STATE OF CALIFORNIA

GRAY DAVIS, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
LEGAL SECTION
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
03-4863

MILES E. LOCKER Chief Counsel

January 19, 2000

Daniel A. McDaniel
NOMELLINI, GRILLI & McDANIEL
355 E. Webber Avenue
Stockton, CA 95201

Re: AB-60 Overtime Requirements; No Pyramiding of Overtime Hours

Dear Mr. McDaniel:

This letter is written in response to your letter, dated December 10, 1999, addressed to State Labor Commissioner Marcy Saunders, regarding overtime calculation under AB 60, California's new overtime law.

Your letter poses a question about calculating overtime for an employee who works 10 hours per day, five days in a work week, for a total of 50 hours in that work week. Your assessment of the overtime due is correct, such an employee would be due 10 hours of overtime, payable at one and one half times the employee's regular rate of pay. On each work day, the employee is entitled to two hours of daily overtime pay, and these daily overtime hours would not be counted for the purpose of any other overtime payment, such as weekly overtime hours.

How overtime hours are calculated can also be illustrated in a situation where an employee works, for example, 9 hours Monday through Thursday, and 4 hours on Friday. While the total hours worked in the workweek is 40, overtime on a daily basis would be due because one hour in excess of 8 was worked on 4 days in the workweek for a total of 4 hours due. Conversely, if an employee works 6 days in a workweek, a total of 7 hours each day, the employee would not be due any daily overtime because the hours worked in any one day do not exceed 8, but, the total hours in the workweek would equal 42, and 2 hours of overtime, on a weekly basis would have to be paid.

Very Truly Yours,

MILES E. LOCKER
Chief Counsel

cc: Assemblymember Mike Machado
Marcy Saunders
Rich Clark
All Assistant Chiefs

2000.01.19