

New York Employers Must Issue First Annual Wage Theft Prevention Act Notice in January 2012

By Felice B. Ekelman, Jeffrey W. Brecher, Richard I. Greenberg, Jonathan M. Kozak, Noel P. Tripp and Craig S. Roberts

December 8, 2011

New York's landmark Wage Theft Prevention Act requires employers to issue to *all* New York employees an annual notice complying with the requirements of New York Labor Law § 195 (as amended by the Act). The statute became effective in April 2011 and the first annual notice must be provided prior to February 1, 2012. The notice obligations are discussed in our article, [New York Wage Theft Prevention Act Update: State DOL Issues Model Forms and Guidance](#). Notice can be provided electronically as long as certain requirements are met.

While the law does not dictate the form of notice, the New York State Department of Labor has provided [sample forms](#). In addition to English, the NYSDOL has provided sample forms in other languages, consistent with the requirement that the notice be provided in English and in the employee's "primary language." Failure to provide the annual notice constitutes a violation the Wage Theft Act (Section 198(1-b)) and can carry a penalty of "fifty dollars for each work week that the violations occurred or continue to occur," among other potential remedies.

Large employers, and employers with a large virtual or remote segment in their workforce, have been wrestling with creating a compliant notice program under the Act. The absence of clear guidance regarding certain provisions and requirements makes this task more difficult.

And for employers who also have operations in California, the state has adopted a law nearly identical to New York's. The California Wage Theft Prevention Act, effective January 1, 2012, increases the penalties available under existing provisions of the California Labor Code, and adds a detailed notice requirement to employees, echoing the requirements imposed on New York employers by N.Y. Labor Law § 195. For more information on the California Wage Theft Prevention Act, see [California Enacts Eerily Familiar "Wage Theft Prevention Act"](#).

Jackson Lewis attorneys are available to assist employers with their compliance efforts.

©2011 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.

Meet the Authors



[Felice B. Ekelman](#)

Principal
New York Metro
New York City
212-545-4005
Email



[Jeffrey W. Brecher](#)

Principal
New York Metro
Long Island
631-247-4652
Email



[Richard I. Greenberg](#)

Principal
New York Metro
New York City
212-545-4080
Email



Jonathan M. Kozak

Principal
New York Metro
White Plains
914-872-6885
Email



Noel P. Tripp

Principal
New York Metro
Long Island
631-247-4661
Email



Craig S. Roberts

Principal
New York Metro
Long Island
631-247-4616
Email

Practices

Wage and Hour