



Employment Notes

NEW YORK STATE ENACTS SWEEPING EMPLOYEE WAGE NOTIFICATION REQUIREMENTS

On July 28, 2009, New York Governor Paterson signed into law amendments to Section 195(1) of the State’s Labor Law, which require, among other things, that employers provide certain information in writing to employees at their time of hire.

Specifically, Section 195(1), as amended, will require that employers notify each employee in writing “at the time of hiring of the rate of pay and of the regular pay day... and obtain a written acknowledgement from each employee of receipt of this notice.” Before the amendments were enacted, Section 195(1) permitted such information to be conveyed to the employee orally and it contained no written acknowledgement requirement.

The amendments also require that employers contemporaneously notify all employees who are eligible for overtime compensation in writing of their respective hourly and overtime rates of pay.

As a result of the amendments, it is imperative for employers to immediately identify and properly classify all new employees who are exempt from federal and New York overtime laws. Employers must also determine the regular pay rate of their non-exempt employees, which often proves to be a difficult task for certain commissioned and piece-rate workers. The new law also requires employers to develop and maintain an effective record-keeping system for preserving the mandated employee acknowledgements.

Employers should be mindful of the other requirements of Section 195, which remain unaffected by the amendments. Specifically, most employers must continue to (i) notify employees of any changes in their pay days prior to such changes; (ii) furnish employees with a statement accompanying every paycheck, listing gross wages, deductions and net wages; (iii) preserve all employee payroll records showing the hours worked, gross wages, deductions and net wages for not less than three years; (iv) notify employees in writing or by posting the employer’s policy on sick leave, vacation, personal leave, holidays and hours; and (v) notify terminated employees within five working days in writing of the date of termination and the date of the cancellation of any employee benefits connected with such termination.

The amendments will take effect on October 26, 2009, and it is expected that the New York State Department of Labor will soon issue regulations to aid employers comply with their obligations under Section 195(1).

This is a general summary of recent legislative action and is not intended to be legal advice rendered in response to a specific set of facts. If you have any questions regarding the amendments to the N.Y.S. Labor Law or other issues of employment law please contact any of the following partners in our Employment Law Group:

Joel A. Klarreich
(212) 508-6747
jak@thshlaw.com

Andrew W. Singer
(212) 508-6723
singer@thshlaw.com

Stacey A. Usiak
(212) 702-3158
usiak@thshlaw.com