



"Wage Theft" Regulation Comes to New Hampshire

Insights

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Do you have employees in New Hampshire? If so, you should be aware of revised state requirements now in effect regarding how and when you must notify employees about various compensation practices and policies, such as changes in salary or hourly wage, sick leave, vacation time, and more.

These revisions do not expressly refer to "wage theft", but they create employer obligations similar to those in some of the laws so labeled that have recently taken effect in other states.

What Are The Requirements?

Employers must now maintain on file copies of certain written notifications that are provided to and signed by the employee. The notifications include these:

- Every employer shall, at the time of hiring and prior to any changes, notify employees in writing as to the rate of pay or salary, whether by daily, weekly, bi-weekly, semi-monthly, or yearly, or by commissions, as well as the day and place of payment and the specific methods used to determine wages due pursuant to NH Rev. Stat. § 275:49. (N.H. Code Admin. R. Lab 803.03(a))
- Every employer shall provide employees with a written or posted detailed description of employment practices and policies as they pertain to paid vacations, holidays, sick leave, bonuses, severance pay, personal days, payment of the employee's expenses, pensions, and all other fringe benefits pursuant to NH Rev. Stat. § 275:49. (N.H. Code Admin. R. Lab 803.03(b))
- Every employer shall inform its employees in writing of any change to such rates of pay, salary, or employment practices or policies as referred to above and prior to the effective date of such change. (N.H. Code Admin. R. Lab 803.03 (c))

The New Hampshire Department of Labor's regulations did not previously include an obligation to give a written notification or to keep a signed copy on file, but officials routinely enforced them as if they did. Now, this previously "unwritten rule" is clearly included in the regulations, providing express authority for the requirements.

The Bottom Line

Employers should be sure that they are complying with these obligations. Those who do not risk civil litigation or fines from NHDOL.

Violations can lead to a private right of action, and courts can award reasonable attorneys' fees to successful plaintiffs. Also, either NHDOL or an employee can pursue an administrative wage claim up to 36 months from the date wages were due under state law. Furthermore, NHDOL can fine an employer up to \$2,500 for violations of any of the provisions of the Labor Code.