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Update Your California Wage Theft Prevention Notices by Jan. 1, 2024

Employers should update notices for nonexempt employees and H-2A workers to comply with the recently passed AB 636

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Update: Note that on December 14, 2023, the Labor Commissioner published an [updated Wage Theft Prevention Notice template](#) that employers may use. The template adds an Emergency or Disaster Disclosure section and updates the

Paid Sick Leave section. While all employers should feel free to use this updated template, employers of H-2A agricultural workers should only do so until early March for the reasons discussed below.

For years now, California law has required most employers to provide a Wage Theft Prevention Notice (aka Wage Theft Notice) to nonexempt employees, and the Labor Commissioner has provided [an optional template](#) for purposes of doing so. Recently passed legislation in California has expanded the list of topics the notice must address. Given the fast-approaching effective dates, employers should take immediate steps to ensure their templates comply with California law.

Background

The California Wage Theft Prevention Act ("WTPA"), codified at Labor Code section 2810.5, was enacted in 2011 and requires California employers to provide notice of certain wage-and-hour information to nonexempt employees at the time of hire and within seven days of any change to the information. Since its enactment, the act has been amended to require all employers to provide, among other things, information regarding sick leave and to require employers of temporary workers to provide additional business location and contact information.

In October 2023, California [Assembly Bill 636](#) was signed into law, expanding the WTPA's notification requirements yet again.

New Requirements for Employers Effective Jan. 1, 2024

Effective Jan. 1, 2024, employers must use updated notices that include information regarding **the existence of federal or state emergency or disaster declarations** that are (1) applicable to the county or counties where the employee is to be employed; (2) issued within 30 days before

the employee's first day of employment; and (3) may affect the employee's health and safety during their employment.

Although the amended law requires the Labor Commissioner to prepare a template that addresses this new requirement, it does not specify a deadline for doing so. Accordingly, given the fast-approaching deadline for compliance, employers would be wise to take immediate steps to obtain legal assistance to update their own templates. While doing so, don't forget to update the Paid Sick Leave section to comply with California's amended sick leave law, which is discussed [here](#).

New Requirements for Employers of H-2A Agricultural Workers Effective March 15, 2024

Additionally, AB 636 imposes new requirements on employers of farmworkers brought to California under the federal H-2A agricultural worker visa program. Beginning on March 15, 2024, employers of H-2A employees must provide H-2A employees with notice of certain rights under California law, as more fully addressed below. Employers must provide the notice on the day the employee begins work in the state or on the first day that the employee begins work for another H-2A employer. The notice must be provided in Spanish, and if requested by the employee, also in English.

The topics to be addressed include "**nonduplicative information succinctly describing an agricultural employee's additional rights and protections under California law.**" Examples of such topics include, but are not limited to, meal and rest breaks, transportation travel time compensation, housing rights, and nonretaliation protections for complaints or organizing. Fortunately, the amended law requires that the Labor Commissioner prepare a template reflecting these new requirements for employers of H-2A agricultural workers and post it to

the Labor Commissioner's website by March 1, 2024, which will be only a couple of weeks before the compliance date.

Importantly, the requirement to update the notice when any information in it changes remains unchanged. Employers still have only seven days to do so unless one of the statutory exemptions applies.

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If you have any questions about your company's compliance or are in need of advice regarding the preparation of a Wage Theft Prevention Notice template, please contact a member of DWT's [employment services](#) group. In the meantime, DWT will continue to monitor and provide updates as they occur.

Disclaimer

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