

LEGAL UPDATES

PUBLISHED: FEBRUARY 4, 2020

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Colorado Overtime and Minimum Pay Standards Order

The Colorado Division of Labor and Employment recently adopted a far-reaching change to Colorado regulations governing wage and hour standards. Effective March 16, 2020, the 2020 Overtime and Minimum Pay Standards Order (“COMPS Order”) supersedes previous wage orders that had a more limited impact on Colorado employers. The changes are detailed in 15-pages of regulations that all employers should be aware of, as they touch on everything from the length of the workday to meal and rest breaks, record-keeping, and employee handbooks. The biggest changes deserve special mention.

First, unlike previous wage orders that applied to four broadly (and vaguely) defined industries, the COMPS Order applies to all employers with only limited exceptions. Employers should assume they are covered unless specifically exempted by the COMPS Order.

Second, Colorado state law provides more robust coverage than current federal overtime law. In order to be exempt from overtime requirements, Colorado employees must now meet a rising minimum salary threshold that exceeds the federal threshold:

\$40,500 on Jan. 1, 2021

\$45,000 on Jan. 1, 2022

\$50,000 on Jan. 1, 2023

\$55,000 on Jan. 1, 2024

Starting in 2025, the threshold will be adjusted by the same consumer price index as the Colorado minimum wage each year on January 1. This impact will also be significant because non-exempt Colorado employees are entitled to

overtime for workdays in excess of 12 hours, which is not a requirement under federal law.

The COMPS Order all but eliminates the *de minimis* defense that employers have frequently cited for donning and doffing requirements. Now under Colorado law, any task lasting more than a minute must be compensated.

Several provisions of the COMPS Order remain the same, albeit applicable to a broader set of employees. Colorado law entitles non-exempt employees to at least a 30 minute meal break when the employee's shift exceeds five consecutive hours. Employers must relieve employees of all duties and allow them to engage in personal activities during this time to qualify as a meal break.

As before, employees have a right to paid rest periods of 10 minutes for each four hours worked. Under the COMPS Order, when an employee is not permitted a required 10 minute rest period, the employee's shift is effectively extended. By failing to authorize and permit a required rest period, an employer will also have failed to pay the employee for 10 minutes of work, thus giving rise to a wage claim.

Employers must display the COMPS Order or poster published by the Division in an area frequented by employees. An employer with employees who have limited English language ability must display either a Spanish-language version of the COMPS Order or poster (if its employees speak Spanish) or request that the Division provide it in the needed language. Employers with handbooks or written or posted policies must include a copy of the COMPS order and obtain written acknowledgment of receipt from its employees.

Contact us

If you have questions about the new overtime and minimum pay standards, contact Barbara Grandjean, Chris Ottele, Sonia Anderson or your Husch Blackwell attorney.