Protect Your Business—Prevent Penalties

Garment

Department of Industrial Relations
Labor Enforcement Task Force (LETF)

2017

As a garment manufacturer, you have an important responsibility. You earn a living and bring jobs to the community. When you understand and comply with labor laws, you protect the investment you have made, promote a positive image, and avoid paying penalties.

Through the Labor Enforcement Task Force (LETF), under the direction of the Department of Industrial Relations, California agencies work together to make sure employers are following labor, safety and health, licensing, and payroll tax laws. LETF can help you understand which laws apply to you and how to comply. LETF also inspects businesses and cites employers if violations are found.

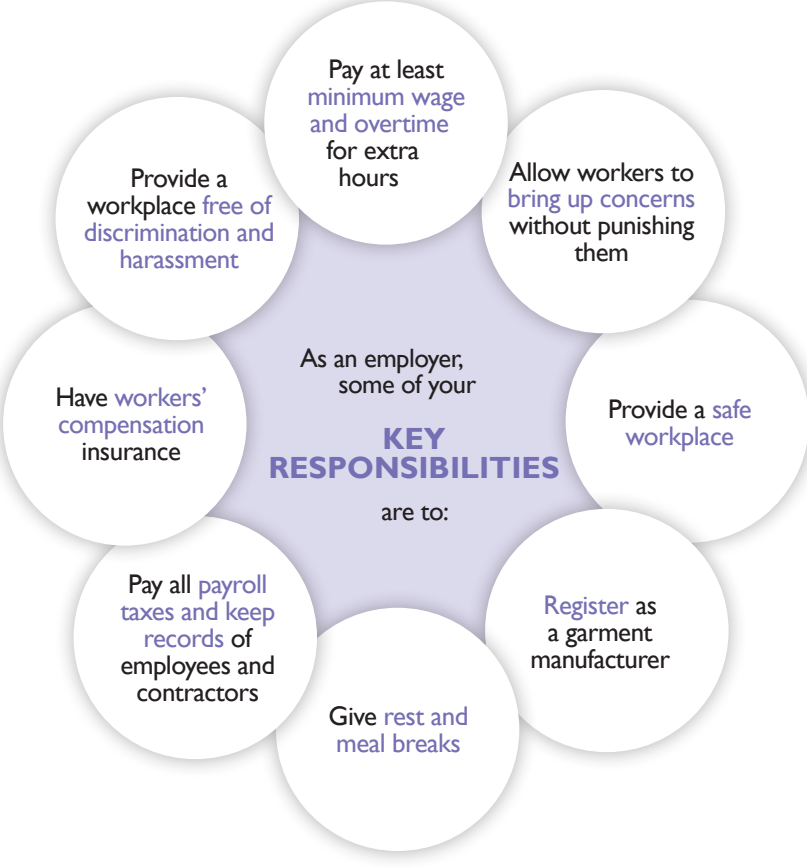
PENALTIES

***NOT* following the law will hurt your business.**

Here are some examples of the kinds of penalties you would owe your workers and state agencies.

IF YOU:	YOU WOULD OWE:
Misclassify employees as independent contractors	Fines of $5,000 to $25,000 per violation, plus unpaid payroll taxes
Fail to pay the minimum wage or overtime; fail to provide rest and meal breaks	All wages owed, plus penalties
Fail to provide a pay stub	$250 per employee each time they are paid
Violate health and safety rules	Up to $25,000 for each serious violation and a possible shutdown of operating equipment
Punish or retaliate against workers	All wages owed, a fine of up to $10,000 per employee, and workers get their jobs back
Fail to have workers' compensation insurance	At least $1,500 per employee, and no one can work until all workers are covered
Fail to register as a garment manufacturer	This is a misdemeanor. Fines of $100 per employee, and possible loss of inventory
TOTAL:	**NOT WORTH THE RISK!**

In some cases, criminal charges may be filed. You may serve up to 10 years in jail.


As an employer, some of your
KEY RESPONSIBILITIES
are to:
Pay at least minimum wage and overtime for extra hours
Allow workers to bring up concerns without punishing them
Provide a safe workplace
Register as a garment manufacturer
Give rest and meal breaks
Pay all payroll taxes and keep records of employees and contractors
Have workers' compensation insurance
Provide a workplace free of discrimination and harassment

Garment manufacturer fined more than $30,000

The Labor Enforcement Task Force inspected a garment shop in Los Angeles and found many problems. Cal/OSHA, the state workplace safety and health agency, issued $27,000 in fines and ordered the manufacturer to stop work because the cloth-cutting equipment did not have proper safety guards and could have caused serious injury. The state Labor Commissioner's office reviewed payroll records and cited the employer more than $3,000 for violating the garment registration law.

Note: This example reflects a typical scenario.

In 2015, garment manufacturers inspected by LETF were assessed nearly $700,000 in initial penalties. This brochure describes some of the common problems LETF inspectors find in garment shops. It also lists where you can get help.

Problems LETF finds in garment shops

Garment Registration

Garment shops are often cited for:

1 Not being registered. Manufacturers, as well as contractors and subcontractors, must register with the Labor Commissioner.

Employee Hiring

Garment manufacturers are often cited for:

1 Misclassifying employees as independent contractors.

If you are the one who controls *how* someone does the work and *when* that work is done, then it is likely that person is legally your employee. State agencies won't care if you gave someone a 1099 form or that an employee agreed to work as an independent contractor.

2 Not keeping all required records.

You must keep records of all your employees for the past four years. This should include name, address, job type, and last four digits of the Social Security number. For minors under 18, you must list their date of birth. Be sure to keep records of piece rates and hours worked.

Wages and Breaks

Garment manufacturers are often cited for:

1 Not paying workers the wages they are owed.

- You must pay at least minimum wage for all hours worked. If the city where you are working or the federal government has a higher minimum wage than the state, then you must pay whichever of those rates is the highest.

- You must pay overtime (1½ times the regular rate of pay) and double-time (twice the regular rate of pay) according to the rules stated in Industrial Wage Commission Order No. 1-2001 and/or No. 6-2001 (which must be posted at your workplace where employees can read it easily).

2 Not allowing rest or meal breaks.

Workers must receive:

- A paid 10-minute rest break for every 4 hours of work.
- An unpaid meal break of at least 30 minutes if they work 5 hours or more. (An employee can agree to skip meal breaks if the workday is 6 hours or less.)

3 Paying a piece rate or other nonhourly rate that does not meet minimum-wage requirements (including any required overtime) or does not separately compensate workers for required breaks and other nonproductive time.

4 Not giving pay stubs or not paying payroll tax.

You must give out pay stubs, list the deductions, and pay payroll tax. For each pay period, keep records of work hours and amounts paid to each worker.

Visit: www.dir.ca.gov/dlse/DLSE-FAQs.htm for more information on all the items that must be included in a wage stub.

Health and Safety

Garment manufacturers are often cited for:

1 Not complying with the following regulations:

- § 4475. Using safe commercial sewing machines, with proper guarding
- § 461 (a). Operating an air tank with a permit
- § 3363 (a). Provide potable water for drinking and washing
- § 3203 (a). Establish an Injury and Illness Prevention Program
- § 5194 (e). Establish a written Hazard Communication Program
- § 1509 (b). Adopt a written Code of Safe Practices which relate to the employer's operations
- § 3203 (b). Keep records of employee safety and health trainings, and scheduled inspections by the employer to identify unsafe conditions and work practices

- § 6151 (c). Ensure portable fire extinguishers are available and accessible
- § 3400 (c). Make first-aid materials readily available for employees on the job site

Many hazards have specific regulations that describe what an employer must do to protect workers. These are called Title 8 Safety Orders, such as those listed above, and you can find them here: www.dir.ca.gov/samples/search/query.htm.

If you have Health and Safety questions, please refer to "Code of Regulations, Title 8" and/or contact your nearest Cal/OSHA Consultation Office.

2 Not providing the equipment, tools or protective clothing that workers need to work safely.

3 Lacking a proper safety plan (Injury and Illness Prevention Program or IIPP).

You must have a written plan to identify hazards and protect workers. You must also have a way for workers to make suggestions without threat of being fired or punished.

Other employer-required programs:

- Hazard communication
- Energy Control Program
- Emergency Fire Procedures

4 Poor records of training.

Safety training must be in a language that workers understand. Keep records that include date, type of training, name of trainer, and names of workers who attended. You must pay workers for the time they spend in training.

5 Not having a first-aid kit.

6 Not having workers' compensation insurance or not insuring all employees.

All businesses must have this insurance to provide medical care and other benefits if a worker is injured. As soon as you hear about a possible job injury, you must give the injured worker a claim form and the name of your insurance company.

Stay up to date with new labor laws

Below are some resources to help you stay updated and comply with important recent changes to labor laws:

- **Paid Sick Leave**. Employers must do several things to comply with the Healthy Workplace Health Family Act; visit www.dir.ca.gov/DLSE/ab1522.html.
- **Minimum Wage**. As of January 1, 2017, the minimum wage in California is $10.50 per hour for employers with 26 or more employees and $10.00 per hour for employers with 25 employees or less. Some localities (cities and counties) have enacted higher minimum wage rates. For more details, visit www.dir.ca.gov/dlse/faq_minimumwage.htm.
- **Piece-Rate Compensation**. Effective January 1, 2016, AB 1513 adds section 226.2 to the Labor Code concerning how to compensate piece-rate workers for required breaks and other nonproductive time. Visit www.dir.ca.gov/pieceratebackpayelection/AB_1513_FAQs.htm.

Retaliation is illegal

Employers can be required to reinstate fired employees, pay employees' lost wages, and pay fines up to $10,000 per employee if they punish or fire workers for:

- **Speaking up** about wages that are owed to them
- **Reporting** an injury or a health and safety hazard
- **Filing** a claim or complaint with a government agency.

It is illegal for employers to threaten or retaliate against workers in any way.

For example, employers cannot:

- **Threaten** workers with deportation
- **Punish** workers with undesirable tasks
- **Fire** workers or send them home
- **Prevent** workers from getting a different job.

You do not have to agree with the workers. If you are complying with labor laws, you do not have to make the changes that are being requested. But everyone benefits when workers feel safe enough to bring up concerns. Listen to your employees and involve them in coming up with solutions that work for everyone.

Where to Get Help

There are resources that can help you understand which laws apply to you and how to comply.

LETF

Call the Labor Enforcement Task Force (LETF) toll free at **855-297-5322** or go to **www.dir.ca.gov/letf**.

Through LETF, California agencies work together to target businesses that are not following labor laws and other business requirements. LETF aims to make sure that workers are paid their full wages, workplaces are safe, and employers are complying with labor and payroll tax laws.

LETF agencies include:

Department of Industrial Relations

- Labor Commissioner (DLSE)
- Cal/OSHA

Employment Development Department (EDD)

Contractors State License Board (CSLB)

Board of Equalization (BOE)

Bureau of Automotive Repair (BAR)

Alcohol Beverage Control (ABC)

California Department of Insurance (CDI)

State Attorney General (DOJ)

and other state, federal and local agencies.

Cal/OSHA

Call Cal/OSHA Consultation at **800-963-9424** or go to **www.dir.ca.gov/dosh/consultation.html**.

Consultation Services provides free health and safety consultation to employers. Consultation Services is separate from the Cal/OSHA Enforcement Branch. All your communications with Consultation Services are confidential.

- To improve your safety plan, Cal/OSHA offers a template for a "high hazard" Injury and Illness Prevention Program.
- Go to www.dir.ca.gov/samples/search/query.htm to find regulations about specific hazards (Title 8 standards).

Other sources of help

- Garment Manufacturers' Associations
- Small Business Development Centers
- Your workers' compensation insurance broker can offer assistance, including help with developing a safety plan.
- The Governor's Office of Business and Economic Development (GO-Biz): www.business.ca.gov

This booklet provides general information and is not meant to serve as legal advice. It was developed by the Department of Industrial Relations and its Labor Enforcement Task Force with assistance from the Labor Occupational Health Program at UC Berkeley.

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