



Electronic Alert

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BOLI Publishes Final Rules for Daily & Weekly Overtime in Oregon

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Oregon's Bureau of Labor and Industries (BOLI) published its final rules on daily and weekly overtime relating to manufacturing establishments. These rules govern Oregon's House Bill 3458 that clarifies Oregon's overtime pay requirements for those employed in mills, factories, manufacturing establishments, canneries, driers, and packing plants.

As we explained in our July and November alerts on the new law, the definition of "manufacturing establishment" is broad enough to capture many companies that would not generally be considered part of the manufacturing industry, including breweries and commercial bakeries. This broad definition has many companies reevaluating whether the law applies to their company and whether some employees may qualify for one of the law's limited exceptions, such as for supervisors and administrative and maintenance employees.

To recap, the law requires overtime pay after 10 hours in a workday or 40 hours in a workweek. The employer must pay the employee the greater of the daily or weekly overtime per workweek. The law also strictly prohibits any employee in these industries from working more than 13 hours in one day. Employees also cannot work more than 55 hours in a workweek unless they have consented or requested in writing to work up to 60 hours. There are narrow undue hardship exceptions for qualifying companies who produce perishable products and may allow some employees to work up to 84 hours per workweek for up to four workweeks. Employers in violation of these rules, or who coerce employees to work more than 55 hours per week, face the possibility of harsh civil penalties.

BOLI's final regulations clarify that employers may, but are not required to use BOLI's written request/consent form for employees who agree to work up to 60 hours per workweek. The rules also add that an employee must inform the employer of the employee's withdrawal of consent in writing at least seven calendar days prior to the start of the workweek in which the employee no longer agrees to work over 55 hours. Employers who choose not to use BOLI's form should still include the seven days withdrawal notice requirement in their own forms. However, employers applying to the state for the undue hardship exceptions must follow strict notice requirements and use BOLI's undue hardship request/consent form allowing employees to work more than 60 hours per workweek during an undue hardship period.

For questions relating to Oregon's new overtime rules, determining if your employees qualify for the law's exceptions, or for help preparing your own consent forms, contact Nicole Elgin at (503) 276-2109 or nelgin@barran.com.