

Department of Labor Announces Initiative to Monitor Warehouse and Logistics Worker Pay

This month the United States Department of Labor (DOL) issued a press release announcing its Warehouse and Logistics Worker Initiative (Initiative). See <https://www.dol.gov/newsroom/releases/whd/whd20220208-1>. The purpose of the Initiative is to increase the DOL's scrutiny of the warehouse and logistics industry's practices. Specifically, the Initiative is focused on ensuring that workers:

- Receive all legally earned wages, including minimum wage and overtime pay;
- Work in an environment safe from harassment and retaliation; and
- Are not prevented from taking legally protected leave.

Another goal of the Initiative is to target misclassification of employees as independent contractors. The DOL plans to use outreach, education, and "vigorous enforcement" to increase compliance and reduce violations. The press release also included a link to Fact Sheet #10: Wholesale and Warehouse Industries Under the Fair Labor Standards Act (FLSA). See <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs10.pdf>. This fact sheet flags typical compliance problems the DOL notices during investigations in the wholesale and warehouse industry such as:

- Misapplying the executive or administrative exemptions to non-exempt persons, such as clerical workers, working foremen, dispatchers, and inside salespersons;
- Employing underage minors;
- Not providing overtime for non-exempt, salaried employees;
- Failing to maintain time records; and
- Providing compensatory time off in lieu of overtime pay.

The Initiative demonstrates that the COVID-19 pandemic has caused increased government attention to wage and hour practices in warehouses. State governments have also increased their oversight. For example, California's Assembly Bill 701, which prevents employers from enforcing quotas that prevent workers from receiving required meal and rest periods, became effective on January 1, 2022. In light of the DOL's plan to increase enforcement and heightened attention on the industry, employers in the warehouse and logistics industry should take a close look at their practices to ensure compliance and reach out to experienced counsel with any questions.

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