations whether paid on a time, piece rate, commission, or other basis, except that: A Provisions of Sections 3 through 12 shall not apply to persons employed in administrative, executive, or professional capacities. A person employed in an executive capacity means any employee: The activities constituting exempt work and non-exempt work shall be construed in the same manner as such items are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this order: Exempt work shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. Full-time employment is defined in Labor Code Section c as 40 hours per week. A person employed in an administrative capacity means any employee: The activities constituting exempt work and non-exempt work shall be construed in the same manner as such terms are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this order: A person employed in a professional capacity means any employee who meets all of the following requirements: For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of: A job title shall not be determinative of the applicability of this exemption. The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers. B Except as provided in Sections 1, 2, 4, 10, and 20, the provisions of this order shall not apply to any employees directly employed by the State or any political subdivision thereof, including any city, county, or special district. C The provisions of this order shall not apply to outside salespersons. D The provisions of this order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer. E The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section of Title 42 of the United States Code. A An "alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight 8 hours in a hour period. D "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action. E "Employ" means to engage, suffer, or permit to work. F "Employee" means any person employed by an employer. G "Employees in the health care industry" means any of the following: H "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person. I "Health care emergency" consists of an unpredictable or unavoidable occurrence at unscheduled intervals relating to health care delivery, requiring immediate action. J "Health care industry" is defined as hospitals, skilled nursing facilities, intermediate care and residential care facilities, convalescent care institutions, home health agencies, clinics operating 24 hours per day, and clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology or dialysis. K "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so. Within the health care industry, the term "hours worked" means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

provisions of the Fair Labor Standards Act. L "Minor" means, for the purpose of this order, any person under the age of 18 years. O "Professional, Technical, Clerical, Mechanical, and Similar Occupations" includes professional, semiprofessional, managerial, supervisory, laboratory, research, technical, clerical, office work, and mechanical occupations. Said occupations shall include, but not be limited to, the following: P "Shift" means designated hours of work by an employee, with a designated beginning time and quitting time. Q "Split shift" means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods. R "Teaching" means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university. S "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. T "Workday" and "day" mean any consecutive hour period beginning at the same time each calendar day. U "Workweek" and "week" mean any seven 7 consecutive days, starting with the same calendar day each week. Hours and Days of Work. A Daily Overtime - General Provisions 1 The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Employment beyond eight 8 hours in any workday or more than six 6 days in any workweek is permissible provided the employee is compensated for such overtime at not less than: Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four 4 hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. If an employee was voluntarily working an alternative workweek schedule of not more than ten 10 hours a day as of July 1, , that alternative workweek schedule was based on an individual agreement made after January 1, between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, to continue the agreement, the employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. New arrangements can only be entered into pursuant to the provisions of this section. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12 hour, three 3 day alternative workweek schedule. C Election Procedures Election procedures for the adoption and repeal of alternative workweek schedules require the following: The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met. Such a disclosure shall include meeting s , duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non-English language, as well as in English, if at least five 5 percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the labor commissioner, the labor

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

commissioner may require the employer to select a neutral third party to conduct the election. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, and October 1, , a new secret ballot election to repeal the alternative workweek schedule shall not be subject to the month interval between elections. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance. The results of any election conducted pursuant to this section shall be reported by the employer to the Division of Labor Statistics and Research within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. A violation of this paragraph shall be subject to Labor Code Section 98 et seq. Refer to California Labor Code Sections to and to for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits. F An employee may be employed on seven 7 workdays in one workweek when the total hours of employment during such workweek do not exceed 30 and the total hours of employment in any one workday thereof do not exceed six 6. G If a meal period occurs on a shift beginning or ending at or between the hours of 10 p. I Except as provided in subsections E , H and L , this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage. K The provisions of this section are not applicable to employees whose hours of service are regulated by: L No employee shall be terminated or otherwise disciplined for refusing to work more than 72 hours in any workweek, except in an emergency as defined in Section 2 D. M If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in one 1 day or 40 hours of work in one 1 workweek. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this subsection. Employees during their first hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than 85 percent of the minimum wage rounded to the nearest nickel. B Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise. D The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards. C The foregoing reporting time pay provisions are not applicable when: Licenses for Disabled Workers. A A license may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency at less than the minimum wage. B A special license may be issued to a nonprofit organization such as a sheltered workshop or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual licenses of such employees. C All such licenses and special licenses shall be renewed on a yearly basis or more frequently at the discretion of the Division. See California Labor Code, Sections and A Every employer shall keep accurate information with respect to each employee including the following: Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

not be recorded. This information shall be made readily available to the employee upon reasonable request. An accurate production record shall be maintained by the employer. C All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. D Clocks shall be provided in all major work areas or within reasonable distance thereto insofar as practicable. Cash Shortage and Breakage. No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee. A When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color. This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

Chapter 5 : State of Oregon: Wage and Hour Division

The Wage And Hour Law Handbook For The Lodging And Foodservice Industry: A Practical Guide To Wage And Hour Law For Hotels, Motels, And Restaurants. Atlanta: Published At The Request Of The Georgia Hospitality & Travel Association By The Publishers, Inc.,

Montana Codes Annotated " Title 39, Chapter 3 Minimum Wages and Hours Sections to provide for minimum wage and hours for workers in the State of Montana, delegating to the Commissioner of Labor and Industry the duty of administering the Act, and providing enforcement. It is declared to be the policy of this Act to 1 establish minimum wage and overtime compensation standards for workers at levels consistent with their health, efficiency, and general well-being; 2 safeguard existing minimum wage and overtime compensation standards adequate to maintain the health, efficiency, and general well-being of workers against the unfair competition of wage and hour standards that do not provided such adequate standards of living, and 3 sustain the purchasing power and increase employment opportunities. Employees covered by the Fair Labor Standards Act must be paid at least the federal minimum wage but in no case can they be paid less than the wage required by Montana law -- unless the law provides for a specific exemption. The state minimum wage is subject to a cost-of-living adjustment based on the Consumer Price Index no later than September 30th of each year, which becomes effective January 1st of the following year. There is no training wage in Montana. At least the current state minimum wage must be paid. Service charges, if imposed by a business engaged into the food, beverage or lodging industry, belongs to the employee. This applies to contracts entered into on or after April 14, Student employees of seasonal amusement or recreational areas who are furnished board and room must receive one-and-one-half time 1. Overtime pay provisions do not apply for farm workers under Montana statute. Application of the overtime provisions of subsection 1 to the employment of firefighters and law enforcement officers by the state must be consistent with the Fair Labor Standards Act of , as amended, and consistent with regulations promulgated under the act. Exemption from both minimum wage and overtime provisions The following lists are employees are exempt from both the minimum wage and overtime provisions or only the overtime provisions of the law. The exemptions, however, are subject to Department of Labor and Industry rules and regulations. Employers can write or phone the Wage and Hour Unit to determine whether an exemption is authorized. The placement may be with either a public or private employer. The exclusion does not apply to an employment relationship formed in the work setting outside the scope of the employment skills activities authorized by Title The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care. Exempt from overtime The following employees are exempt from the overtime provisions of Montana statute: The work week is defined as a period of hours during seven consecutive hour periods. The work week can begin any day of the week or at any hour established by the employer. Employment for two or more work weeks cannot be averaged for overtime or minimum wages. Any changes in the beginning of the work week must be made in accordance with regulations governing such a change. Worker coverage, compliance with the wage payment requirements and application of most exemptions are determined on an individual work week basis. Any consistent period established by an employer; i. Any employee subject to the Montana Minimum Wage Law must be paid in accordance with its provisions for all hours worked during the work week. The term "wage" can include the reasonable cost to the employer for furnishing the employee with lodging or other facilities. Reasonable cost is not more than the actual cost to the employer and does not include a profit for the employer or others. Records of the facilities furnished must be kept in accordance with regulations. The cost of furnishing facilities is not included in wages to the extent they are excluded under an applicable collective bargaining agreement. The "regular rate" can be more than the minimum wage; it cannot be less. Assuming the employee receives no compensation other than that stated, here are some typical examples based on a maximum work week of 40

DOWNLOAD PDF THE WAGE AND HOUR LAW HANDBOOK FOR THE LODGING AND FOODSERVICE INDUSTRY

hours: The regular rate of pay for an employee paid by the hour is their hourly rate. When they work more than 40 hours in a work week, they are due at least one-and-one-half times 1. This is their regular rate. If they worked a hour work week, they would be entitled to at least one-and-one-half times 1. The regular rate for an employee paid on a piece-rate basis is arrived at by dividing the total weekly earnings by the total number of hours worked in the week. The employee is entitled to payment of one-half this regular rate for each hour worked over 40 -- in addition to the full piece work earnings. An employee is paid on a piece rate basis. The regular rate for an employee who is paid a salary for a specified number of hours a week is arrived at by dividing the weekly salary by the number of hours worked. When they work overtime, they will be entitled to one-and-one-half times 1. If, under the employment agreement, a salary sufficient to meet the minimum wage requirements in every work week is paid as straight time pay for whatever number of hours are worked, the regular rate is arrived at by dividing the salary by the hours worked each week. Under this pay agreement, their regular rate will vary when they work overtime. If a salary is paid on other than a weekly basis, the weekly pay must be determined in order to compute the regular rate and overtime. If the salary is for a half-month, it must be multiplied by 24 and the product divided by 52 weeks to get the weekly equivalent. A monthly salary must be multiplied by 12 and the product divided by Records Employers must keep records as required by regulations ARM Almost all the required information is needed by employers in their ordinary business practices and in complying with other laws and regulations. No particular form of records is required. The following records are required for employees subject to the Montana Minimum Wage Law:

Chapter 6 : Retailers in 3 States Pay for Wage, Overtime Violations

Meals and Breaks. California labor laws require that employers provide employees with a meal period of no less than a minute when they work more than five (5) consecutive hours (more than six (6) hours for employees in the motion picture industry in specific situations).

Chapter 7 : Department of Labor and Workforce Development | NJ State Wage and Hour Laws and Regulations

New York has established minimum wage and overtime regulations specific to the hospitality industry. For purposes of New York's minimum wage and overtime laws, the term hospitality industry includes any restaurant or hotel.

Chapter 8 : Wage & Hour | Vermont Department of Labor

MW - NJ State Wage and Hour Law Abstract 01/19 MW - Reporting and Recordkeeping Requirements Under State Wage, Benefit and Tax Laws 11/11 x11" notice (PDF).

Chapter 9 : Technical Assistance for Employers Travel Time Compensation: Questions & Answers

Wage and Hour Division (WHD) H-2A Fact Sheets. Section H-2A of the Immigration and Nationality Act (INA) - Employment & Wages Under Federal Law During.