

OFFICIAL NOTICE
INDUSTRIAL WELFARE COMMISSION
Summary of Interim Wage Order--2000

To employers and representatives of persons working in industries and occupations in the State of California:

The Industrial Welfare Commission (hereinafter the "IWC"), having proceeded according to its authority in the Labor Code and the Constitution of California, has promulgated an Interim Wage Order - 2000, to implement amendments to Wage Orders 1 through 15, in effect in 1998, as the result of the Legislature's enactment of the "Eight-Hour-Day Restoration and Workplace Flexibility Act," Stats. 1999, ch. 134 (commonly referred to as AB 60). The Interim Wage Order covers all industries and occupations not specifically exempted herein, by Wage Orders 1 through 15, or by governing law.

Interim Wage Order-2000 Summary

This summary must be made available to employees in accordance with Section 12 of the Interim Wage Order.

This is a summary. Copies of the full text of the Interim Wage Order may be obtained at www.dir.ca.gov/IWC or by mail from the IWC.

Except for the section pertaining to penalties, the Interim Wage Order does not apply to any person employed in an agricultural occupation as defined in Wage Order 14-80, Agricultural Occupations. Wage Orders 1-98, 4-98, 5-98, 7-98, and 9-98 are null and void. The following Wage Orders are reinstated, as modified in the Interim Wage Order, until the effective date of wage orders promulgated by the Commission pursuant to Labor Code § 517: 1-89, Manufacturing Industry; 4-89, Professional, Technical, Clerical, Mechanical, and Similar Occupations, as amended in 1993; 5-89, Public Housekeeping Industry, as amended in 1993; 7-80, Mercantile Industry; and 9-90, Transportation Industry. The provisions of the following Wage Orders remain in full force and effect except to the extent that they are modified by the Interim Wage Order: 2-80, Personal Service Industry; 3-80, Canning, Freezing, and Preserving Industry; 6-80, Laundry, Linen Supply, Dry Cleaning, and Dyeing Industry; 8-80, Industries Handling Products after Harvest; 10-89, Amusement and Recreation Industry; 11-80, Broadcasting Industry; 12-80, Motion Picture Industry; 13-80, Industries Preparing Agricultural Products for Market, on the Farm; and 15-86, Household Occupations.

Minimum Wage

The terms of Minimum Wage Order 98 (MW-98) continue to be in effect for all industries and occupations. Every employer shall pay to each employee wages not less than \$5.75 per hour for all hours worked, effective March 1, 1998.

Covered Employees

Any industry or occupation not previously covered by, and all employees not specifically

exempted in, the Commission's Wage orders in effect in 1997, or otherwise exempted by law, are covered by this Interim Wage Order. In particular, the following employee work activities are now covered by the provisions of this order: on-site construction, drilling, logging, and mining of non-metallic minerals. Sections 4, 5, 7, 8 and 9 of this Order shall not apply to persons employed in administrative, executive, or professional capacities. Please note that pharmacists and registered nurses are no longer eligible for the professional exemption. See the full text of the Interim Wage Order for definitions of these categories.

Hours and Days of Work

The number of hours worked in a day by covered employees without overtime compensation is 8 hours. The number of hours worked in a week by covered employees without overtime compensation is 40 hours. The number of days worked consecutively by covered employees in any workweek without overtime compensation is 6 days.

Daily Overtime Pay

Overtime is paid at the rate of 1 1/2 times the regular rate of pay for every hour worked after the completion of 8 hours worked at the regular rate of pay in 1 workday. Overtime is paid at the rate of double the regular rate of pay for every hour worked after the completion of 12 hours worked in 1 workday.

Weekly Overtime Pay

Overtime is paid at the rate of 1 1/2 times the regular rate of pay for every hour worked after the completion of 40 hours worked at the regular rate of pay in 1 workweek.

Seventh Consecutive Workday Overtime Pay

Overtime is paid at the rate of 1 1/2 times the regular rate of pay for the first 8 hours worked on the seventh consecutive workday in any workweek, without regard to the total number of hours worked in the previous 6 days. Overtime is paid at the rate of double the regular rate of pay for every hour worked after the completion of 8 hours worked on the seventh consecutive workday in any workweek.

Workweeks

An alternative workweek schedule means any regularly scheduled workweek requiring an employee to work more than 8 hours in a 24-hour period, but no more than 40 hours in a workweek. Alternative workweek schedules in effect in wage orders that remain in full force under the Interim Wage Order shall remain operative until the effective date of wage orders promulgated under Labor Code § 517 by the IWC, subject to the restrictions below.

Alternative Workweeks - Non Health Care Industry.

Pursuant to a voluntary written agreement proposed by the employer and ratified in a secret ballot election by at least a 2/3 vote of the affected employees in the work unit before the performance of work, a regularly scheduled alternative workweek schedule of not more than 10 hours at the regular rate of pay per day within a 40-hour workweek is permitted. Regarding such a schedule, overtime is paid at the rate of 1 1/2 times the regular rate of pay for all hours worked after the regularly scheduled hours in a day have been completed, through the twelfth hour of

work. Overtime is paid at the rate of double the regular rate of pay for every hour worked after the completion of 12 hours worked in 1 workday. Weekly and seventh consecutive day overtime pay provisions apply accordingly.

Alternative Workweeks - Health Care Industry

Pursuant to a voluntary written agreement proposed by the employer and ratified in a secret ballot election by at least a 2/3 vote of the affected employees in the work unit before the performance of work, a regularly scheduled alternative workweek schedule of not more than 12 hours at the regular rate of pay per day within a 40-hour workweek is valid until July 1, 2000, and/or until the effective date of a wage order promulgated by the Commission. Overtime is paid at the rate of double the regular rate of pay for every hour worked after the completion of 12 hours in 1 workday. Weekly and seventh consecutive day overtime pay provisions apply accordingly.

An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital, who properly institutes a regularly scheduled workweek that includes no more than three 12-hour workdays, shall make a reasonable effort to find an alternative work assignment for any employee who participated in the vote that authorized the schedule, and is unable to work the 12-hour shifts. The employer shall not be required to offer such an alternative work assignment if the employee was hired after the vote and adoption of the alternative workweek. The regularly scheduled 12-hour workday/3-day alternative workweek shall be valid until July 1, 2000, unless the IWC extends that date.

Alternative Workweeks - Ski Industry

An employer engaged in the operation of a ski establishment shall not be in violation of overtime provisions set forth in the Interim Wage Order by instituting a regularly scheduled workweek of 56 hours or less during any month of the year when Alpine or Nordic skiing activities are conducted. Such shall be valid until July 1, 2000, unless the Legislature or the Commission extends that date. Overtime is paid at the rate of 1 1/2 times the regular rate of pay for every hour worked after the completion of 56 hours in 1 workweek.

Stable and Commercial Fishing Employees

Stable employees and those employees licensed pursuant to the California Fish and Game Codes §§ 7850 et seq. and 7920 et seq. should refer to the full text of the Interim Wage Order.

Minors

VIOLATIONS OF CHILD LABOR LAWS are subject to civil and criminal penalties. Refer to California Labor Code §§ 1285 to 1312 and 1390 to 1399.

Collective Bargaining Agreements

Sections 3, 4, 5, 8 and 9 of the Interim Wage Order shall not apply to any employee 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, except that the requirement regarding the equivalent of 1 day's rest in 7 (see Interim Wage Order, Section 5(H)) shall apply, unless the agreement expressly provides otherwise.

Make Up Time

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 make up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in 1 day or 40 hours of work in 1 workweek.

Meal Periods

An employee must receive a thirty-minute meal period for every 5 hours of work. Pursuant to mutual consent by the employer and the employee: (1) an employee may waive a thirty-minute meal period if the day's work will be completed in no more than 6 hours; (2) an employee may waive the second of 2 thirty-minute meal periods when the day's work will be completed in no more than 12 hours and the first thirty-minute meal period was not waived.

Meals and Lodging

Meals or lodging may not be credited against the minimum wage without a voluntary written 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 what is listed in MW-98.

Reporting Time, Pay Records, Cash Shortages and Breakage, Uniforms and Equipment, Rest Periods and Seats

Please refer to the applicable wage order for instruction regarding these subjects.

Violations and Penalties

Any employer or any other person acting on behalf of the employer who violates or causes to be violated the provisions of the Interim Wage Order shall be subject to a civil penalty in addition to any other civil or criminal penalties provided by law. Questions about enforcement and reports of violations should be directed to the Division of Labor Standards Enforcement.

The Interim Wage Order shall be in effect as of March 1, 2000.

Questions about enforcement of the Interim Wage Order and reports of violations should be directed to the Division of Labor Standards Enforcement. Consult the white pages of your telephone directory under CALIFORNIA, State of, Industrial Relations for the address and telephone number of the office nearest you. The Division has offices in the following cities: Bakersfield, Eureka, Fresno, Long Beach, Los Angeles, Marysville, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa

1. APPLICABILITY OF ORDER

This Wage Order implements changes in the law as a result of the Legislature's enactment of the "Eight-Hour-Day Restoration and Workplace Flexibility Act," Stats. 1999, ch. 134 (commonly referred to as AB 60). Pursuant to that legislation, the Industrial Welfare Commission's Wage Orders 1 through 15, in effect in 1998, have been amended as set forth below.

Any industry or occupation not previously covered by, and all employees not specifically exempted in, the Commission's Wage Orders in effect in 1997, or otherwise exempted by law, are covered by this order. In particular, the following employee work activities are now covered by the provisions of this order: construction, including, but not limited to, alteration, demolition, building, renovation, remodeling, improvement and repair work as defined in the California Business and Professions Code Division 3, Chapter 9, Sections 7025 et seq.; drilling, including but not limited to, all work required to drill, establish, repair, and rework wells for the exploration or extraction of oil, gas, or water resources; logging work for which a timber operator's license is required pursuant to California Public Resources Code Sections 4571 through 4586; and, mining (not covered by Labor Code § 750 et seq.), including all work required to mine and/or establish pits, quarries, and surface or underground mines for the purposes of exploration or extraction of nonmetallic minerals, metallic ores, coal, and building materials such as stone and gravel.

Except for Section 10 below pertaining to penalties, this Order does not apply to any person employed in an agricultural occupation as defined in Wage Order 14-80, Section 2(C). Wage Orders 1-98, 4-98, 5-98, 7-98, and 9-98 are null and void. Wage Orders 1-89, 4-89 as amended in 1993, 5-89 as amended in 1993, 7-80, and 9-90 are reinstated, as modified herein, until the effective date of wage orders promulgated by the Commission pursuant to Labor Code § 517. The provisions of Wage Orders 2-80, 3-80, 6-80, 8-80, 10-89, 11-80, 12-80, 13-80, and 15-86 remain in full force and effect except to the extent that they are modified by this Order. However, pursuant to Labor Code § 515(b)(2) the alternative workweek schedules in effect in these wage orders shall remain operative until the effective date of wage orders promulgated by the Commission pursuant to Labor Code § 517.

2. DEFINITIONS

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

(B) "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 periods.

(C) An "alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period.

3. ADMINISTRATIVE, EXECUTIVE, AND PROFESSIONAL EMPLOYEES

Sections 4, 5, 7, 8 and 9 of this Order shall not apply to persons employed in administrative, executive, or professional capacities. However, no person shall be considered to be employed in an administrative, executive, or professional capacity unless the person is primarily engaged in the duties which meet the test of the exemption and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. Labor Code § 515(a) mandates that the Commission conducts a review of the duties which meet the test of the exemption and that any hearing conducted pursuant to that subsection be conducted no later than July 1, 2000. Until further order of the Commission, the duties which meet the tests of the exemption are one of the following set of conditions:

(A) The employee is engaged in work which is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment, or

(B) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting, or is engaged in an occupation commonly recognized as a learned or artistic profession; provided, however, that 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 subsection unless they individually meet the criteria established for exemption as executive or administrative employees.

(C) For the purposes of this section, "Full-time employment" means employment in which an employee is employed for forty (40) hours per week.

(D) For the purposes of this section, "primarily" means more than one-half (1/2) of the employee's work time.

4. DAILY OVERTIME - GENERAL PROVISIONS

The following overtime provisions are applicable to employees eighteen (18) years of age or over and to employees sixteen (16) or seventeen (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 forty (40) hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over forty (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 provided the employee is compensated for such overtime at not less than:

(A) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (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 twelve (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 salary.

5. ALTERNATIVE WORKWEEKS

(A) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to a voluntary written agreement proposed by the employer and ratified in a secret ballot election by at least a two-thirds (2/3) vote of the affected employees in the work unit before the performance of work, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a forty (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 twelve (12) hours a day or beyond forty (40) hours per week shall be paid at one and one-half (1 ½) times the employee's regular rate of pay. All work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. No hours paid at either one and one-half (1 ½) or double the regular rate of pay shall be included in determining when forty (40) hours have been worked for the purpose of computing overtime compensation. The regularly scheduled alternative workweek proposed by an employer for adoption by employees may be 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 from one menu option to another.

(B) 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 ½) 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 twelve (12) hours for the day the employee is required to work the reduced hours.

(C) 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.

(D) 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.

(E) 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 that election.

(F) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday 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.

(G) The results of any election conducted pursuant to this Section shall be reported by the employer to the Division of Labor Statistics and Research within thirty (30) days after the results are final.

(H) Any type of alternative workweek schedule that is authorized by the Labor Code and that was in effect on January 1, 2000, 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 (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

However, if an employee covered by Wage Orders 1, 4, 5, 7, or 9 was voluntarily working an alternative workweek schedule as of July 1, 1999, that was an individual agreement made after January 1, 1998 between the employee and employer, and that agreement provides for a workday of not more than ten (10) hours, that employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in that schedule if the employee submits, and the employer approves, a written request to do so. Such a written request and approval shall be made within ninety (90) days of the effective date of this Order. An employee may revoke his or her voluntary authorization to continue such a schedule with thirty (30) days written notice to the employer.

(I) The provisions of Labor Code §§ 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).

(J) Notwithstanding the above provisions regarding alternative workweek schedules, employees in the health care industry may continue to work days exceeding ten (10) hours but not more than twelve (12) hours without the payment of overtime compensation, as long as the employer and at least two-thirds (2/3) of the affected employees in a work unit agreed to this alternative workweek arrangement, in a secret ballot election held pursuant to Wage Orders 4 and 5 prior to 1998, and before the performance of work. Such alternative workweek schedules shall be valid until July 1, 2000, and/or until the effective date of a wage order promulgated by the Industrial Welfare Commission pursuant to Labor Code § 517, provided:

(1) An employee who works beyond twelve (12) hours in a workday shall be compensated at double the employee's regular rate of pay for all hours in excess of twelve (12);

(2) An employee who works in excess of forty (40) hours in a workweek shall be compensated at one and one-half (1 ½) times the employee's regular rate of pay for all hours over forty (40) hours in the workweek;

(3) 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 fourteen (14) days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. Failure to comply with this Section shall make the election null and void;

(4) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection;

(5) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to work the alternative workweek schedule established.

(6) For purposes of this subsection, affected employees 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 the criteria for an identifiable work unit in this subsection is met.

(K) An employer engaged in the operation of a ski establishment shall not be in violation of overtime provisions set forth in this order by instituting a regularly scheduled workweek of fifty-six (56) hours or less during any month of the year when Alpine or Nordic skiing activities are conducted, provided that any employee shall be compensated at a rate of not less than one and one-half (1 ½) times the employee's regular rate of pay for all work in excess of fifty-six (56) hours in any one (1) workweek. A ski establishment within the meaning of this Section is a geographically limited recreational area comprising basic skiing and related facilities. Such alternative workweek schedules shall be valid until July 1, 2000, unless the Industrial Welfare Commission extends that date.

(L) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek that includes no more than three (3) 12-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12-hour, 3-day alternative workweek schedule. Such alternative workweek schedules shall be valid until July 1, 2000, unless the Industrial Welfare Commission extends that date.

(M) Notwithstanding the above overtime provisions, stable employees as defined in Labor Code § 1182.10 who are involved in the raising, feeding and management of racehorses by a trainer, as defined in the Food and Agriculture Code § 24001, shall be subject to the same standards governing the wages, hours, and working conditions as established for employees in agricultural occupations engaged in the raising, feeding, and management of other livestock; provided that stable employees shall be paid an overtime rate of compensation of one and one-half (1 ½) times

the employee's regular rate of pay for all work in excess of ten (10) hours in any workday, or fifty-six (56) hours during seven (7) days in any workweek without the payment of overtime compensation. "Workday" and "workweek" have the same definition as in the Commission's wage order for agricultural occupations. A "regular rate of pay" does not include amounts excluded from regular pay by the Fair Labor Standards Act (29 U.S.C. § 207(E)), as well as payment of the stable employee's share, if any, of the purse of a race. This subsection is valid until July 1, 2000 unless the Industrial Welfare Commission extends that date.

(N) The minimum wage or maximum hour orders of the Commission shall not apply to employees licensed pursuant to the California Fish and Game Code §-7850 et seq., or employed on a commercial passenger fishing boat licensed pursuant to California Fish and Game Code § 7920 et seq. This exemption shall remain in effect until July 1, 2000, unless the Industrial Welfare Commission extends that date.

6. MINORS

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 §§ 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.

7. COLLECTIVE BARGAINING AGREEMENTS

(A) Sections 3, 4, 5, 8 and 9 of this Order shall not apply to any employee 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 thirty (30) percent more than the state minimum wage.

(B) Notwithstanding Section 7(A), 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 Section 5(H) above) shall apply, unless the agreement expressly provides otherwise.

8. MAKE UP TIME

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 make up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of eleven (11) hours of work in one (1) day or forty (40) hours of work in one (1) workweek. If an employee knows in advance that he or she will be requesting make up 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, however, that the make up 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 Section. While an employer may inform an employee of this make up time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same workweek pursuant to this Section.

9. MEAL PERIODS

(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 thirty (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 employer and employee.

(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 thirty (30) minutes, except that if the total hours worked is no more than twelve (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.

10. PENALTIES

In addition to any other civil or criminal penalty 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 a civil penalty of:

(A) Initial Violation - \$50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover underpaid wages.

(B) 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 underpaid wages.

(C) The affected employee shall receive payment of all wages recovered.

The Labor Commissioner may also issue citations pursuant to Labor Code § 1197.1 for payment of wages for overtime work in violation of this order.

11. 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.

12. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by employees where

it may easily be 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. For industries previously covered under wage orders, this Order shall be posted immediately adjacent to Wage Orders 1-89, 2-80, 3-80, 4-89 as amended in 1993, 5-89 as amended in 1993, 6-80, 7-80, 8-80, 9-90, 10-89, 11-80, 12-80, 13-80, and 15-86. Section 10 of this Order shall be posted immediately adjacent to Wage Order 14-80.

This Order becomes effective on March 1, 2000.