



OUR INSIGHTS

Oregon Law to Affect Pay Stubs, Time and Pay Records, and Wage Theft

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The State of Oregon has enacted a new law, [SB 1587](#), designed to increase transparency with respect to employee pay, prevent wage theft, and expose wage and hour violations. Generally, the law will require employers to provide additional details on itemized pay stubs and allow employees to inspect and request copies of their time and pay records. The law also provides increased enforcement measures and prohibits wage theft by public works contractors and subcontractors. Employers must comply with the new requirements, summarized below, beginning January 1, 2017.

Itemized Pay Stubs

Under the new amendments to the current pay stub statute, ORS 652.610, employers will be required to provide much greater detail on itemized, written pay stubs, including:

- the date of the payment;
- the dates of work covered by the payment;
- the employee's name;
- the name and business registry number or business identification number of the employer;

- the address and telephone number of the employer;
- the rate or rates of pay;
- whether the employee is paid by the hour, shift, day, or week or on a salary, piece, or commission basis;
- gross wages;
- net wages;
- the amount and purpose of each deduction made during the period of service that the payment covers;
- allowances, if any, claimed as part of minimum wage;
- unless paid on a salary basis and legally exempt from overtime pay, the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked and pay for those hours, and the number of overtime hours worked and pay for those hours; and
- if paid on a piece rate, the applicable piece rate or rates of pay, the number of pieces completed at each rate, and the total pay for each rate.

Employers may provide itemized pay stubs to employees in electronic form, but only if (1) the employee expressly agrees to receive them in electronic form; and (2) the employee has the ability to print or store the statement at the time of receipt.

Oregon law already provides that itemized pay stub violations constitute a Class D criminal violation, potentially punishable by a fine of up to \$250 for individuals or \$500 for corporations. Beginning on January 1, 2017, violations of these new pay stub provisions will also constitute a Class D criminal violation.

Time and Pay Records

The legislature also amended the existing personnel file statute, ORS 652.750, to include time and pay records. Specifically, employers will be required to provide a certified copy of time and pay records in response to an

employee or former employee's request for personnel records within 45 days of such a request. Employers will also be required to retain time and pay records for at least three years after the date of termination.

The Oregon Bureau of Labor and Industries (BOLI) may assess a civil penalty of up to \$1,000 for violations of the recordkeeping and inspection requirements set forth in the personnel file statute, which will include violations of these new provisions regarding time and pay records beginning on January 1, 2017.

Public Works Contractor Wage Theft

The legislature also added new provisions to the laws regarding prevailing wages on public works projects. The additions provide that public works contractors, subcontractors, and their agents may not intentionally:

- fail to pay an employee the prevailing rate of wage;
- reduce the rate of wage that an employee would ordinarily receive for work that is not subject to the prevailing rate in order to recoup wages that the contractor, subcontractor, or agent is paid in accordance with the prevailing rate of wage;
- withhold, deduct, or divert any portion of an employee's wages except as allowed by law;
- enter into an agreement for an employee to perform work on a public works project at less than the prevailing rate of wage; or
- otherwise deprive an employee, permanently or indefinitely, of his or her entitlement to prevailing wages due in an amount that equals or exceeds 25 percent of the wages due or \$1,000.00 in a single pay period, whichever is greater.

Oregon law already gives employees alleging prevailing wage violations a private right of action; BOLI may also assess a civil penalty of up to \$5,000 for each violation. Additionally, under the new law a violation of these new prevailing wage provisions will be classified as a Class C felony, punishable by a maximum 5-year prison term and/or a maximum fine of \$125,000, which BOLI is expressly authorized to refer to the district attorney for investigation and prosecution.

Enhanced Enforcement Measures

Finally, the law provides that, effective immediately, BOLI may use moneys in the Wage Security Fund (which was originally established to fund payment of wage claims by employees when companies closed without sufficient funds to pay employees' final wages) to investigate and enforce claims of unpaid or underpaid wages under Oregon law. This suggests that increased wage and hour investigations and enforcement actions are on the horizon.

In order to ensure compliance with these new requirements, and to help prevent enforcement actions and avoid potential penalties, Oregon employers may want to review and update their payroll and recordkeeping practices before January 1, 2017.

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