



Fall 2012

## CALIFORNIA: New Employment Laws for 2013 – Part 2

The following are additional new employment-related laws in California dealing with wage and hour issues. All of the new laws are effective January 1, 2013 unless otherwise noted.

### **Wage Statements**

An employee will be deemed to have suffered an “injury” (and thus entitled to damages) if the wage statement is not complete and accurate and the employee cannot “promptly and easily determine” amounts and other information required.

A temporary services agency must include the rate of pay and hours worked for each of an employee’s assignments during the payroll period.

*Review wage statements which accompany payroll checks to ensure they are accurate and easily readable.*

### **Commission Agreements**

In addition to the requirement that these must be in writing and acknowledged by the employee by January 1, 2013, the legislature has clarified that short-term productivity bonuses or bonus/profit-sharing plans are not commissions for purposes of this statutory requirement.

*Ensure written commission agreements are developed and implemented, if appropriate.*

### **Salaried Non-Exempt Employees**

The hourly rate of pay for a non-exempt employee is determined by dividing the salary by all regular non-overtime hours during the pay period covered by the salary. An employee and employer cannot agree to include any overtime hours in the salary.

*Ensure non-exempt employees’ regular rate of pay is properly calculated to determine appropriate overtime payments.*

### **Wage Garnishment**

The amount of wages exempt from garnishment is increased.

### **Poster – Human Trafficking**

Entities in certain industries (e.g., public premises that sell alcohol; bus and certain passenger rail stations; truck stops; hospital emergency rooms; farm labor contractors; private job recruitment centers; and certain massage/bodywork businesses) will be required to post a notice with information on slavery and human trafficking. A model notice will be provided by the Department of Justice. English and Spanish versions of the notice must be posted along with one other language most widely spoken in the county.

### **New Federal Requirement – Fair Credit Reporting Act (FCRA)**

An updated version of the FCRA Summary of Rights notice must be used (when obtaining certain consumer reports on an employee or applicant) beginning January 1, 2013. The primary change in the language of the notice is to reflect that the FCRA is now being enforced by the Consumer Financial Protection Bureau, rather than the Federal Trade Commission.

*Make sure you have all appropriate posters or notices required for your business.*

For more information or assistance on implementing any of the above please contact Jeanne Flaherty.



*Jeanne Flaherty is the President and Managing Attorney of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.*