



WAGE & HOUR

While Entertainment Partners is providing this documentation solely as informational material, for any advice, interpretation or application of law, you should contact your own Labor Counsel to be sure to comply with California Labor Law and Federal Wage and Hour Law.

NOTES:

The California minimum wage increased to \$8.00 effective 1/1/2008. The following rules and conditions apply to CALIFORNIA only. When preparing budgets for local hires in other states, please check to be sure you have the applicable minimum wage and working conditions in those states.

The Internet version of this Industrial Welfare Commission Order may be posted as is required at places of employment. To obtain the official printed Order, you may call 415-703-5070 and it will be mailed to you free of charge. You may also request copies by writing to the Department of Industrial Relations, Public Information Office, P.O. Box 420603, San Francisco, CA 94142-0603. www.dir.ca.gov

WAGES, HOURS, AND WORKING CONDITIONS IN THE MOTION PICTURE INDUSTRY

Effective 1/1/2001 As Amended

(Updated as of January 1, 2007)

HOURS AND DAYS OF WORK

(A) Daily Overtime – General Provisions

(1) The following overtime provisions are applicable to employees eighteen (18) years of age or over and to employees sixteen (16) or seventeen (17) years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the employee receives one and one-half (1-1/2) times such employee's regular rate of pay for all hours worked over forty (40) hours the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime as follows:

- (a) Employees may be employed up to a maximum of sixteen (16) hours including meal periods in any one day from the time they are required and do report until dismissed, provided the employee is compensated for such overtime at not less than:
 - (1) For daily employees and weekly employees, excluding weekly employees guaranteed more than forty (40) hours a workweek and "on call" employees, one and one-half (1-1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any one workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and
 - (2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday, and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.
 - (3) Overtime payments shall not be compounded and all payments made by the employer for daily overtime on the basis herein above specified shall be applied toward any sum for weekly overtime.



- (4) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

HOURS AND DAYS OF WORK – Cont'd.

(D) Extra players employed in excess of eight (8) hours in any workday from the time the extra player is required and does report until dismissed, shall be paid daily overtime compensation as follows:

- (1) One and one-half (1-1/2) times the extra player's rate of pay for the ninth (9th) and tenth (10th) work hours of employment and not less than double the extra player's rate of pay for all hours worked thereafter, computed in units of one-tenth (1/10) hours.
- (2) Weekly Overtime. The total sum paid to an extra player who works more than forty (40) hours in such workweek for a particular employer shall be the extra player's regular hourly rate of pay times forty (40), plus one and one-half (1-1/2) times such regular hourly rate of pay for all hours worked in excess of forty (40) during such workweek. The regular hourly rate shall be determined by dividing the amount of weekly salary by the number of regular hours in a workweek.
- (3) An extra player employed by the week shall receive payment of daily overtime for all hours or fractions thereof worked beyond eight (8) hours in any workday on which such daily overtime occurs as provided above, provided that overtime payments shall not be compounded and all payments made by the employer for daily overtime on the basis herein above specified shall be applied toward any sum due for weekly overtime.

(E) One and one-half (1-1/2) times a minor's regular rate of pay shall be paid for all hours worked on the sixth (6th) consecutive workday except that minors sixteen (16) and seventeen (17) years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsections (A), (B), (C) or (D) above.

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from \$500 to \$10,000 as well as to criminal penalties provided herein. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits.)

(F) No employee shall be required to report to work unless ten (10) hours have elapsed since the termination of the previous day's employment.

(G) Hot meals and hot drinks shall be provided for employees who are required to work after 12 o'clock midnight, except off-production employees regularly scheduled to work after midnight.

(H) When employees are required to work at night and are not dismissed in time to permit their return to their homes by public service transportation, transportation shall be provided by the employer.

(I) The provisions of Labor Code §§ 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(J) Except as provided in subsections (E) and (I), this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and the if agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than thirty (30) percent more than the state minimum wage.



- (K) Notwithstanding subsection (I) above, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one (1) day's rest in (7) (see subsection (I) above) shall apply, unless the agreement expressly provides otherwise.

HOURS AND DAYS OF WORK - Cont.

- (L) If an employer approves a written request of an employee to make-up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that make-up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of overtime requirements, except for hours in excess of eleven (11) hours of work in one (1) day or forty (40) hours of work in one (1) workweek. If an employee knows in advance that he or she will be requesting make-up time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make-up work time for up to four (4) weeks in advance; provided, however, that the make-up work must be performed the same week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make-up time pursuant to this subsection. While an employer may inform an employee of this make-up time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make-up the work hours within the same work week pursuant to this subsection.

MINIMUM WAGES

- (A) Every employer shall pay to each employee wages not less than eight dollars (\$8.00) per hour for all hours worked effective January 1, 2008, except:
- (1) LEARNERS. Employees, during their first one hundred and sixty (160) hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than eighty-five percent (85%) of the minimum wage rounded to the nearest nickel.
- (B) Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.
- (C) When an employee works a split shift, one hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.
- (D) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

REPORTING TIME PAY

- (A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work but in no event for less than two (2) hours nor more than four (4) hours at the regular rate of pay, which shall not be less than the minimum wage.
- (B) If an employee is required to report to work for a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay, which shall not be less than the minimum wage.
- (C) The foregoing reporting time pay provisions are not applicable when:



- (1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or
 - (2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or
 - (3) The interruption of work is caused by an Act of God or other cause not within the employer's control.
- (D) This section shall not apply to an employee on paid standby status who is called to perform assigned work at a time other than the employee's schedule reporting time.

RECORDS

(A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item; (5) gross wages earned; (6) total hours worked, except exempt employees; and (7) all applicable hourly rates in effect during the pay period and corresponding number of hours at each hourly rate.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

(D) Clocks shall be provided in all major work areas or within reasonable distance thereto insofar as practicable.

CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.

UNIFORMS AND EQUIPMENT



(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term "uniform" includes wearing apparel accessories of distinctive design or color.

NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

UNIFORMS AND EQUIPMENT – Cont'd.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

MEALS AND LODGING

(A) "**Meal**" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

"**Lodging**" means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(B) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

	Effective Date	January 1, 2008
Meals:		
Breakfast		\$2.90
Lunch		\$3.97
Dinner		\$5.34
3 meals per day		\$12.21
Lodging:		
Rooms occupied alone		\$37.63/wk.
Rooms shared		\$31.06/wk.
Apartment two-thirds (2/3) of the ordinary rental value, and in no event more than		\$451.89/mo.
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than		\$668.46/mo.



- (C) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received nor lodging not used.
- (D) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

MEAL PERIODS

- (A) No employer shall employ any person for a work period of more than six (6) hours without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal periods for all employees shall be called not later than 6 hours after the termination of the preceding meal period.
- (B) Unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (C) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, employer shall pay employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.
- (D) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

REST PERIODS

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3-1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.
- (C) Swimmers, dancers, skaters and other performers engaged in strenuous physical activities shall have additional interim rest periods during periods of actual rehearsal or shooting.

CHANGE ROOM AND RESTING FACILITIES

(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.



SEATS

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

PENALTIES

(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:

- (1) Initial Violation - \$50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.
- (2) Subsequent Violations - \$100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.
- (3) The affected employee shall receive payment of all wages recovered.

(B) The Labor Commissioner may also issue citations pursuant to Labor Code 1197.1 for payment of wages for overtime work in violation of this order.

LAYOFF PAYMENT REQUIREMENTS Section 201.5 of the California State Labor Code

§ 201.5. Payment of wages for employees laid off or discharged from production of motion pictures

(a) For purposes of this section, the following definitions apply:

(1) "An employee engaged in the production or broadcasting of motion pictures" means an employee to whom both of the following apply:

(A) The employee's job duties relate to or support the production or broadcasting of motion pictures or the facilities or equipment used in the production or broadcasting of motion pictures.

(B) The employee is hired for a period of limited duration to render services relating to or supporting a particular motion picture production or broadcasting project, or is hired on the basis of one or more daily or weekly calls.

(2) "Daily or weekly call" means an employment that, by its terms, will expire at the conclusion of one day or one week, unless renewed.

(3) "Next regular payday" means the day designated by the employer, pursuant to Section 204, for payment of wages earned during the payroll period in which the termination occurs.

(4) "Production or broadcasting of motion pictures" means the development, creation, presentation, or broadcasting of theatrical or televised motion pictures, television programs, commercial advertisements, music videos, or any other moving images, including, but not limited to, productions made for entertainment, commercial, religious, or educational purposes, whether these productions are presented by means of film, tape, live broadcast,



cable, satellite transmission, Web cast, or any other technology that is now in use or may be adopted in the future.

(b) An employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of the termination by the next regular payday.

(c) The payment of wages to employees covered by this section may be mailed to the employee or made available to the employee at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee's wages are mailed to the employee or made available to the employee at the location specified by the employer, whichever is earlier.

(d) For purposes of this section, an employment terminates when the employment relationship ends, whether by discharge, lay off, resignation, completion of employment for a specified term, or otherwise.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement from establishing alternative provisions for final payment of wages to employees covered by this section if those provisions do not exceed the time limitation established in Section 204.

Added Stats 2006 ch 824 § 2 (AB 3051), effective January 1, 2007.