



## Required Workplace Posting for All California Barbering and Cosmetology Licensees

In California, all workers are protected by labor laws. You have the right to be treated fairly at your workplace no matter where you were born or whether you have papers to work. The Labor Commissioner's Office is the state agency that enforces minimum labor standards to ensure you are not required to work under substandard, unlawful conditions. You may file a claim regardless of your immigration status and do not need a Social Security number or photo identification in order to file a claim or report a violation. You do not need a lawyer to file a wage claim and the Labor Commissioner's Office will provide an interpreter in your language.

### **Misclassification of an employee as an independent contractor**

A worker that is considered an "employee" as opposed to an "independent contractor" (sometimes referred to as a "10-99 worker") is entitled to many workplace protections under State labor laws.

A person is an "employee" if the conditions of work show an employment relationship applying special definitions stated in the law. **Employees** must be paid minimum wage, allowed meal and rest breaks, able to earn overtime and are entitled to sick leave, among other rights and protections. There is a general presumption that a person who performs services for a business is an employee.

A person who qualifies as an employee may be improperly treated as an independent contractor. Simply calling a worker an independent contractor does not make them one and an employee who is misclassified as an independent contractor is subject to the rights and protections of an employee. An employer may be responsible for owed wages, interest, damages, and may be subject to penalties due to the misclassified employee.

Generally speaking, the more control an employer has over how the employee works such as determining their rate of pay, their price list, what hours they work and when they work, or control other general working conditions, the more likely the worker is an employee and not an independent contractor.

### **Minimum wage, overtime compensation, meal periods, and rest periods**

As of January 1, 2017 the minimum wage for employers with 25 or fewer employees is \$10.00 an hour and \$10.50 an hour for employers with 26 or more employees. If you are paid by piece rate, per hour, by commission, or paid by the day, your wages still have to equal at least minimum wage for all the hours you

worked. The minimum wage will increase on January 1 of each year for the next several years.

### **Employers must pay overtime**

Most workers in California must receive overtime pay of:

- 1.5 times the regular rate of pay for all hours worked over 8 a day.
- Double the regular pay for all hours worked over 12 a day.

If a worker works seven days in a workweek, the worker must be paid:

- 1.5 times the regular rate of pay for the first 8 hours on the seventh day, and
- Double the regular rate of pay for all hours worked over 8 hours on the seventh day.

### **Meals and rest breaks**

Your employer must allow you to take a break for meals and rest. Most workers in California must receive an uninterrupted and duty free 30-minute unpaid meal period for every 5 hours worked. Also, a paid 10-minute rest period for every 4 hours worked. You may be entitled to a rest break even if you work less than 4 hours. An employer who fails to provide a duty-free meal period or rest break must pay an amount of one hour's pay for each day that a meal or rest period is not provided.

### **Tip or gratuity distribution**

- If a customer offers you a tip your employer cannot take any portion of it.
- If a tip pooling policy exists at the business and more than one worker assists a customer but the customer only tips one worker, that worker may be required to share that tip with the other worker if the policy requires it.
- All tips received by workers must be in addition to wages. Your employer cannot count your tips towards your hourly wage or your commission.
- Any tips paid on a credit card must be paid to you by the following pay day.
- Your employer cannot deduct any fees or charges from tips paid for by a credit card.

### **Business expense reimbursement**

An employee is entitled to reimbursement for all expenses or losses incurred by the worker in the course of performing their job. For example, an employer cannot require an employee to buy certain tools, including instruments or a uniform, unless the employer pays for the tools or uniform.

### **Protection from retaliation**

It is illegal for employers to retaliate against workers. Your boss cannot take any action to discipline, demote, punish, adversely change your working conditions, or fire you or your co-workers for reporting a labor law violation, a work-related injury,

a workplace safety hazard or exercising a right that is protected under State labor laws.

**How to report violations of the law**

If you wish to file a wage claim, report a labor law violation, complaint for retaliation, or if you have a question, you may contact the Labor Commissioner's office. You can find office locations and phone numbers at [www.dir.ca.gov/dlse](http://www.dir.ca.gov/dlse) or call 866-924-9757.

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