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## NYS Wage Theft Prevention Act

February 21, 2011

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On December 13, 2010, New York State Governor David A. Patterson signed into law The Wage Theft Prevention Act. The Act, which becomes **effective on April 12, 2011**, contains new and expanded notice and record-keeping requirements and increased liability provisions in regards to wage information and payments.

The Act significantly expands the already existing new hire notice and record keeping requirements of Section 195 of the New York Labor Law by requiring employers to:

- Provide expanded notice to all new hires at time of hire **AND** to all employees annually on or before February 1st of each subsequent year to include:
  - Regular rate of pay and overtime rate (if applicable), regular pay day, basis of rate of pay
  - How employee will be paid (hour, shift, salary, piece, commission, etc)
  - Allowances claimed as part of the minimum wage, including tips, meals, or lodging
  - Employer's name, address, and telephone number
- Obtain a signed and dated written acknowledgement of receipt of notice each time it is provided
- Notify employees in writing of any changes to the information provided in the notice at least seven calendar days prior to making such change (separate notice not required if reflected in regular pay stub)
- Provide employees with specific information **EACH** pay day, either on regular pay stub or as separate statement, including:
  - Employee name
  - Employer's name, address, and phone number
  - Pay rates and basis of pay (i.e. hourly, salary, commission, etc)
  - Dates of work covered, gross wages, deductions, and net wages
  - Allowances claimed as part of minimum wage
  - For employees eligible for overtime, their regular hourly and overtime rates of pay, and the number of regular and overtime hours worked
  - For piece-rate workers, the piece rate(s) of pay and the number of pieces completed at each piece rate
- Maintain payroll records and signed acknowledgements for a minimum of six years

The Act also significantly increases the employer penalty for noncompliance and retaliation, and the potential liquidated damages available if an employee is not paid in accordance with the law. The Act also requires employers who violate the provisions of the law to post a notice summarizing the violations.

In summary, we encourage you to review and discuss the specific requirements of The Wage Theft Prevention Act with your legal counsel to determine any necessary changes to your wage payment policies and practices prior to April 12, 2011.

This Lawley Benefits Group Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.