

New Commission Agreements Law Requires Review of Pay Plans

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A California law enacted in 2011 requires that by January 1 of this year, whenever an employer enters into a contract of employment with an employee who is paid on a commission, the contract must be in writing and must set forth the method by which the commission shall be computed and paid. The new law, A.B. 1396, further requires that the employer give a signed copy of the commission agreement to the employee and obtain a signed receipt for it as well.

This law applies to dealership pay plans for commission-paid employees and its impact is likely to be greater than merely requiring that dealers obtain signed receipts for pay plans. Plaintiffs' attorneys may soon focus on dealerships as potential targets for class action or Private Attorney General Act (PAGA) lawsuits for failing to have pay plans that comply with this law. Such scrutiny will not end at whether pay plans are compliant with A.B. 1396, however. Pay plans will additionally be reviewed for non-compliance with overtime and other wage and hour laws.

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Attachments

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