### **OFFICIAL NOTICE**

CALIFORNIA

Effective January 1, 2002 as amended

Sections 4(A) and 10(C) amended and republished by the Department of Industrial Relations, effective January 1, 2023, pursuant to SB 3, Chapter 4, Statutes of 2016 and section 1182.13 of the Labor Code

### **INDUSTRIAL WELFARE COMMISSION ORDER NO. 8-2001** REGULATING WAGES, HOURS AND WORKING CONDITIONS IN THE

### INDUSTRIES HANDLING PRODUCTS AFTER HARVEST This Order Must Be Posted Where Employees Can Read It Easily

TAKE NOTICE: To employers and representatives of persons working in industries and occupations in the

State of California: The Department of Industrial Relations amends and republishes the minimum wage and meals and lodging credits in the Industrial Welfare Commission's Orders as a result of legislation enacted (SB 3, Ch. 4, Stats of 2016, amending section 1182.12 of the California Labor Code), and pursuant to section 1182.13 of the California Labor Code. The amendments and republishing make no other changes to the IWC's Orders.

#### 1. APPLICABILITY OF ORDER

This order shall apply to all persons employed in the industries handling products after harvest whether paid on a time, piece rate, commission, or other basis, except that:

(A) Provisions of Sections 3 through 12 of this order shall not apply to persons employed in administrative, executive, or professional capacities. The following requirements shall apply in determining whether an employee's duties meet the test to qualify for an exemption from those sections:

(1) Executive Exemption. A person employed in an executive capacity means any employee: (a) Whose duties and responsibilities involve the management of the enterprise in which he/she is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and (c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretion and independent judgment; and (e) Who is primarily engaged in duties which meet the test of the exemption. 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: 29 C.E.R. Sections 541, 102, 541, 104-111, and 541, 115-116. 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. The work actually performed by the employee during the course of the workweek must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(f) Such an employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(2) Administrative Exemption. A person employed in an administrative capacity means any employee: (a) Whose duties and responsibilities involve either

(i) The performance of office or non-manual work directly related to management policies or general business operations of his/her employer or his/her employer's customers; or

(ii) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and (c) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined for purposes of this section); or

(d) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge; or

(e) Who executes under only general supervision special assignments and tasks; and (f) Who is primarily engaged in duties which meet the test of the exemption. 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: 29 C.F.R. Sections 541.201-205, 541.207-208, and 541.210, and 541.215. 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. The work actually performed by the employee during the course of the workweek must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(g) Such employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(3) Professional Exemption. A person employed in a professional capacity means any employee who meets all of the following requirement

(a) Who is licensed or certified by the State of California and is primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; or

(b) Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:

(i) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or work that is an essential part of or necessarily incident to any of the above work; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above

(iii) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(c) Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in subparagraphs (a) and (b).

(d) Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per

(e) Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this wage order: 29 C.F.R. Sections 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310.

(f) Notwithstanding the provisions of this subparagraph, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as

(g) Subparagraph (f) above shall not apply to the following advanced practice nurses:

(i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the

(ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code. (iii) Certified nurse practitioners who are primarily engaged in performing duties for which

certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code. (iv) Nothing in this subparagraph shall exempt the occupations set forth in clauses (i), (ii), and (iii)

from meeting the requirements of subsection 1(A)(3)(a)-(d) above. (h) Except, as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt from the daily overtime pay provisions of Labor Code Section 510, if all

(i) The employee is primarily engaged in work that is intellectual or creative and requires the exercise

of discretion and independent judgment (ii) The employee is primarily engaged in duties that consist of one or more of the following

—The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications. —The design, development, documentation, analysis, creation, testing, or modification of

computer systems or programs, including prototypes, based on and related to user or system design —The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(iii) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption

(iv) The employee's hourly rate of pay is not less than forty-one dollars (\$41.00). The Office of Policy, Research and Legislation 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.<sup>1</sup>

(i) The exemption provided in subparagraph (h) does not apply to an employee if any of the following

(i) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(ii) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision (iii) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(iv) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in

computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for on screen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or (vi) The employee is engaged in any of the activities set forth in subparagraph (h) for the purpose of creating

imagery for effects used in the motion picture, television, or theatrical industry. (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

(C) The provisions of this order shall not apply to outside salespersons.

States Code. (See Stats. 2000, ch. 365, amending Labor Code Section 1171.)

(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 12571 of Title 42 of the United

2. DEFINITIONS (A) An "alternative workweek schedule" means any regularly scheduled workweek requiring an employee to

work more than eight (8) hours in a 24-hour period.

(B) "Commission" means the Industrial Welfare Commission of the State of California. (C) "Division" means the Division of Labor Standards Enforcement of the State of California.

(D) "Employ" means to engage, suffer, or permit to work.

for distribution, and includes all the operations incidental thereto

items or obtaining orders or contracts for products, services or use of facilities

(E) "Employee" means any person employed by an employer (F) "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. (G) "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. (H) "Industries Handling Products After Harvest" means any industry, business, or establishment operated for the purpose of grading, sorting, cleaning, drying, cooling, icing, packing, dehydrating, cracking, shelling, candling, separating, slaughtering, picking, plucking, shucking, pasteurizing, fermenting, ripening, molding, or otherwise preparing any agricultural, horticultural, egg, poultry, meat, seafood, rabbit, or dairy product

(I) "Minor" means, for the purpose of this order, any person under the age of 18 years. (J) "Outside salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible

(K) "Primarily" as used in Section 1, Applicability, means more than one-half the employee's work time. (L) "Shift" means designated hours of work by an employee, with a designated beginning time and quitting

(M) "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.

(N) "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 (O) "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 (P) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar

(Q) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each

week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour

#### 3. 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. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible under the following conditions:

(2) MANDATORY DAY OFF REQUIREMENT: An employee may work up to a maximum of 72 hours in any workweek after which the employee shall have a 24-hour period off duty, except that:

(a) In the grape and tree fruit industry the following key personnel: receivers, loaders, fork lift operators, shipping clerks, and maintenance workers, may be exempt from the mandatory day off requirement; and (b) In the cotton ginning industry and in the tree nut hulling and shelling industry, all employees shall have the voluntary right to be exempt from the mandatory day off provision in this order. Any employee desiring to exempt himself/herself from the mandatory day off provision may exercise that exemption by notifying the employee's employer in writing. Any employee who wishes to withdraw that exemption may do so by notifying the employer in writing at least five (5) days in advance of the desired day off. (This notice sion is not intended to be applicable to instances of illness or emergencies); and

(c) In the exercise of any exemption from the mandatory day off provided above or by action of the state labor commissioner, (administrative exemptions from the mandatory day off are permitted by Labor Code Section 1198.3 under certain conditions) no employer shall discriminate against any employee who desires to take 24 hours off after 72 hours worked in a workweek; and

(d) All employers who permit any employees to work more than 72 hours in a workweek must give each employee a copy of the applicable provision for exemption, including subparagraph (c) above in English and in Spanish, and post it at all times in a prominently visible place; and

(a) One and one-half (11/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek. (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly

(B) Alternative Workweek Schedules

(1) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a 40 hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to 12 hours a day or beyond 40 hours per week shall be paid at one and one-half (1½) times the employee's regular rate of pay. All work performed in excess of 12 hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. 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. No hours paid at either one and one-half (1½) or double the regular rate of pay shall be included in determining when 40 hours have been worked for the purpose of computing overtime compensation. (2) Any agreement adopted pursuant to this section shall provide not less than two consecutive days off

(3) If an employer whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half ( $1\frac{1}{2}$ ) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work

(4) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule

(5) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(6) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative workweek schedule established as the result of

(7) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a work-day to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election

(8) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000 provided that the results of the election are reported by the employer to the Office of Policy, Research and Legislation by January 1, 2001, in accordance with the requirements of subsection (C) below (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999, that alternative workweek schedule was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, 2000 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. The employee may revoke his/her voluntary authorization to continue such a schedule with 30 days written notice to the employer. New arrangements

Election procedures for the adoption and repeal of alternative workweek schedules require the following: (1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. 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

can only be entered into pursuant to the provisions of this section.

(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot

election, before the performance of work, by at least a two-thirds (¾) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. 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 Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed

arrangement on the employees' wages, hours, and benefits. 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. (3) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of

the affected employees. 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 commissioner may require the employer to select a neutral third party to conduct the election. (4) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (3/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. 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. The election shall take place during regular working hours at the employees' work site. 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. (5) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy. Research and Legislation 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

(6) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(7) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek. 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. However, nothing in this paragraph shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor

(D) One and one-half (1½) times a minor's regular rate of pay shall be paid for all work over 40 hours in any workweek except minors 16 or 17 years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A) or (B) and (C) above. (VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from \$500 to \$10,000 as well as to criminal penalties. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 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.)

(E) 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). (F) If during any workday an employer declares a work recess of one-half (1/2) hour or more, other than a meal period, and the employer notifies the employees of the time to report back for work and permits them to leave the premises, such recess need not be treated as hours worked provided that there shall not be

more than two (2) such recess periods within one shift and the total duration does not exceed two (2) hours

Work stoppages of less than one-half (½) hour may not be deducted from hours worked. (G) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m., facilities shall be available for securing hot food and drink or for heating food or drink, and a suitable sheltered place shall be provided in which to consume such food or drink.

(H) The provisions of Labor Code Sections 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7). (I) Except as provided in subsection (A)(1) and subsections (D) and (H), this section shall not apply to any

ployee 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. (J) Notwithstanding subsection (I) above, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one (1) day's rest in seven (7)

(see subsection (H) above) shall apply, unless the agreement expressly provides otherwise (K) The provisions of this section are not applicable to employees whose hours of service are regulated by: (1) The United States Department of Transportation Code of Federal Regulations, Title 49, Sections 395.1 to

(2) Title 13 of the California Code of Regulations, subchapter 6.5, Section 1200 and the following sections, gulating hours of drivers (L) 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 ents, except for hours in excess of 11 ho of work in one (1) day or 40 hours of work in one (1) workweek. If an employee knows in advance that he she will be requesting makeup time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four (4) weeks in advance; provided, owever, that the makeup work must be performed in the same week that the work time was lost. 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. While an employer may inform an employee of this makeup time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request

pursuant to this subsection.

(A) Every employer shall pay to each employee wages not less than the following: (1) All employers, regardless of the number of employees, shall pay to each employee fifteen dollars and fifty cents (\$15.50) per hour for all hours worked, effective January 1, 2023.

(2) Prior to January 1, 2023, any employer who employs 26 or more employees shall pay to each employee wages not less than the following: (a) Thirteen dollars (\$13.00) per hour for all hours worked, effective January 1, 2020;

the employer's approval to take personal time off and make up the work hours within the same workweek

(b) Fourteen dollars (\$14.00) per hour for all hours worked, effective January 1, 2021; and (c) Fifteen dollars (\$15.00) per hour for all hours worked, effective January 1, 2022. (3) Prior to January 1, 2023, any employer who employs 25 or fewer employees shall pay to each employee wages not less than the following

(a) Twelve dollars (\$12.00) per hour for all hours worked, effective January 1, 2020; (b) Thirteen dollars (\$13.00) per hour for all hours worked, effective January 1, 2021

(c) Fourteen dollars (\$14.00) per hour for all hours worked, effective January 1, 2022. Employees treated as employed by a single qualified taxpayer pursuant to Revenue and Taxation Code section 23626 are treated as employees of that single taxpayer. LEARNERS. Employees during their first 160 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

(C) When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of

(D) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the

employee's regular rate of pay, which shall not be less than the minimum wage (C) The foregoing reporting time pay provisions are not applicable when: (1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or (3) The interruption of work is caused by an Act of God or other cause not within the employer's contro (D) This section shall not apply to an employee on paid standby status who is called to perform assigned

LICENSES FOR DISABLED WORKERS

work at a time other than the employee's scheduled reporting time.

REPORTING TIME PAY

(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. Such licenses shall be granted only upon joint application of employer and employee and employee's representative if any. (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 1191 and 1191.5)

(A) Every employer shall keep accurate information with respect to each employee including the

(1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. 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 not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or youcher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be

aggregated and shown as one item. (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 nlace of employment or at a central location within the State of California. An employee's records shall be

(D) Clocks shall be provided in all major work areas or within reasonable distance thereto insofar as practicable.

## CASH SHORTAGE AND BREAKAGE

**UNIFORMS AND EQUIPMENT** 

available for inspection by the employee upon reasonable request

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 colo NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health

Standards Board. (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

**NOTE:** This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board. (C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned.

No deduction shall be made at any time for normal wear and tear. All items furnished by the employer

### 10. MEALS AND LODGING.

shall be returned by the employee upon completion of the job.

EFFECTIVE:

For an employer who employs:

(A) "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods. (B) "Lodging" means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be

required to share a bed. (C) Meals or lodging may not be credited against the minimum wage without a voluntary writter agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the

Employees

JANUARY 1, 2020

26 or More 25 or Fewer

Employee

JANUARY 1, 2021

26 or More 25 or Fewer

LODGING				
Room occupied alone	\$61.13/ week	\$56.43/ week	\$65.83/ week	\$61.13/ week
Noon occupied alone	\$50.46/	\$46.58/	\$54.34/	\$50.46/
Room shared	330.40/ week	week	week	330.40/ week
	WEEK	week	Week	week
Apartment—two thirds (¾) of the	ć724.24/	¢(77.75)	¢700 67/	ć724.21/
ordinary rental value, and in no event	\$734.21/	\$677.75/	\$790.67/	\$734.21/
more than:	month	month	month	month
Where a couple are both employed by				
the employer, two thirds (¾) of the				
ordinary rental value, and in no event	\$1086.07/	\$1002.56/	\$1169.59/	\$1086.07/
more than:	month	month	month	month
MEALS				
Breakfast	\$4.70	\$4.34	\$5.06	\$4.70
Lunch	\$6.47	\$5.97	\$6.97	\$6.47
Dinner	\$ 8.68	\$8.01	\$9.35	\$8.68
EFFECTIVE:	JANUARY 1, 2022		JANUARY 1, 2023	
	26 or More	25 or Fewer	All Employ	ers regardless
For an employer who employs:	<b>Employees</b>	Employees	number of Employees	
LODGING				
	\$70.53/	\$65.83/	\$72.88/	
Room occupied alone	week	week	week	
•	\$58.22/	\$54.34/	\$60.16/	
			1	

ss of Room shared Apartment—two thirds (3/3) of the ordinary rental value, and in no event \$847.12/ \$790.67/ \$875.33/ more than: Where a couple are both employed by the employer, two thirds (3/3) of the ordinary rental value, and in no event \$1253.10/ \$1169.59/ 1294.83/ MEALS Breakfast \$5.42 \$5.06 \$7.47 \$7.72 \$6.97 \$10.02 \$9.35 \$10.35

(D) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received nor lodging not used. (E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of

the values listed herein.

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall

be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. (D) If an employer fails to provide an employee a meal period in accordance with the applicable provision.

of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. (E) In all places of employment where employees are required to eat on the premises, a suitable place for

# 12. REST PERIODS

permits the use of seats.

15. TEMPERATURE

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (31/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

# 13. CHANGE ROOMS AND RESTING FACILITIES

(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

**NOTE:** This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board. (B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be

(B) When employees are not engaged in the active duties of their employment and the nature of the

available to employees during work hours. (A) All working employees shall be provided with suitable seats when the nature of the work reasonably

#### work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with

industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change

# (D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

### ELEVATORS

Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more above or below ground level

### 17. EXEMPTIONS

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be

### posted at the place of employment at the time the application is filed with the Division. 18. FILING REPORTS

#### (See California Labor Code, Section 1174(a)) 19. INSPECTION

# (See California Labor Code, Section 1174)

# 20. PENALTIES

(See California Labor Code, Section 1199) (A) In addition to any other civil penalties provided by law, any employer or any other person acting on

behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:

(1) Initial Violation — \$50.00 for each underpaid employee for each pay period during which the

employee was underpaid in addition to the amount which is sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for each underpaid employee for each pay period during which the

employee was underpaid in addition to an amount which is sufficient to recover unpaid wages. (3) The affected employee shall receive payment of all wages recovered.

(B) The labor commissioner may also issue citations pursuant to California Labor Code Section 1197.1 for non-payment of wages for overtime work in violation of this order. 21. SEPARABILITY

# If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause,

phrase, word, or portion of this order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein. POSTING OF ORDER Every employer shall keep a copy of this order posted in an area frequented by employees where it may be

easily read during the workday. Where the location of work or other conditions make this impractical, every

employer shall keep a copy of this order and make it available to every employee upon request. <sup>1</sup> Pursuant to Labor Code section 515.5, subdivision (a)(4), the Office of the Director - Research, Department of Industrial Relations, has adjusted the minimum hourly rate of pay specified in this subdivision to be \$49.77, effective January 1, 2007. This hourly rate of pay is adjusted on October 1 of each year to be effective on January 1, of the following year, and may be obtained at <a href="https://www.dir.ca.gov/OPRL/ComputerSoftware.htm">https://www.dir.ca.gov/OPRL/ComputerSoftware.htm</a> or by mail from the Department of Industrial Relations

should be directed to the Labor Commissioner's Office. A listing of offices is on the back of this wage order. For the address and telephone number of the office nearest you, information can be found on the internet at http://www.dir.ca.gov/DLSE/dlse.html or under a search for "California Labor Commissioner's Office" on the internet or any other directory. The Labor Commissioner has offices in the following cities: Bakersfield, Fl Centro, Fresno, Long Beach, Los Angeles, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Barbara, Santa Rosa, Stockton, Van Nuvs.

**QUESTIONS ABOUT ENFORCEMENT** of the Industrial Welfare Commission orders and reports of violations

The Department of Industrial Relations will make summaries of wage and hour requirements in this Order available in Spanish, Chinese and certain other languages when it is feasible to do so. Mail your request for such summaries to the Department at: P.O. Box 420603, San Francisco, CA 94142-0603.

**RESUMEN EN OTROS IDIOMAS** 

**SUMMARIES IN OTHER LANGUAGES** 

#### idiomas cuando sea posible hacerlo. Envíe por correo su pedido por dichos resúmenes al Departamento a: P.O. Box 420603, San Francisco, CA 94142-0603.

El Departamento de Relaciones Industriales confeccionará un resumen sobre los

reguisitos de salario y horario de esta Disposición en español, chino y algunos otros

工業關係處將摘錄本規則中有關工資和工時的規定,用西班牙 文、中文印出。其宅文字如有需要,也將同樣辦理。如果您有需要。 可以來信索閱,講寄到: Department of Industrial Relations P.O. Box 420603

San Francisco, CA 94142-0603

SAN BERNARDINO

909-383-4334

SAN DIEGO

619-220-5451

SAN JOSE

San Jose, CA 95113

408-277-1266

SANTA ANA

714-558-4910

805-568-1222

SANTA ROSA

707-576-2362

STOCKTON

SAN FRANCISCO

San Diego, CA 92108

Labor Commissioner's Office/DLSE

Labor Commissioner's Office/DLSE

7575 Metropolitan Dr., Room 210

Labor Commissioner's Office/DLSE

6150 Van Nuvs Boulevard, Room 206

31 E. Channel Street, Room 317

411 E. Canon Perdido, Room 3

Santa Barbara, CA 93101

50 "D" Street, Suite 360

Santa Rosa, CA 95404

Stockton, CA 95202

Van Nuys, CA 91401

818-901-5315

EMPLOYERS: Do not send copies of your alternative workweek election ballots or election procedures

209-948-7771

VAN NUYS

2 MacArthur Place Suite 800

Santa Ana, CA 92707

SANTA BARBARA

100 Paseo De San Antonio, Room 120

455 Golden Gate Ave. 10th Floor

San Francisco, CA 94102

464 West 4th Street, Room 348

San Bernardino, CA 92401

For further information or to file your complaints, visit https://www.dir.ca.gov/dlse/dlse.html or contact

### the State of California at the following department offices: California Labor Commissioner's Office, also known as, Division of Labor Standards Enforcement (DLSE)

Labor Commissioner's Office/DLSE 7718 Meany Ave. Rakersfield CA 93308 661-587-3060 **EL CENTRO** 

El Centro, CA 92243 760-353-0607 FRESNO Labor Commissioner's Office/DLSE 770 E. Shaw Ave., Suite 222

Labor Commissioner's Office/DLSE

1550 W. Main St.

Fresno, CA 93710

213-620-6330

LONG BEACH Labor Commissioner's Office/DLSE 300 Oceangate, 3rd Floor Long Beach, CA 90802

562-590-5048 LOS ANGELES Labor Commissioner's Office/DLSE 320 W. Fourth St., Suite 450 Los Angeles, CA 90013

Labor Commissioner's Office/DLSE 1515 Clay Street, Room 801 Oakland, CA 94612 510-622-3273 OAKLAND - HEADQUARTERS

Oakland, CA 94612 510-285-2118 DLSE2@dir.ca.gov Labor Commissioner's Office/DLSE

250 Hemsted Drive, 2nd Floor, Suite A

Labor Commissioner's Office/DLSE

1515 Clay Street, Room 1302

Redding, CA 96002 SACRAMENTO Labor Commissioner's Office/DLSE 2031 Howe Ave, Suite 100 Sacramento, CA 95825

916-263-1811

Labor Commissioner's Office/DLSE 950 E. Blanco Rd., Suite 204 Salinas, CA 93901 831-443-3041

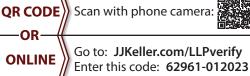
Only the results of the alternative workweek election shall be mailed to: DEPARTMENT OF INDUSTRIAL RELATIONS Office of Policy, Research and Legislation P.O. Box 420603 San Francisco, CA 94142-0603

Prevailing Wage Hotline (415) 703-4774

(415) 703-4780

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7. RECORDS