

# Employment Law Monitor

INSIGHTS ON RECENT DEVELOPMENTS IN FEDERAL AND STATE LABOR & EMPLOYMENT MATTERS

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**COLE SCHOTZ**  
COLE, SCHOTZ, MEISEL, FORMAN & LEDNARD, P.A.

## **New York Amends The New York Labor Law To Impose New Wage & Hour Recordkeeping And Notice Obligations On The Majority Of Employers**

*Posted at 10:45 AM on April 20, 2011 by Kathryn Dugan*

The New York Wage Theft Prevention Act (the "Act"), which went into effect on April 9, 2011, amends the New York Labor Law to impose new recordkeeping and notice obligations on the majority of employers operating within New York State, as well as expanding the civil and criminal remedies available when employers fail to comply with these provisions. Specifically, the Act requires that employers provide notice to employees of their rate(s) of pay, designated pay day, the employer's intent to claim allowances as part of minimum wage, all identifying, affiliate and contact information for the employer, which includes the name of the employer and any "doing business as" names used by the employer, and additional information that may be specified by the Commissioner of Labor. The notice must be provided in the employee's primary language, as identified by the employee, through translated notices provided by the Department of Labor. These notices are required at the time of hire, yearly between January 1 and February 1, and when there are changes in the information on the pay notices. With respect to changes in the terms of an employee's notice, the employer must provide notice of changes to the affected employees either in a separate written notice seven days in advance or in the detailed wage statement accompanying payment of wages. The employer is required to retain copies of these notices and a signed, dated acknowledgment of receipt from each employee for six years. The notices must be made available to the Department of Labor upon request.

Employers should also be aware of changes in the Act because it expands the Department of Labor's authority to enforce the Labor Law. For example, the Act increases the mandatory liquidated damages for wage violations to 100% of unpaid wages. In addition, the Act provides for interest from the date of any underpayment and additional civil penalties for failure to comply with final

judgments within 90 days. The Act also provides for individual recovery of civil damages for each workweek in which the employer fails to comply with its new notice requirements. Finally, the Act expands an employee's ability to bring complaints and private actions for such violations, while also strengthening an employee's protections against any prohibited retaliation by an employer. Prohibited retaliation includes, among other things, any action which negatively affects workers such as discharge, suspension, transfer to another shift or reduction in wages or hours, which is done because a worker has engaged in a protected activity. A protected activity includes any of the following: an employee's right to complain to their employer, the Department of Labor, or the Attorney General about possible violations of the Labor Law and regulations issued under it, an employee's right to file a complaint about these possible violations and give information about their conditions of employment to the Department of Labor or Attorney General, and an employee's right to testify at hearings or other proceedings. The penalties for retaliation can include fines up to \$10,000, as well as another \$10,000 in liquidated damages. The Department of Labor can also request reinstatement of the worker and/or compensation for lost wages.

The New York Department of Labor's FAQ for the Act can be found [here](#). New York employers should immediately check their policies to ensure that they are complying with the Act's new requirements.

Court Plaza North  
25 Main Street  
Hackensack, NJ 07601  
Phone: (201) 489-3000

900 Third Avenue  
16th Floor  
New York, NY 10022  
Phone: (212) 752-8000

500 Delaware Avenue  
Suite 1410  
Wilmington, DE 19801  
Phone: (302) 652-3131

300 East Lombard Street Suite 2000  
Baltimore, MD 21202  
Phone: (410) 230-0660

301 Commerce Street  
Suite 1700  
Fort Worth, TX 76102  
Phone: (817) 810-5250