

RECENT LABOR LAW CHANGES

Labor & Employment Alert
January 2008

Day of Rest and Minimum Meal Period

Effective January 14, 2008, an employer's failure to provide its employees with at least one day of rest every calendar week and a minimum amount of time for meal breaks may result in liability. Governor Spitzer recently signed legislation increasing the monetary penalties to employers that violate the day of rest or minimum meal period laws.

Under long-standing sections of the Labor Law, New York State employers are required to provide certain employees with at least one day of rest every calendar week and a minimum amount of time for meal breaks. Currently, a violation of either of these sections is punishable by a criminal fine not to exceed \$100 for the first offense. Because the Legislature was concerned that these laws were not being enforced regularly, it created higher monetary penalties for employers who violate the law. On or after January 14, 2008, an employer who violates either the day of rest or minimum meal period requirements will be subject to a fine of up to \$1,000 for the first offense, \$2,000 for the second, and \$3,000 for the third. These larger fines are expected to bring about a focused enforcement effort by the New York State Department of Labor.

As a result, employers should ensure that their scheduling and meal break policies are in compliance with the law and that their practice matches their policies.

Wage Payments & Direct Deposit

Also effective January 14, 2008, the minimum weekly compensation amount that exempts bona fide "executive, administrative, or professional" employees from the definition of "Clerical and other worker" under Article 6, Section 190(8) of the Labor Law will be increased from \$600 to \$900. As a result, exempt executive, administrative, or professional employees who earn \$900 per week or less must be paid at least semi-monthly, on regular pay days designated in advance by the employer, in accordance with Labor Law § 191(1)(d). Failure to timely pay employees in accordance with the Labor Law may result in criminal or civil sanctions.

A similar change to the law regarding direct deposit of wages will also take effect on

Attorneys

Peter Godfrey

John Godwin

Practices & Industries

Labor & Employment

RECENT LABOR LAW CHANGES

January 14, 2008. Under the revised law, employers must obtain written consent for all executive, administrative and professional employees who earn \$900 per week or less before utilizing direct deposit procedures to distribute compensation. Previously, employers did not need the consent of executive, administrative and professional employees who earned more than \$600 per week.

As a consequence, employers may have to obtain consent from employees that it did not need to under the current law. Employers should determine whether they will need to obtain consent from any of the employees they are currently directly depositing wages for, and modify deposit procedures and practices to ensure future compliance with the revised law.