

California Exposition & State Fair Vendors and Exhibitors Labor Law Frequently Asked Questions (FAQs)

California employers are required to comply with various labor laws that are enforced by the Department of Industrial Relations, Division of Labor Standards Enforcement (DIR/DLSE). Here are some Frequently Asked Questions (FAQs) to help you understand how to meet the legal requirements contained in the California Labor Code. Further information is available at www.dir.ca.gov/dlse.

Q. Do I have to have Workers' Compensation Insurance?

A. Yes, every California employer using employee labor, **including family members**, must purchase Workers' Compensation Insurance (Labor Code Section 3700). If you fail to have Workers' Compensation Insurance for your employees, it can be expensive as the DLSE is required to issue and serve a stop order/penalty assessment prohibiting further use of employee labor until you do purchase Workers' Compensation Insurance. The penalty assessed for failure to have Workers' Compensation Insurance is \$1000 per employee employed at the time the citation is issued. However, there are exceptions for partnerships, if the only persons performing labor are the partners and corporations where the corporate officers are the sole shareholders. In that case, the corporation, officers and directors come under the Workers' Compensation provisions only by election.

Q. My niece helps in my booth for a few hours a day, but I don't consider her an employee. Is that correct?

A. No, under the labor law she is considered an employee. An employee is defined as someone you engage or permit to work. Even though your niece is part of your family, she is considered an employee and you, as the employer, must provide Workers' Compensation Insurance to cover her in case of a work-related injury. In addition, you are also required to pay the minimum wage unless the employee is your spouse, parent or child and you are a sole proprietor or partnership. Corporations do not have children and therefore, no family relationship to the officers of the corporation can be exempt from these requirements.

Q. What is the current state minimum wage in California?

A. As of January 1, 2008, the state minimum wage is \$8 per hour.

Q. I employ persons classified as independent contractors. What obligations do I have to purchase Workers' Compensation Insurance or comply with other labor laws?

A. Employers often improperly classify their employees as independent contractors to avoid paying payroll taxes, minimum wage or overtime, or complying with other wage and hour requirements such as providing meal periods and rest breaks, etc. Additionally, employers do not have to cover independent contractors under Workers' Compensation Insurance. However, because potential liabilities and penalties are significant it is important that each working relationship be thoroughly researched and analyzed before classifying an individual as an independent contractor and not an employee. You should understand that the DLSE presumes that the worker is an employee ([Labor Code Section 3357](http://www.dir.ca.gov/dlse/LaborCodeSection3357)). However, the actual determination of whether a worker is an employee or independent contractor depends upon a number of factors which must be considered. Consequently, it is necessary to closely examine the facts of each relationship and then apply the law to those facts. The most significant factor to be considered is whether the person to whom service is rendered (the employer or principal) has control or the right to control the worker, the work to be done and the manner and means in which it is performed. For further information on this subject, please visit the DLSE website at www.dir.ca.gov/dlse/FAQ_IndependentContractor.htm

Q. How often must I pay my employees?

A. Wages are due and payable twice during each calendar month on days designated in advance by the employer as regular pay days (Labor Code Section 204). Work performed between the 1st and 15th of the month must be paid between the 16th and the 26th day of the month. Similarly, work performed between the 16th and the last day of the month must be paid between the 1st and 10th of the following month.

Q. May I pay my employees in cash?

A. Yes, as long as the employee is provided an itemized deduction statement in writing as required by the law (Labor Code Section 226). The written statement must include the following:

- gross wages earned
- total hours worked by the employee
- number of piece rate units earned and any applicable piece rate, if the employee is paid on a piece rate basis
- all deductions
- net wages earned
- dates for which the employee is paid
- name of the employee and the last four digits of his or her social security number
- name and address of the legal employer
- all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee

Q. I would like my fifteen (15) year old son to work at our fair booth. Does he need a work permit and what hours may he work?

A. Yes, even if the worker is a family member, a work permit is required for a minor. Work permits for minors are available at the minor's school. The number of hours a minor is allowed to work will be indicated on the work permit. However, when school is in session all work hours must be outside school hours, and a 15-year-old may work 3 hours on a school day, 8 hours on a non school day and no more than 18 hours per week. When school is not in session, a 15-year-old may work 8 hours a day/40 hours a week. You should also be aware that minors may not be employed in any business, exhibition or vocation that would be hazardous or dangerous to the health, life or limb of the minor. [Labor Code Section 1308(a)(1)].

Additional Assistance. If you need any additional help, the DLSE has pre-recorded information telephone lines in all district offices, which are listed below:

Bakersfield 661-859-2462	San Bernardino 909-889-8120
El Centro 750-353-2544	San Diego 619-682-7221
Eureka 707-441-4604	San Francisco 415-703-5444
Fresno 559-248-8398	San Jose 408-277-3711
Long Beach 562-491-0160	Santa Ana 714-558-4574
Los Angeles 213-576-6227	Santa Barbara 805-965-7214
Oakland 510-622-2660	Santa Rosa 707-576-2359
Redding 530-229-0565	Stockton 209-941-1906
Sacramento 916-263-5378	Van Nuys 818-908-4556
Salinas 831-443-3029	

Opinion Letters: As an additional resource, opinion letters which outline legal decisions regarding the above issues are available for your review by clicking on the following link:

www.dir.ca.gov/dlse/opinionletters-bysubject.htm.

More FAQs. A listing of additional FAQs covering several subjects are also available at the DLSE website at www.dir.ca.gov/dlse/DLSE-FAQs.htm